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From *The Rejection of Consequentialism*

Samuel Scheffler

1
The Project and its Motivation

As John Rawls has written, 'The two main concepts of ethics are those of the right and the good . . . The structure of an ethical theory is . . . largely determined by how it defines and connects these two basic notions.'[1] Among ethical theories, those that I call 'act-consequentialist' may be characterized roughly as follows. Such theories first specify some principle for ranking overall states of affairs from best to worst from an impersonal point of view. In other words, the rankings generated by the designated principle are not agent-relative; they do not vary from person to person, depending on what one's particular situation is. For they do not embody judgements about which overall states of affairs are best for particular individuals, but rather judgements about which states of affairs are best, all things considered, from an impartial standpoint. After giving some principle for generating such rankings, act-consequentialists then require that each agent in all cases act in such a way as to produce the highest-ranked state of affairs that he is in a position to produce.[2] Different act-consequentialist theories incorporate different conceptions of the overall good: that is, different principles for ranking overall states of affairs from best to worst. But all such theories share the same conception of the right which requires each agent in all cases to produce the best available outcome overall.

Act-consequentialism is not the only kind of consequentialism; other variants include rule-consequentialism and motive-consequentialism.

Samuel Scheffler, *The Rejection of Consequentialism*, rev. edn. (Oxford: Clarendon Press, 1994), pp. 1–6, 80–101.

These views typically differ somewhat from act-consequentialism in what they require of agents,[3] though they share with act-consequentialism the feature of ranking overall states of affairs impersonally, and the general idea that the best states of affairs are *somehow* to be promoted. I will not be discussing these other variants of consequentialism in this book. Although I believe that my main lines of argument could be modified to cover them, the only kind of consequentialism that I will actually consider in the book is act-consequentialism. Since this is so, and since the term 'act-consequentialism' is cumbersome, I will, beginning with the next paragraph and throughout the rest of the book, use the terms 'consequentialism' and 'consequentialist' to mean 'act-consequentialism' and 'act-consequentialist', except where I explicitly state otherwise. This is purely an abbreviatory device, adopted for the sake of simplicity and ease of exposition; it is not intended to suggest either that my discussion encompasses all of the various forms of consequentialism, or that act-consequentialism is the only legitimate form of consequentialism.

In contrast to consequentialist conceptions, standard deontological views maintain that it is sometimes wrong to do what will produce the best available outcome overall. In other words, these views incorporate what I shall call 'agent-centred restrictions': restrictions on action which have the effect of denying that there is any non-agent-relative principle for ranking overall states of affairs from best to worst such that it is always permissible to produce the best available state of affairs so characterized.

Classical utilitarianism, which ranks states of affairs according to the amount of total satisfaction they contain, is the most familiar consequentialist view.[4] But classical utilitarianism is widely thought to be too crude a theory. Although its defenders point with approval to its simplicity, critics charge that this simplicity is achieved at too high a cost. They argue that utilitarianism relies on implausible assumptions about human motivation, incorporates a strained and superficial view of the human good, and ignores a host of important considerations about justice, fairness, and the character of human agency. More generally, they accuse utilitarianism of relentless insensitivity to the nature of a person, and suggest that it has forfeited any serious claim to account for the complex and varied considerations that intrude on the moral life, and which give rise to the severest tests of our decency. Indeed, utilitarianism has gained a reputation for moral clumsiness that is unparalleled among ethical theories. Bernard Williams, writing that 'the simple-mindedness of utilitarianism disqualifies it totally', suggests that '[t]he day cannot be too far off in which we hear no more of it'.[5]

And yet that day refuses to come; we continue to hear a great deal about utilitarianism. Cynics may suppose that the explanation for this lies in the philosopher's penchant for keeping half-dead horses just barely alive so that he can continue to beat them with a moderately clear conscience. My diagnosis is different: I believe that utilitarianism refuses to fade from the scene in large part because, as the most familiar consequentialist theory, it is the major recognized normative theory incorporating the deeply plausible-sounding feature that one may always do what would lead to the best available outcome overall. Despite all of utilitarianism's faults (including, no doubt, its misidentification of the best outcomes), its incorporation of this one plausible feature is in my opinion responsible for its persistence. Moral conceptions that include agent-centred restrictions, of course, reject this feature. Although a full characterization and discussion of these restrictions will not be presented until Chapter Four, they have already been identified as restrictions on action which have the effect of denying that there is *any* non-agent-relative principle for ranking overall states of affairs such that it is always permissible to produce the best available state of affairs so construed. If an adequate theoretical rationale for such restrictions could be identified, it would provide a reason for rejecting utilitarianism's deeply plausible-sounding feature. But although, as I will indicate in Chapter Four, it is easy to think of cases in which agent-centred restrictions seem intuitively appropriate, and although such restrictions constitute the heart of most familiar deontological moral conceptions, it is, as I will also indicate in Chapter Four, surprisingly difficult to find persuasive hypotheses in the literature as to what their underlying theoretical rationale might be.

Faced with what I take to be serious difficulties in the attempt to provide an adequate rationale for agent-centred restrictions, and faced with the plausibility of the idea that it is always permissible to do what would have the best outcome overall, I wish in this book to reconsider the rejection of consequentialism. What I will do, more specifically, is to undertake a comparative examination of two different kinds of non-consequentialist moral conceptions. The standard deontological theories I call 'fully agent-centred' conceptions constitute the more familiar of these two kinds. By virtue of including agent-centred restrictions, these conceptions deny that there is any non-agent-relative principle for ranking overall states of affairs from best to worst such that it is always permissible to produce the best available state of affairs so characterized. And in addition to including such restrictions, these conceptions also deny that one must do what would have the best outcome overall on all of those occasions when the restrictions do *not* forbid it. In other words, fully agent-centred conceptions maintain that, given any impersonal principle for ranking overall states of affairs from best to worst, there will be some circumstances in which one is not permitted to produce the best available state of affairs, and still other circumstances in which one is permitted but not required to do so.

