

# Moral Status and Political Liberalism

Submitted by

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I, Edward Raymond Lamb, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

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*For the residents of Graham House.*

## Abstract

This thesis develops and defends an account of our fundamental moral and political reasons for action. Part 1 argues for a Kantian position which I call the Moral Status View, according to which our fundamental moral reasons are reasons to respond to each person's moral status, which she has in virtue of being able to use her reason to cause events. Part 2 argues for a version of Political Liberalism according to which our fundamental political reasons are reasons to respond to each person's political status as free and equal. Part 3 applies the conclusions of the first two parts to the sex trade, and thereby demonstrates that taken together, these positions are not only plausible and consistent, but of great practical significance.

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## Introduction

What are our fundamental moral and political reasons for action? Our interest in this question is not only speculative, but also practical; we want to know how we should act not only for the sake of knowing, but in order that, being responsive to these reasons, we will act in the right way. Pursuing this question has led me to the positions here defended: to a Kantian account of our moral reasons, which I call the Moral Status View, and to a particular understanding of Political Liberalism. No doubt the arguments I have given are incomplete. My claim is only to have pursued this question wheresoever it took me, and to answer it as best I may.

How should we act? What are our moral reasons for action? What motivates us in asking these questions, and how are they to be answered? These are the questions that drive the first part of this thesis. In answering them, I develop and defend the Moral Status View, according to which our fundamental moral reasons are reasons to respond to each person's moral status. In virtue of having the capacity for practical reason, each person, I argue, has a moral status such that both the use of her reason to cause events, as well as those events which promote that use of her reason, are of final value. This moral position, I aim to establish, is Kantian, distinctive, and plausible.

What is a just person? What are our political reasons for action? How do these reasons relate to our moral reasons for action? These are the questions that drive the second part of this thesis. In answering them, I develop and defend an account of Political Liberalism on which our fundamental political reasons for action are reasons to respond to each person's political status as free and equal. I also argue that this position founds an account of distributive justice on which our distributive reasons are reciprocal, rather than impartial. A just person, I claim, is a person who acts *in order* to benefit herself, but *because* she is benefited by others. The third part of this thesis brings together Political Liberalism with the Moral Status View by considering



the implications of both positions for our moral and political reasons with respect to the sex trade.

The argument is as follows. The first chapter clarifies the nature of our moral reasons, and motivates the search for an account of them. Our moral reasons, I argue, are of a practical nature, in that they not only justify claims about moral actions or principles, but are of moral force – they capture what motivates us if we are responsive to moral reasons. I also argue that focusing on the practical nature of our moral reasons casts doubt on some prominent accounts of how we should act, and hence motivates the search for an alternative account of our moral reasons for action.

The second chapter develops the concept of moral status which provides the framework for the Moral Status View. Kantian accounts of our moral reasons face uncertainty as to what it is for us to be motivated by ideas such as dignity, respect for persons, and treating people as ends-in-themselves. We can attempt a fresh approach, I suggest, by clarifying, criticising and revising Frances Kamm's concept of moral status. Whilst Kamm develops this concept in order to support principles developed by considering our judgements in hypothetical cases, we can revise it to fit with an approach that instead begins by considering our moral motivations. Each person has a moral status, we can say, in virtue of having a particular property, and as a result of which both certain events in which she is involved and certain ways of her causing events are of final value.

The third chapter puts forward the Moral Status View by arguing that we are morally motivated by a particular conception of moral status. In asking how we can be moral, I argue, we must assume that we are able to use our reason to cause events, and hence that our fundamental moral reasons are given by the exercise of that capacity. If we are responsive to moral reasons, I further argue, we are motivated by the use of each person's reason to cause events. The property in virtue of which each person has a certain moral status, then, is that of having the capacity for practical reason, and as

result of having that property, both the use of a person's reason to cause events, as well as events which promote that use of a person's reason, are of final value. I also set out what it is to treat both types of things as being of final value. A secondary aim of this chapter is to offer some support for the claim that this is indeed a Kantian account of our moral reasons for action.