Non-consequentialist conceptions of the second kind I will consider are much less familiar. Indeed, I am unaware of any previous discussion of them in the literature. These 'hybrid' conceptions, as I refer to them, depart from consequentialism through their incorporation of something I call an 'agent-centred prerogative', which has the effect of denying that one is always required to produce the best overall states of affairs, and which is thus in some form a feature of fully agent-centred conceptions as well.[6] At the same time, however, hybrid conceptions are akin to consequentialist conceptions in their rejection of agent-centred restrictions: that is, in their acceptance of the idea that it is always permissible to do what would produce the best overall state of affairs. In other words, hybrid conceptions are like fully agent-centred conceptions and unlike consequentialist conceptions in maintaining that one need not always do what would produce the best outcome; but they are like consequentialist conceptions and unlike fully agent-centred conceptions in accepting the plausible-sounding idea that one *may* always do what would produce the best outcome.

The agent-centred prerogative, as I will argue, is responsive to certain important anti-consequentialist intuitions. To this extent it is on a par with agent-centred restrictions. But, as I will also argue, there is a significant asymmetry between the two agent-centred features; that is, it is much easier to identify a plausible theoretical foundation for the former than it is for the latter. Thus an agent-centred prerogative can be motivated and defended not merely by showing that it has intuitive appeal in certain cases, but also by demonstrating that there is a plausible principled rationale which underlies it. To the extent that this rationale is compelling, hybrid conceptions may, by virtue of incorporating such a prerogative, seem more attractive than consequentialist conceptions. And at the same time, the fact that it is indeed possible to provide a persuasive theoretical rationale for one departure from consequentialism will make the difficulties in providing such a rationale for agent-centred restrictions seem all the more striking, whatever the intuitive appeal of such restrictions. The upshot is that hybrid theories, intermediate between consequentialist and fully agent-centred conceptions and less familiar than either, may in the end seem preferable to both. At the very least, they will emerge as a serious alternative. Or so I hope to show.

Notes

1 *A Theory of Justice* (Harvard University Press, 1971), p. 24.

2 Obviously, this formulation is oversimplified. Most such theories do not require the agent to act in such a way as to produce the best actual state of affairs that is available. Rather they require that the agent perform the available act that has the highest expected value, where the expected value of an act is a function of each of its various possible outcomes and of their probabilities of occurrence. I will, however, continue to use the oversimplified formulation because it highlights the features of consequentialism that are relevant to this discussion. For my purposes, nothing is lost by avoiding the more complicated and more accurate formulation.

It should also be emphasized that when I speak of the act-consequentialist as requiring agents to produce the best overall outcomes or states of affairs, I do not mean that the act-consequentialist divides what happens into the act and the outcome, and evaluates only the latter with his overall ranking principle. Rather, the act itself is initially evaluated as part of the overall outcome or state of affairs. The act-consequentialist first ranks overall outcomes, which are understood, in this broad way, to include the acts necessary to produce them, and then directs the agent to produce the best available outcome so construed.

3 For some complications, see David Lyons, *Forms and Limits of Utilitarianism* (Oxford University Press, 1965).

4 To avoid confusion, there are a number of points about this characterization of the view that I call 'classical utilitarianism' which should be noted at the outset. First, I intend it to be understood that whenever I speak of this view as ranking states of affairs according to the amount of total or aggregate satisfaction they contain, I mean, of course, total *net* satisfaction (that is, total satisfaction minus dissatisfaction). Second, classical utilitarianism as I understand it is a view that has hedonistic and non-hedonistic variants. Thus in characterizing the view I have deliberately used the term 'satisfaction', which can be understood either hedonistically, as referring to a kind of feeling, or non-hedonistically, as referring to the satisfaction of people's preferences, whatever the preferences may be for. [In the course of this book,] I will distinguish between the hedonistic and non-hedonistic variants of classical utilitarianism only when the distinction is relevant to the topic under discussion. Whenever I do not make the distinction explicitly, the reader is to understand what I say as applying to both the hedonistic and non-hedonistic variants. Finally, the term 'utilitarianism' is used in the philosophical literature in connection with a wide range of moral views, from rule-utilitarianism to the principle that the right act maximizes average utility to the so-called 'ideal utilitarianism' associated with G. E. Moore. But I will use the term exclusively to refer to the classical act-utilitarianism described in the text.

5 J. J. C. Smart and Bernard Williams, *Utilitarianism For and Against* (Cambridge University Press, 1973), p. 150.

6 That is, since fully agent-centred conceptions do, as I have said, deny that one is required to do what would have the best overall outcome on all of those occasions when the agent-centred restrictions do not forbid it, they in effect include an agent-centred prerogative of some form, although not necessarily of the very same form as I describe in [a later chapter], and although the term 'agent-centred prerogative' is of course my own.

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The Defence of Agent-centred Restrictions: Intuitions in Search of a Foundation

Agent-centred restrictions, I have said, are restrictions on action which have the effect of denying that there is any non-agent-relative principle for ranking overall states of affairs such that it is always permissible to produce the best available state of affairs so construed. I want now to characterize these restrictions more fully, and to explain why they have this effect. An agent-centred restriction is a restriction which it is at least sometimes impermissible to violate in circumstances where a violation would prevent either more numerous violations, of no less weight from an impersonal point of view, of the very same restriction, or other events at least as objectionable, and would have no other morally relevant consequences. Imagine a theory according to which there is some restriction S, such that it is at least sometimes impermissible to violate S in circumstances where doing so would prevent a still greater number of equally weighty violations of S, and would have no other morally relevant consequences. Now S is an agent-centred restriction; due to the inclusion of S in the theory, there exists no non-agent-relative principle for ranking overall states of affairs from best to worst such that it will always be permissible to produce the best state of affairs so characterized. If the best overall state of affairs is construed as the one containing fewest violations of S, for example, it will at least sometimes be impermissible for an agent to produce that state of affairs if he can only do so by actually committing one of the (minimized) violations of S. Thus agent-centred restrictions are limitations on the conduct of the individual agent which take priority over calculations of overall impersonal value.

An agent-centred prerogative, as we have seen, serves to deny that agents are always *required* to produce the best overall states of affairs. Agent-centred restrictions, on the other hand, serve to deny that there is any non-agent-relative principle for ranking states of affairs such that agents are always *permitted* to produce the best state of affairs. Both

devices thus represent departures from consequentialism, which takes the impersonal standpoint to be the only moral standpoint. Intuitively, it may therefore seem plausible that the rejection of agent-centred restrictions should be ultimately incompatible with acceptance of an agent-centred prerogative. For it may seem that if there is a motivation for introducing any agent-centredness into a moral theory at all, then there is a motivation for introducing *both* agent-centred components. And if the introduction of one agent-centred component is poorly motivated, then the introduction of the other component must be poorly motivated as well. Hence it may appear that there are only two positions one can consistently hold: one can either reject agent-centredness altogether and retreat to some kind of consequentialism, or accept a fully agent-centred view incorporating both an agent-centred prerogative and agent-centred restrictions. Hybrid conceptions, it may seem, represent an attempt to stake out a middle ground that does not exist; there is no room for a view intermediate between consequentialist and fully agent-centred conceptions. There is no room for a conception that incorporates an agent-centred prerogative but not agent-centred restrictions.

I believe that this intuitive line of reasoning is mistaken, and that hybrid views constitute a bona fide alternative to consequentialist and fully agent-centred conceptions. I believe that there is an underlying principled motivation for an agent-centred prerogative, and that this motivation has been identified in [an earlier] chapter. And I believe that this motivation is independent of any rationale there may be for agent-centred restrictions, in the sense that someone who is motivated in this way to accept a prerogative can at the same time consistently refuse to accept such restrictions. I will call this *the independence thesis*. The truth of the independence thesis is of course compatible with the existence of some separate principled motivation for agent-centred restrictions. Not only do I believe that the independence thesis is true, however, I also believe, as I have indicated, that it is surprisingly difficult to find plausible suggestions in the literature as to what an underlying motivation for such restrictions might be. There is thus another thesis that in my opinion merits our close attention. *The asymmetry thesis* asserts that although it is possible to identify an underlying principled rationale for an agent-centred prerogative, it is not possible to identify any comparable rationale for agent-centred restrictions. If the independence thesis alone were true, then hybrid theories would still represent a bona fide alternative to consequentialist and fully agent-centred conceptions. But if the asymmetry thesis were also true, then fully agent-centred conceptions might begin to look particularly problematic. In this chapter, I want to examine possible

rationales for agent-centred restrictions. In the course of the discussion, I will defend the independence thesis, and try to explain why the asymmetry thesis must also be taken seriously.

As I suggested in Chapter One, there are some prima-facie difficulties with agent-centred restrictions. The main problem is the apparent air of irrationality surrounding the claim that some acts are so objectionable that one ought not to perform them even if this means that more equally weighty acts of the very same kind or other comparably objectionable events will ensue, and even if there are no other morally relevant consequences to be considered. An adequate principled motivation for agent-centred restrictions must dispel this air of irrationality. It must provide answers to a series of questions posed by Robert Nozick:

> Isn't it *irrational* to accept a side constraint C, rather than a view that directs minimizing the violations of C? . . . If nonviolation of C is so important, shouldn't that be the goal? How can a concern for the nonviolation of C lead to the refusal to violate C even when this would prevent other more extensive violations of C? What is the rationale for placing the nonviolation of rights as a side constraint upon action instead of including it solely as a goal of one's actions?[1]

As I begin to explore possible answers to these questions, I want to reemphasize at the outset that, despite the apparent air of irrationality to which I have called attention, the intuitive appeal of agent-centred restrictions is not in question. Such restrictions are certainly responsive to widely shared anti-consequentialist sentiments. There are many imaginable cases, for example, in which many people would intuitively feel it wrong to kill an innocent person even if doing so would prevent two or three other equally objectionable killings, and would have no other morally relevant consequences. It is to feelings of this sort that agent-centred restrictions respond, or appear to respond. Thus the intuitive appeal of such restrictions is not in question, just as the intuitive appeal of an agent-centred prerogative was never in question.

However, while the fact that a structural feature has intuitive appeal constitutes a reason for trying to identify a plausible rationale for that feature, it does not constitute a rationale of the sort I am looking for, nor guarantee that there is one. In now familiar fashion, a consequentialist might respond in either of two ways to the charge that his theory regularly generates results which violate the intuitions to which agent-centred restrictions answer. He could respond either by denying that such cases arise often in real life and claiming that occasionally counter-intuitive positions may nevertheless be acceptable, or by conceding that such cases

arise regularly but denying the importance of the counter-intuitive character of the consequentialist position, especially in light of the prima-facie irrationality of the more intuitive fully agent-centred conceptions. So what we wish to know is whether it is possible to establish that whether or not consequentialism regularly yields counter-intuitive consequences in real-life cases, there is in any event a principled rationale for agent-centred restrictions. If this could be established, then if the consequentialist took his second option, conceding that his theory yields systematically counter-intuitive results but denying the importance of that point, the defender of agent-centred restrictions could respond by insisting that there *is* a serious underlying motivation for the restrictions which respond to those anti-consequentialist intuitions. And even if the consequentialist took his first option and succeeded in showing that his theory does not regularly yield counter-intuitive results in real cases, the defender of the restrictions could respond that there is nevertheless a plausible rationale for preferring a fully agent-centred conception. With the restrictions as with the agent-centred prerogative, then, the existence of supporting intuitions marks the beginning and not the end of the search for an underlying principled rationale.

To focus the discussion of possible rationales for agent-centred restrictions, let us consider a schematic example of a disagreement between those who accept such restrictions and those who reject them. Suppose that if agent A_1 fails to violate a restriction R by harming some undeserving person P_1, then five other agents, $A_2 \ldots A_6$, will each violate restriction R by identically harming five other persons, $P_2 \ldots P_6$, who are just as undeserving as P_1, and whom it would be just as undesirable from an impersonal standpoint to have harmed. We may make the following simplifying assumptions: (1) A_1 has no way out of this dilemma, and (2) there are no morally relevant consequences of A_1's action or non-action beyond those already mentioned. Neither these simplifying assumptions nor the case as I have described it manifests any bias against agent-centred restrictions. Consider the simplifying assumptions first. Obviously, in real-life cases there are likely to be more options available to the agent, some important long-term consequences to take into account, and greater uncertainty about the outcomes of the various actions. But the assumptions that exclude these complications serve only to guarantee that we have a clear example of the kind of case that gives rise to disagreement between those who accept agent-centred restrictions and those who reject them; the simplifications in themselves count neither for nor against such restrictions.