The fourth chapter defends the claim that the Moral Status View is a distinctive position by refuting Parfit's recent Kantian Argument for Rule Consequentialism, according to which Kantians should follow Rule Consequentialist principles. I argue that the Moral Status View instead establishes that Parfit's argument is not sound, since it fails to show that each person has sufficient reasons to choose principles whose universal acceptance would make things go best. Parfit's argument goes wrong, I suggest, in neglecting the practical nature of our moral reasons for action. Considering the Kantian Argument for Rule Consequentialism, then, not only helps to establish the significance of the Moral Status View, but also vindicates an approach to moral philosophy that acknowledges the practical nature of our moral reasons.

Chapter five opens the second part of the thesis by raising a question concerning the nature of Political Liberalism. The Political Liberal holds that our political reasons for action are those reasons which could be accepted by each reasonable person. What justifies her account, she claims, is that it solves the problem of reasonable disagreement. Yet it is not clear how that problem should be understood if this is to be the case. To be plausible, I show, an account of our political reasons must be such that first, in acting in accordance with those reasons, we would act in accordance with our moral reasons as to how we are to influence one another, and secondly, it is plausible that we would act in accordance with those reasons. Focusing on these criteria explains how we must understand the conception of a reasonable person, and hence the problem of reasonable disagreement, if Political Liberalism is to be justified.

Chapter six sets out an account of Political Liberalism that solves the problem of reasonable disagreement when so understood. Whilst it is tempting to claim that our political reasons for action are a type of moral reason – those moral reasons as to how we are to influence one another – this claim does not solve the problem of reasonable disagreement as it must be understood if Political Liberalism is to be justified. We should instead understand the claim that our political reasons are those reasons which could be accepted by each reasonable person, I argue, as identifying a process by which reasonable people can realise a just society. Our political reasons, on this account, are non-fundamental moral reasons which would be accepted by each member of a modern democratic society.

The seventh chapter shows how this account of Political Liberalism finds an account of distributive justice on which a just person acts reciprocally. Political Liberals hold that our distributive reasons are those reasons which could be accepted by each reasonable person. Many prominent accounts of distributive justice, I argue, are not plausible since they do not meet this criterion. Such accounts, I show, have tended to focus on distributive principles rather than on distributive reasons. This is largely the result, I suggest, of assuming that our distributive reasons are in a substantive sense impartial. I argue that our distributive reasons are instead reciprocal: that they are reasons to benefit each other person *because* each other person benefits us.

Chapter eight shows how this account of distributive justice allows us to meet G. A. Cohen's critique of Rawls' Difference Principle. Cohen argues that the difference principle does not justify inequalities based on special incentives, since those special incentives are only to the greatest benefit of the worst off because the more talented choose not to use their greater talents without them. I show that as it stands Cohen's arguments do not clearly establish this conclusion, but that Rawlsian responses to Cohen's arguments have not proved that Cohen's critique is not sound. I then argue that if our distributive reasons are reciprocal, Cohen's critique is not sound, since justice does not require that people choose to use particular talents to participate

economically. Refuting Cohen's argument helps to bring out the significance of the positions for which I argue in the second part.

The ninth and final chapter brings together this account of Political Liberalism with the Moral Status View by considering the implications for our political and moral reasons with respect to the sex trade. This not only shows that it is plausible and consistent to hold both positions, but brings out the practical significance of doing so. According to the Moral Status View, I show, normal trades of sexual services are necessarily wrong because they fail to respond to the moral status of the seller of sex. According to the Political Liberal, I show, what, if anything, is wrong with the sex trade, and what we should do about it, depends on empirical evidence. It is perfectly consistent, I show, to hold both views, and hence to aim to abolish the sex trade at the same time that we support a liberal approach to its regulation.