Consider now the description of the case itself. Different fully agent-centred conceptions differ with regard to what exactly they take the agent-centred restrictions on action to be, and so they would differ about which specific restriction should play the role of restriction R. Just for this reason, the content of R was left deliberately vague in describing the case; no unusual or prejudicial assumptions were made about the character of the restriction.[2] Similarly, there is wide variation among fully agent-centred conceptions with regard to the circumstances, if any, under which the restrictions are thought to be overridable. At one end of the spectrum, 'absolutist' conceptions hold that some restrictions cannot be overridden and must not be violated, whatever the consequences. Some non-absolutists occupy an intermediate position, conceding only that agent-centred restrictions *sometimes* give way: when we are threatened by an evil that is so great as to seem immeasurable, and honouring *them* means losing everything. Toward the other end or the spectrum, finally, there are those non-absolutists who go much further, holding that it is often (though not always) permissible to violate the restrictions in circumstances where doing so is the only way to prevent a still greater number of equally weighty violations of the very same restrictions, or other events at least as objectionable. One might caricature these differing positions by saying that the absolutist would prohibit the violation of a restriction even if a violation were the only way to prevent a genocidal catastrophe,[3] the more restrictive non-absolutist would permit a violation in circumstances such as these but not in situations any less catastrophic, and the less restrictive non-absolutist would permit one violation if that would prevent twenty comparable violations but not if it would prevent only three. Although the absolutist variant may place the greatest strain on the credibility of fully agent-centred conceptions, the case I have described does not respond to distinctive features of absolutist conceptions, and hence in using this example I am not attempting to exploit specially problematic aspects of such conceptions. In other words, the example does not prejudice the issue by depicting catastrophic consequences if A_1 fails to violate R and then assuming that defenders of agent-centred restrictions as a class are committed to forbidding violation. The outcome of non-violation is not extreme, relatively speaking, and the case could easily be redescribed in such a way as to make the outcome still less extreme, without changing the basic issues. For if the non-absolutist is committed to agent-centred restrictions at all, then there must be some restriction R, such that in some situation, he will say that an agent is required not to violate R even though a still greater number of equally weighty violations of R, or other comparably objectionable events, will ensue if the agent does not violate R, and even if there are no other morally relevant consequences to be considered. And it is claims of this type about cases of this

sort, made by absolutists and non-absolutists alike, which I wish to explore. The example sketched is intended as a schematic idealization of one such case: no more and no less.

Let me then adapt Nozick's question to my example: why isn't the view that it is wrong for A_1 to violate R irrational?[4] There is one way of trying to answer the question which may seem tempting initially, but which is also clearly unacceptable. That is, it is tempting to suggest that acts that violate R have some feature that is very bad or has high disvalue, and that it is for this reason that A_1 may not violate R. But this suggestion is clearly inadequate, for, *ex hypothesi*, however high the disvalue of a violation of R, a greater number of equally weighty violations – and hence at least as much disvalue – will ensue if A_1 does *not* violate R. Appeals to the disvalue of violations of R are powerless to explain why it is wrong to violate R when doing so will prevent five identical violations of R.[5]

Nevertheless, defences of agent-centred restrictions in the literature often seem to take the form of an appeal to the disvalue of violation. Thus, for example, Nozick, answering his own question about the apparent irrationality of 'side constraints', says: 'Side constraints upon action reflect the underlying Kantian principle that individuals are ends and not merely means; they may not be sacrificed or used for the achieving of other ends without their consent. Individuals are inviolable.'[6] It is natural to interpret this passage as a suggestion that violations of agent-centred restrictions involve violating the victimized individuals themselves, treating them as means instead of ends, and that since being violated or treated as a means is a bad thing, violations of such restrictions are impermissible. It is natural, in other words, to interpret Nozick's defence of side constraints as an appeal to the disvalue of certain features of violations of the constraints. But if this is the proper interpretation of his defence, then clearly that defence is inadequate for the reasons just mentioned.

The general point, which applies to agent-centred restrictions of all kinds, may be illuminated by looking at this particular defence, as applied to our schematic example, more closely. Presumably, persons $P_1 \ldots P_6$ in our example are all equally 'inviolable', in the sense that Nozick intends. Yet, *ex hypothesi*, *someone* in that example is going to be violated. Either A_1 will harm P_1 or five other agents will identically harm $P_2 \ldots P_6$. Either way, someone loses: *some* inviolable person is violated. Why isn't it at least permissible to prevent the violation of five people by violating one? An appeal to the value of an unviolated life or the disvalue of the violation of a life cannot possibly provide a satisfactory answer to this question. For the question is not whether to choose an unviolated life over a violated one; the relative value of violated and unviolated lives is not at

issue. Instead, the choice is between one person inflicting a relatively smaller number of violations, and five other persons inflicting a relatively larger number of violations of equal weight from an impersonal standpoint. And the question is what possible ground there is for holding that the one person must not inflict the smaller number of violations in order to prevent their more numerous occurrence. The badness of a violation cannot provide such a ground, for surely five violations are at least as bad as one.

Similarly, the badness of being treated as a means to some end cannot account for the impermissibility of A_1's violating R by harming P_1 in order to prevent five other agents from identically harming $P_2 \ldots P_6$. For once again, *ex hypothesi*, *someone* will be treated as a means to an end whatever A_1 does. If it is indeed a bad thing to be treated as a means to an end, why isn't it at least permissible for A_1 to treat one person as a means to some end if that will prevent five other equally undeserving people from being so treated? At least the person A_1 uses will be treated as a means to the end of minimizing the treatment of people as means. Even if we leave this last point aside, however, the badness of being treated as a means to an end cannot provide a ground for the impermissibility of A_1's treating P_1 as a means to an end in this case. For surely five such treatments of no less weight from an impersonal standpoint are at least as bad as one.

As we have seen, the problem is with the general strategy for the defence of agent-centred restrictions that is employed here. So long as the strategy is to single out some feature of violations of the restrictions as having high disvalue, no adequate defence of such restrictions will emerge. It makes no difference, in particular, *which* feature of violation is singled out as having a high disvalue: no difference, for example, whether the focus is on the victim of violation, the agent, or the relationship between them. One might address the defender of agent-centred restrictions as follows. If, in our example, you are concerned about the badness of what will happen to P_1 if A_1 violates R (P_1 will be used, treated as a means, or whatever), why isn't it permissible to be at least as concerned about the fivefold badness of what will happen to $P_2 \ldots P_6$ if A_1 does *not* violate R (then they will be used, treated as means, etc.)? If instead you are concerned about the badness of a human agent *doing* something harmful to another human being, why isn't it permissible to be at least as concerned about the badness of *five* human beings doing equally harmful things to five other human beings. And if you are worried that a violation of R corrupts the *relationship* between the agent and the victim, and that the corruption of a human relationship is a bad thing, then why isn't it at least permissible to corrupt one valuable relationship if that is the

only way to prevent the corruption of five equally valuable human relationships?

An attempt to motivate agent-centred restrictions by appealing to the disvalue of violations of such restrictions is directly analogous to an attempt to motivate an agent-centred prerogative by appealing to the value or goodness of an agent's carrying out his projects and plans. Both attempts fail, for parallel reasons. An appeal to the disvalue of violations of a restriction is powerless to explain why one may not violate that restriction in order to prevent still more numerous violations, of no less weight from an impersonal standpoint, of the very same restriction. Thus such an appeal cannot motivate agent-centred restrictions. It can only motivate a consequentialist presumption against performing the kinds of acts that such restrictions forbid, a presumption that is overridable whenever the disvalue of a violation would be exceeded by the disvalue of the consequences of non-violation. Similarly, an appeal to the value of an individual's carrying out his plans is powerless to explain why one is not required to abandon one's *own* plans if doing so would enable still more people to carry out *their* plans. Such an appeal cannot therefore motivate an agent-centred prerogative. All it can do is to motivate a provisional consequentialist dispensation to devote more attention to one's own happiness and well-being than to the happiness and well-being of other people so long as doing so will have the best results overall. In sum, appeals to value cannot succeed in motivating either of the agent-centred structural components we are examining. They cannot provide a rationale either for agent-centred restrictions or for an agent-centred prerogative. They can only serve to motivate consequentialist presumptions and consequentialist dispensations: those strategic manoeuvres internal to consequentialism which constitute that conception's alternative to, and substitute for, the radical departures of agent-centred morality.[7]

Clearly, the failure of attempts to motivate agent-centred restrictions by appealing to the disvalue of violations of such restrictions does not indicate that no plausible rationale whatsoever can be found for such restrictions, any more than the failure of attempts to motivate the agent-centred prerogative by appealing to the value of individual plans indicates that there is no plausible rationale for that device. The lesson to be learned from the failure of the parallel appeals to value is rather that any successful attempt to motivate either agent-centred component will have to take a different form. Although an agent-centred prerogative cannot be motivated through an appeal to value, I have of course already argued that it is possible to motivate such a prerogative by showing how it embodies a rational strategy for taking account of the independence of

the personal point of view, given one construal of the importance of that aspect of persons. The question now to be faced is the question of whether, similarly, it is possible to identify a plausible underlying rationale for agent-centred restrictions, even though *they* cannot be motivated through an appeal to value.

The first possibility to consider, along these lines, is the possibility that someone who embraces the motivation for an agent-centred prerogative is thereby committed, on pain of inconsistency, to accepting agent-centred restrictions as well. The suggestion here, in other words, is that the independence thesis is false. This suggestion has a certain amount of initial implausibility. For, as we have seen, the prerogative and the restrictions respond to different sorts of anti-consequentialist intuitions. This is not conclusive, however, for intuitions with differing content may nevertheless have sources which are closely linked, or even a single source in common. So despite its initial implausibility, the suggestion that the independence thesis is false needs to be taken seriously. As I have characterized it, the motivation for an agent-centred prerogative is that it embodies a rational strategy for responding to the natural independence of the personal point of view, given a certain legitimate construal of the importance of independence. Now this implies that one is not rationally required to go beyond that strategy and accept agent-centred restrictions additionally in response to the fact of independence so conceived. Thus, assuming that my characterization of the motivation for an agent-centred prerogative is accurate, it seems quite likely that the independence thesis is true, and the suggestion we are considering false. It is not yet certain, however. For even if someone who accepts the prerogative as embodying a rational response to the independence of the personal point of view, given a certain construal of the importance of independence, is not thereby committed to accepting agent-centred restrictions additionally in response to the fact of independence so construed, there remains the possibility that such a person *is* also thereby committed to some separate strategy for responding to something *other* than the fact of independence so construed, and that this second strategy *does* constitute a motivation for agent-centred restrictions. But although this is an abstract possibility, I cannot think of any way to make it concretely plausible. There is nothing that emerged in the course of the discussion of the liberation strategy that provides any reason for thinking that the employment of this strategy commits one to using other sorts of strategies in other sorts of circumstances. I conclude that this abstract possibility may be discounted, and that therefore the independence thesis is true, and the suggestion we have been considering is false. It is not the case that someone who embraces

the motivation for an agent-centred prerogative is thereby committed, on pain of inconsistency, to accepting agent-centred restrictions as well. It is not the case that one must either reject agent-centredness altogether and retreat to consequentialism, or accept a fully agent-centred view which incorporates both an agent-centred prerogative and agent-centred restrictions. Hybrid theories constitute a bona fide, stable alternative to consequentialist and fully agent-centred conceptions.

It is important to note that the independence thesis is nevertheless compatible with the possibility that fully agent-centred conceptions embody *some* rational strategy for responding to the independence of the personal point of view. For all that has been said so far, it may be that fully agent-centred conceptions and hybrid conceptions employ two equally rational strategies for responding to the fact of personal independence, given two equally legitimate construals of the importance of that fact, or even given the very same construal of its importance. It may be that the choice between these strategies depends on one's ultimate moral attitudes. All that has been ruled out is the possibility that everyone who accepts an agent-centred prerogative as part of a response to personal independence must also accept agent-centred restrictions. The possibility that hybrid conceptions and fully agent-centred conceptions represent *alternative* responses to the fact of independence remains open, and it is natural to examine this possibility next.

Do agent-centred restrictions embody all or part of a rational strategy for responding to the natural independence of the personal point of view, given some legitimate construal of the importance of that aspect of persons? There is an initial implausibility about the suggestion that they do, just as there was an initial implausibility about the suggestion that the independence thesis is false. The implausibility of both proposals derives from the fact that they both take the underlying motivations for the two agent-centred devices to be closely connected, even though those devices respond on the surface to very different kinds of anti-consequentialist intuitions. As I noted in connection with the previous proposal, however, surface differences can conceal underlying connections. So the current proposal, like the previous one, must be taken seriously.