## Part 1 – Moral Status

## Chapter 1 — Practical Reasons

Moral philosophy begins with the question: how should we act? Our moral reasons for action, I argue in this first chapter, are *practical*: they not only justify claims as to how we should act, but tell us how to act by capturing the force of those claims – by telling us how we would be motivated if we were responsive to moral reasons. Focusing on the practical role of our moral reasons, I further argue, casts doubt on some prominent accounts of how we should act – of our moral reasons for action. This motivates and lays the foundations for the Moral Status View, a Kantian account which I develop and defend in the next three chapters, according to which our fundamental moral reasons are reasons to respond to each person’s moral status.

This chapter proceeds as follows. Section one considers the task of the moral philosopher. To ask how we should act, I show, is to ask about the moral norms that are to govern our actions. In considering these norms, I note, it is tempting to focus on the actions which they govern – to conceive of those norms as principles which are to govern our actions. This overlooks, I argue, the practical nature of moral reasons – that in order to be norms, or claims about what we should, ought, or are permitted to do, these norms must motivate those beings that are responsive to moral reasons. I clarify this role and note the ways in which establishing our moral reasons is of both practical and speculative interest.

The second section shows how focusing on the practical nature of our moral reasons for action is consistent with the approaches of other moral philosophers. Both T. M. Scanlon (1998) and Samuel Scheffler (2012), I note, understand our moral reasons for action as being things that motivate us, or which we value. I also discuss the ways in which the approaches of Scanlon and Scheffler differ from that defended in the first section. The section finishes by showing how a focus on the practical role of our moral reasons can reasonably be seen as being consistent with Kant’s approach to moral philosophy in the *Groundwork of the Metaphysics of Morals* (1785).

The first two sections lay the foundation for the account of our moral reasons for which I argue in the next three chapters. The final section motivates this account by showing that emphasising the practical role of our moral reasons, rather than the principles which they appear to justify, leads to some problems for some prominent accounts of how we should act – for Intuitionism, Consequentialism, and Contractualism. The problem with these approaches, I suggest, is that they fail to capture the force of our moral norms – to establish that the moral norms to which they point would motivate us were we to be responsive to our moral reasons.

## I

Moral philosophy, I claimed above, begins with the question of how we should act. This is to claim that moral philosophy is normative – that it aims to establish the norms which are to govern our actions. A norm governs our actions in particular cases, and can tell us how to act in part by pointing to other norms or to facts about the world – by telling us to act in accordance with those norms, or in various ways depending on those facts. A norm may specify the actions which are to be performed, or instead specify a process which, if followed, will lead to particular actions. A general account of how we should act would identify a set norms which govern the action of all people in all cases.

In asking how we should act, however, we are also interested in our moral reasons for action – in *why* we should act in accordance with certain norms. If a norm is to be thought of solely as a principle – if it is simply something which leads us to perform particular actions – then the role of such reasons will be justificatory – it will be to justify the claim that we should act in accordance with certain norms. We should identify such reasons, on this view, in order to identify moral principles which are justified, and thus ensure that we know how to act if we are to act in accordance with our moral reasons.

Yet norms also tell us that we *should* perform those actions – that we *should* act in accordance with the principles which they specify. Identifying such reasons, then, is also a way of capturing the force of moral requirements and permissions – of claims that we should, ought, or are permitted to perform such actions. Without an account of the force of a norm, there is no reason to think that it provides an account of how we should act, as opposed to a mere description of how we might do so. Our moral reasons are part of, and not separate to moral norms – they not only justify moral norms, but are that part of a moral norm in which resides its force, or “should”. In this sense, then, we can say that the role of moral reasons for action is not only justificatory, but also *practical*.

So in asking how we should act, we are asking, at least in part, about our moral reasons for action, where those moral reasons are understood to be practical in that they capture the force of moral norms. If a person is able to respond to moral reasons, then, she must be able not only to act in accordance with those reasons, but to be moved by the force of those reasons – to be motivated by them. Our moral reasons, we can say, capture our moral motivations – they capture what motivates us if we respond to moral reasons. In asking how we should act, then, we are not only asking about the actions that we should perform, but also about our moral motivations.