It seems to me that the most plausible way of developing the proposal is by trying to understand agent-centred restrictions as representing all or part of a rational response to the independence of the personal point of view, given an interpretation of the importance of that aspect of persons which is just the same as the interpretation relied on by the liberation strategy. For the current proposal is like the liberation strategy in seeking to construe an agent-centred feature of moral theories as a rational response to the independence of the personal point of view. It is thus most plausible to suppose that, if agent-centred restrictions do represent a rational response to personal independence, they, like the agent-centred prerogative, do so given a conception of the importance of independence which emphasizes its significance for human agency. Since this is the most plausible way of developing the current proposal, I will make it the focus for my consideration of the proposal as a whole. If the proposal in its strongest form is ultimately defective, it is reasonable to pass over alternative construals that had less promise from the start.

Thus the question is whether it is in fact appropriate to conceive of agent-centred restrictions as constituting all or part of a rational response to the natural independence of the personal point of view, given that the importance of independence is conceived as stemming primarily from its impact on the character of human agency and motivation. I believe that the answer to this question is 'no'. Someone who disagreed might reason thus. Agent-centred restrictions, which have the effect of denying that there is any non-agent-relative principle for ranking overall states of affairs from best to worst such that it is always permissible to produce the best available state of affairs so characterized, serve to protect individuals from the demand that they organize their conduct in accordance with some canon of impersonal optimality. They prevent individuals from becoming slaves of the impersonal standpoint, and in so doing they serve to insulate the personal point of view against external demands. For this reason they represent a rational response to the fact that individuals are naturally independent of the impersonal perspective.

As it stands, this line of argument is inadequate. The *permission* not to produce the best states of affairs suffices to free individual agents from the demands of impersonal optimality, and thus to prevent them from becoming slaves of the impersonal standpoint. That is the whole point of the liberation strategy, which underlies the agent-centred prerogative. What must be provided is a rationale for going beyond such permissions and *prohibiting* the production of the best states of affairs. Of course, since prohibitions against producing the best states of affairs entail permissions not to produce those states of affairs, it is true that agent-centred restrictions do free agents from the requirement always to do what would have the best outcome overall.[8] But this does not show that such restrictions are, after all, a rational response to the natural independence of the personal point of view, for the fact that a prohibition entails a motivated permission does not constitute a motivation for the prohibition.

Someone might try in the following way to improve on the argument I have just rejected. It is true, it might be conceded, that an agent-centred

prerogative suffices to free individuals from the requirement always to do what would have the best outcome overall. But it is not true that prohibitions against doing what would have the best outcome accomplish nothing further, in this regard. By always permitting actions that would have the best outcome overall, hybrid conceptions leave open the possibility of morally acceptable conduct which is guided exclusively by the standard of impersonal optimality. Fully agent-centred conceptions, by contrast, eliminate this option. They insist that the acceptability of an individual's conduct must be determined by the intrinsic characteristics of his personal projects, actions, and intentions, and not by an extrinsic, impersonal appraisal of those overall states of affairs which his actions may produce. In this way, fully agent-centred conceptions grant more extensive moral independence to the personal point of view than hybrid conceptions do. For while hybrid conceptions regard it as morally tolerable if an individual always does what will have the best overall outcome impersonally judged, fully agent-centred conceptions insist that the standards of individual conduct must be specially tailored to fit the *personal* perspective of the individual agent. Thus, the argument might be summed up, fully agent-centred conceptions do embody a rational response to the natural independence of the personal point of view, given one legitimate construal of the importance of independence. Like hybrid conceptions, they regard independence as important primarily for its impact on the character of human agency. Unlike hybrid conceptions, however, they respond by insisting that human agents must be held to a standard of accountability which gives the intrinsic qualities of an individual's acts moral priority over their impersonal optimality.

This revised argument seems to me to represent the strongest kind of case that can be made for construing agent-centred restrictions as part of a rational response to the independence of the personal point of view, but I believe that it is flawed none the less. The intuitive idea behind the argument is that a moral conception gives priority to the personal point of view over the impersonal point of view, and thus emphasizes the independence of the former from the latter, by insisting that individuals be judged on the basis of the intrinsic qualities of their personal actions, projects, and intentions, and not on the basis of an impersonal appraisal of the tendency of their conduct to promote the overall good. However, in so far as the argument does suggest a principled motivation for departing from consequentialism, the motivation suggested is for an agent-centred prerogative only. And in so far as the argument purports to provide a motivation for agent-centred restrictions, it fails to do so.

The basic problem is that the argument misconceives the nature of the individual point of view. It implicitly assumes that an individual cannot, from his own point of view, form and act on intentions to do things that will have the best overall outcome, either because they will have the best outcome, or for other reasons. Individuals cannot identify with acts and intentions of this kind. Activities that promote the best overall states of affairs cannot be among a person's projects. If the argument were not relying on these assumptions, there would be no plausibility whatsoever to its claim that fully agent-centred conceptions give the personal point of view priority over the impersonal point of view by holding the individual to a standard of accountability which gives the intrinsic personal qualities of his actions and projects priority over their impersonal optimality. For if actions which will have the best overall outcome *can* be undertaken from within the individual's own point of view, then the agent-centred restrictions which limit such actions, far from representing a way of giving the personal point of view priority over the impersonal point of view, will appear instead as arbitrary and unexplained constraints on the projects and activities of the individual.

The assumptions that the argument thus relies on are evidently false. A person may want to do what will have the best overall outcome, either because it will have the best outcome or for some other reason. Thus A_1, in our schematic example, might decide to violate R because he genuinely wanted to do what would have the best overall outcome, and believed that violating R would, or because he had compassion for all six potential victims and wanted to prevent as many of them as possible from suffering. One can also intend to do and *actually* do that which will have the best outcome, either because it will have that outcome or for other reasons. Moreover, one can identify with these wants, intentions, and actions in just the same way that one identifies with others of one's wants, intentions and actions. They are just as compatible with the personal point of view as, for example, desires, intentions, and actions to promote the good of particular people one cares about. The promotion of the general good, like the promotion of the good of one's intimates, can be undertaken from *within* one's personal standpoint. This is unproblematic. Since the assumptions relied on by the argument are thus false, the argument fails to support agent-centred restrictions. For, as I have already noted, once it is recognized that actions and projects that promote optimal outcomes can be undertaken from within one's personal point of view, then the agent-centred restrictions which limit such actions no longer appear to be a way of giving the personal point of view priority over the

impersonal point of view, but look instead like arbitrary and unmotivated constraints on the projects and activities of the individual. Hybrid conceptions, by contrast, do not impose restrictions of this kind on personal projects. And, of course, they give the agent permission to devote energy and attention to his projects, plans, and personal relationships out of proportion to the weight in the impersonal calculus of his doing so. Thus they, more than fully agent-centred conceptions, may be thought of as specially tailoring the standards of individual conduct to fit the personal perspective of the individual agent, and in this way of giving moral priority to the personal point of view. That is what I meant when I said earlier that, in so far as the argument I have been considering does suggest a principled motivation for departing from consequentialism, the motivation suggested is for an agent-centred prerogative only, and in so far as the argument purports to provide a motivation for agent-centred restrictions, it fails to do so. It seems fair to conclude that, even in its most plausible form, the idea of construing agent-centred restrictions as part of a rational response to the independence of the personal point of view is unacceptable.[9] Let us thus turn our attention to other suggestions for motivating such restrictions.

If agent-centred restrictions cannot be construed as part of a rational response to the natural independence of the personal point of view, can they instead be seen as part of a rational strategy for responding to some other feature of the person? We may consider, in this connection, another suggestion of Nozick's, which is reminiscent of the proposals of his that we have already considered, though somewhat different:

> . . . why may not one violate persons for the greater social good? Individually, we each sometimes choose to undergo some pain or sacrifice for a greater benefit or to avoid a greater harm: we go to the dentist to avoid worse suffering later; we do some unpleasant work for its results; some persons diet to improve their health or looks; some save money to support themselves when they are older. In each case, some cost is borne for the sake of the greater overall good. Why not, *similarly*, hold that some persons have to bear some costs that benefit other persons more, for the sake of the overall social good? But there is no *social entity* with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more. What happens is that something is done to him for the sake of others. Talk of an overall social good covers this up. (Intentionally?) 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 . . .[10]

If this passage is interpreted as appealing, in defence of agent-centred restrictions like R, to the disvalue of some features of violations of such restrictions – the feature of disrupting the only life the victim has, for example – then it will of course fail to provide an adequate defence, for the now familiar reasons. But suppose the passage is interpreted instead as suggesting that such restrictions constitute a rational response to the separateness of persons, even if they cannot be defended by appealing to the disvalue of violations. Is this suggestion more adequate? I think not. Though it avoids the fruitless appeal to the disvalue of violations, the proposal is defective for other reasons. The passage suggests that the rationality of agent-centred restrictions like R as a response to the separateness of persons derives from the fact that the violation of such a restriction harms some victim without compensating him for this harm. But the relevance of this fact is unclear. Why does this consideration make rational the view that it is wrong to violate such a restriction even in order to prevent a still greater number of equally weighty violations of the very same restriction? Whether A_1 harms P_1, in our schematic example, or $A_2 \ldots A_6$ harm $P_2 \ldots P_6$, *someone's* separate and distinct life will be violated without compensation. There is no question here of avoiding uncompensated violations altogether. The question instead is: why isn't it at least permissible to disrupt one distinct individual life, without compensation, in order to prevent the uncompensated disruption of five equally distinct lives? It is obviously no answer to this question to simply reiterate that people are distinct, that each has only one life to lead, and that P_1 will not be compensated for the harm he suffers if A_1 violates R. This restatement provides no explanation whatsoever of the impermissibility of A_1's inflicting one uncompensated violation in order to prevent $A_2 \ldots A_6$ from inflicting five similarly uncompensated violations.

The problem with this particular attempt to motivate agent-centred restrictions like R is that it focuses on the possession of some allegedly significant property by the *victims* of violations. But agent-centred restrictions are restrictions which prohibit the victimizing of one person even to prevent the multiple victimization of other people, or comparably objectionable events. As noted in [an earlier chapter], the conceptual distinction to which such restrictions respond is the distinction between what would have the best overall outcome impersonally judged and what a person may permissibly do. And nothing one can say about the features of persons which make it undesirable for them to be victims will be capable of explaining a moral rule whose function is to deny that it is permissible to minimize equally undesirable victimizations. The question is not: what is it about people that makes it objectionable for them to be

victimized? But rather: what is it about a person that makes it impermissible for him to victimize someone else even in order to minimize victimizations which are equally objectionable from an impersonal standpoint?

There is thus a general lesson to be learned from the failure of this particular attempt to motivate agent-centred restrictions like R. The lesson is that proposals to motivate agent-centred restrictions by construing them as a rational response to the possession of some allegedly significant property by the victims of violations, like proposals to motivate them by appealing to the *disvalue* of violations, are doomed to failure. Indeed, there is strong pressure for proposals of the first sort to collapse into proposals of the second sort. For if one tries to think of agent-centred restrictions as a rational response to the possession of some feature by the victims of violations, then it is natural to suppose, as I did in the last paragraph, that the feature in question must be one in virtue of which it is undesirable for persons to be victimized. And it is then only a short step to the thought that the feature must be one in virtue of which violations are very bad things to have happen: one in virtue of which they have very high disvalue. But whether or not proposals of the first sort do in this way collapse into proposals of the second sort, both types of proposals for motivating agent-centred restrictions fail, and for just the same sorts of reasons. An appeal to the disvalue of violations of such restrictions is powerless to explain why one may not commit one violation in order to prevent more numerous violations, of no less weight from an impersonal standpoint, of the very same restriction, and hence to avert an outcome with higher disvalue. An appeal to the victims' possession of some property is powerless to explain why one may not victimize one person with the feature in order to prevent the victimization of still more people with the very same feature. In each case, the appeal is to a consideration that simply makes all violations of the restrictions seem equally objectionable, and which thus appears to militate in favour of permitting, rather than prohibiting, the minimization of total overall violations. So, if there is to be an adequate rationale for agent-centred restrictions, it cannot take the form of an appeal to the victims' possession of some property, any more than it can take the form of an appeal to the disvalue of violations.

Notes

1 *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 30. 'Side constraint' is Nozick's term for the kind of agent-centred restriction he favours.