Thus to act in accordance with our moral reasons is for a person to act as she would were she motivated by those reasons. This is not to say that we should *be* motivated by those moral reasons, but that we should act *as if* those reasons motivated us. This allows that being so motivated is not of intrinsic value, and hence that it is possible to give a description of the actions which we should perform without referring to our moral motivations. To say that we should act as if we were morally motivated, however, brings out the practical nature of our moral reasons – that part of the nature of a moral reason is that we would be motivated by it were we responsive to reason.



At this point we might ask what justifies the claim that we are able to respond to moral reasons. What underpins this claim is the thought that determining the way in which we should act is of practical, as opposed to merely speculative interest. A speculative interest in knowing how we should act is an interest in knowing for the sake of knowing – for the sake, we might say, of the truth. A practical interest in knowing how we should act is rather an interest in knowing in order that we are more likely so to act. If we have a practical interest in knowing how we should act, then we must assume that we are indeed able to respond to moral reasons.<sup>1</sup>

Now it is not controversial to claim that we have a practical interest in knowing how we should act. We do ask ourselves how we should act when deciding how to act, and take this to have some practical role in our decision making process. Of course this does not establish that we are right to think that considering our reasons for action has that practical role. Giving that we share this fundamental assumption, however, we can at least say that we act as if we are able to respond to moral reasons. The question of how we should act, then, and hence the assumption that we can respond to moral reasons, must at the least be of great practical significance.

If we are motivated by our moral reasons for action, then knowledge of our moral reasons would lead us to act in accordance with those reasons. Thus if it is true that we should be motivated by our moral reasons for action, our knowledge of those moral reasons is of high instrumental value. Thus a person does not act immorally if she fails to be motivated by our moral reasons. We might think, however, that given the variety of cases we are faced with, furthermore, it seems that being motivated by reason is a good, if not the only, or at least the best way of ensuring that we always

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<sup>1</sup> This is not to appeal to the principle of 'ought implies can', which I take to be less fundamental than this practical interest.

act in accordance with our moral reasons.<sup>2</sup> Whilst I shall not defend this claim here, we can note that it is at least plausible to think that we can be so motivated.

Thus moral motivation is relevant to the question of how we should act in two different ways. First, it is relevant insofar as our moral reasons for action must be such that we would be motivated by those reasons were we responsive to moral reasons. Secondly, it is relevant insofar as our reason for asking that question is not only speculative, but also practical; insofar as the best way of acting in accordance with our moral reasons is by being motivated by our moral reasons for action. It is no longer fashionable to focus on moral motivation, as a result, perhaps, of scepticism about the claim that whether an act is right or wrong depends on a person's motivation in performing that act. As I have argued, however, this is not the only way in which moral motivation could be significant.

We can identify our moral reasons, I have shown, by asking what does motivate us when we are responsive to moral reasons. Before moving on, we should note that it must also be the case that we *should* be responsive to moral reasons, and hence that we *should* act as we would act were we motivated by those reasons. After all, it is not the case that people always *are* responsive to moral reasons – that they do always act as they would were they motivated by our moral reasons. A complete account of our moral reasons, then, should also justify this general norm – it must justify the claim that we should be responsive to moral reasons.

Providing a justification of the claim that we should be responsive to moral reasons is of interest for two reasons. First, it allows a person who is responsive to moral reasons to defend her position in being so. Whilst that justification will not move those who

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<sup>2</sup> Kant's discussion of acting from duty, by which he means being motivated by duty, rather than acting merely in accordance with duty, is relevant here (1785). Kant gives various examples to convince us that being motivated by duty or reason is the only way of always acting in accordance with our moral reasons (4:397–400). I return to Kant's claims in the next section and in the third chapter.

are not responsive to moral reasons, a person who is responsive to moral reasons can nonetheless use that justification to make sense of her own position, both to herself and to others. In particular, giving such a justification may be necessary when acting on reasons to treat those who are not responsive to moral reasons in a way that would otherwise be impermissible. If we coerce a person who is not responsive to moral reasons so as to not perform murderous acts, for example, we at least need to be able to defend the claim that we have moral reason to do so.