2 There is, however, an important qualification that must be made at this point. It is true that I am taking R to be a restriction against nothing more specific than 'harming some undeserving person'. And it is true that every fully agent-centred view which has any degree of plausibility does include restrictions which answer to that description. But it is also true that most such conceptions also take there to be other sorts of agent-centred restrictions as well. Thus, according to most such conceptions, we are at least sometimes obligated to keep our promises even if we could produce a better overall outcome by not doing so. And it is also typically held that we have special obligations to protect and promote the interests of people to whom we stand in certain special relations, to our parents, children, spouses, patients, students, and so on, and that these obligations may not be violated whenever a violation would lead to a better overall outcome. Agent-centred restrictions of these two kinds are not most accurately described simply as restrictions against harming.

As I have argued, a hybrid conception, unlike a consequentialist conception, would ordinarily *permit* agents to keep their promises, or to promote the interests of people to whom they stand in special relations, even if by not doing so they could produce better overall outcomes. For a hybrid conception permits people to devote energy and attention to their projects, commitments, and personal relationships out of proportion to the weight from an impersonal standpoint of their doing so. And, as I have also argued, a hybrid conception might additionally require agents to keep their promises and fulfil their voluntarily incurred special obligations *unless* their not doing so would result in a better overall outcome. But fully agent-centred conceptions obviously go further, maintaining that there are times when promises must be kept and obligations fulfilled *even if* failure to do so would result in a better overall outcome.

Now in my discussion of possible rationales for agent-centred restrictions, I will, as I have said, be treating a restriction R against harming some undeserving person as my paradigm case of such restrictions. But although some of the arguments I will offer will be in criticism of supposed rationales for agent-centred restrictions like R in particular, I will also offer a number of arguments in criticism of supposed rationales for agent-centred restrictions in general, and, as a result, a number of perfectly general arguments about the form that a rationale for *any* kind of agent-centred restriction must take. It is true, however, that I will not directly discuss any specific proposals that might be made for motivating *only* those agent-centred restrictions which prohibit the breaking of one's promises or the neglect of one's special obligations. And, strictly speaking, this leaves it open to a defender of a fully agent-centred outlook to maintain that those restrictions have a rationale of the appropriate form which is independent of any putative rationale for restrictions like R, and which remains compelling even if doubt is cast on the strength of supposed general rationales for agent-centred restrictions, and on

the strength of specific rationales for agent-centred restrictions against harming in particular.

3 Consider Ivan Karamazov's challenge to his brother Alyosha in Dostoevsky's novel:

> Tell me yourself, I challenge you – answer. Imagine that you are creating a fabric of human destiny with the object of making men happy in the end, giving them peace and rest at last. Imagine that you are doing this but that it is essential and inevitable to torture to death only one tiny creature – that child beating its breast with its fist, for instance – in order to found that edifice on its unavenged tears. Would you consent to be the architect on those conditions? Tell me. Tell the truth. (*The Brothers Karamazov* [New York: New American Library, 1957], p. 226)

Ivan's question does not constitute a sufficient test for absolutism. In order to be an absolutist, it is not enough to hold that it would be impermissible to torture one child to death even if that would produce universal happiness. One must also hold that it would be impermissible to torture one child to death even if that were the only way to prevent, say, everyone else in the world's being tortured to death.

4 There is one kind of possible answer to this question that I will not even consider: the kind of answer that might be given by defenders of rule-consequentialism, act-and-motive consequentialism, or other such views. For an elaboration of this point, see note 7 of this chapter.

5 Compare T. Nagel:

> . . . the constraints on action represented by rights cannot be equivalent to an assignment of large disvalue to their violation, for that would make it permissible to violate such a right if by doing so one could prevent more numerous or more serious violations of the same right by others. This is not in general true. It is not permissible . . . to kill an innocent person even to prevent the deliberate killing of three other innocent persons. A general feature of anything worthy of being called a right is that it is not translatable into a mere assignment of disvalue to its violation. ('Libertarianism Without Foundations', *Yale Law Review* 85 [1975], at p. 144)

6 *Anarchy, State, and Utopia*, pp. 30–1.

7 Remember that, in speaking of consequentialist presumptions and dispensations, I am referring to the strategic manoeuvres available to the standard act-consequentialist. As I noted in [an earlier chapter], defenders of other forms of consequentialism might argue in favour of some other kind of dispensation which represented a departure from strict act-consequentialism. Now it is also true that some rule-consequentialists, or act-and-motive consequentialists, might try to defend something stronger than an act-consequentialist presumption against performing the acts which agent-centred restrictions forbid. Some might go so far as to say that, depending on how our schematic example was filled out, with regard to such things as the motives of A_2 . . .

A_6, it might indeed be wrong for A_1 to violate R. Others who insisted that it would be right for A_1 to violate R might nevertheless add that there are good, broadly consequentialist reasons for agents not to be disposed to do the right thing in such cases. As I have repeatedly emphasized, I am limiting my discussion of consequentialism in this book to act-consequentialism, so I will not attempt to assess the merits of any broadly consequentialist arguments for the view that A_1 ought not to violate R, or that A_1 ought to be disposed not to violate R even if violating R is what he really ought to do. What I am trying to determine is whether or not traditional deontological views are correct to maintain, as I believe they do maintain, that just as there is a rationale for an agent-centred prerogative which is independent of even broadly consequentialist considerations, so too there is a rationale for agent-centred restrictions which is independent of even broadly consequentialist considerations.

8 This passage calls to mind a kind of moral conception of which I have not yet taken note. The non-consequentialist conceptions I have been discussing depart from consequentialism either by incorporating an agent-centred prerogative alone, or an agent-centred prerogative *and* agent-centred restrictions. Non-consequentialist conceptions of the second type, which I have been calling 'fully-agent centred' conceptions, include two kinds of permissions not to produce the best states of affairs: those conferred by the prerogative and those entailed by the restrictions. As this passage suggests, however, one can imagine moral conceptions that did include agent-centred restrictions but that did not include any permissions not to produce the best states of affairs *except* those entailed by the restrictions.

9 The argument of the last three paragraphs has been intended in a very general way as a response to the account given by Thomas Nagel, in his Tanner Lectures, of the foundations of deontological moral conceptions. Those lectures have been published, with the overall title 'The Limits of Objectivity', in *The Tanner Lectures on Human Values I*, Sterling McMurrin, ed. (University of Utah Press and Cambridge University Press, 1980): 77–139. See especially pp. 126–39.

10 *Anarchy, State, and Utopia*, pp. 32–3.