Secondly, justifying the claim that we should be responsive to reasons might give us a way of identifying our practical moral reasons. If we know why we should be responsive to reasons, in other words, we might make some progress in coming to know what those reasons are. Put differently, knowing the ground of our practical reasons might tell us something about their content. We should not assume that asking what would motivate us if we were responsive to moral reasons is the only way of identifying our practical reasons. Whilst in seeking to establish our moral reasons, then, we may assume that people are responsive to moral reasons, we should still ask what justifies the claim that they should be so responsive, both so that we can defend our own position, and identify our practical moral reasons.

I have argued in this section that our moral reasons for action are practical, in that they not only justify norms when understood as principles that direct us how to act, but capture the force of those norms – they capture how we would be motivated were we responsive to moral reasons. Our interest in these moral reasons, I have noted, is practical, as well as speculative, in that we want to know those reasons not only for the sake of knowing, but in order that we will act in accordance with them. An account of our moral reasons for action, I have further argued, should justify the claim that we are to be responsive to reasons, and hence act as if we were motivated by those norms, both in order that we can defend ourselves in being responsive to reasons, and because doing so may help us to identify our practical moral reasons. This establishes and motivates our project: the search for our moral reasons for action.

## II

In the next section I use these conclusions to assess some prominent accounts of our moral reasons for action. Before doing so, however, it is worth showing that this approach to moral philosophy fits with that of several moral philosophers, including T. M. Scanlon (1982, 1998) and Samuel Scheffler (2003), as well as that of Kant's *Groundwork* (1785), or at least, with a plausible interpretation of that text. I also show how the approach which I have outlined differs from that of Scanlon and Scheffler, and give reasons in support of my approach. This helps to clarify and make plausible the claims for which I argued in the last section.

Scanlon begins chapter 4 of *What We Owe to Each Other* with the claim that 'A satisfactory moral theory needs to explain the reason-giving and motivating force of judgements of right and wrong' (1998, p147). He elaborates in claiming that 'what we want to know is not merely what we care about when we care about right and wrong but why this is something we must care about' (p147–8). Whilst Scanlon holds that we do not need to give an account that would persuade an amoralist – 'an account of why we and others have compelling reason to be moral' – we do at least need 'a fuller explanation of the reasons for action that moral conclusions supply' (p148).

Scanlon clearly holds, then, that to be plausible, a moral theory must explain how we are to be motivated in acting on judgements of right and wrong – that we must identify moral reasons for action which address what he calls 'the problem of the moral "must"' (p148). This problem, claims Scanlon, has two forms: the problem of priority of right and wrong over other values, and the problem of the special importance of considerations of right and wrong. The problem of priority is to explain why moral reasons typically have priority over, or outweigh other reasons for action. The problem of importance is to explain why it would be a serious failing to lack concern for considerations of right and wrong. Scanlon then goes on to argue that the idea of justifiability to others can meet these problems with respect to what we owe to one

another, and is hence a plausible candidate for being a fundamental moral reason for action.

Scanlon's focus on the force, motivation, or 'must' of moral judgements clearly fits with my claim that moral reasons are practical – that those reasons must be such that they would motivate us were we responsive to moral reasons. There are at least two ways in which our approaches differ, however. First, Scanlon is concerned only with cases in which we have a correct judgement of right and wrong. He asks how such judgements could motivate us, or be of force, in the sense both that it would be a serious failing not to respond to them, and that they outweigh other considerations. Strictly speaking, however, our interest is not in judgements, but in moral reasons for action. We are interested in those reasons in cases in which we have failed to make a correct judgement – where we have made no judgement, or the wrong judgement. Such cases frequently occur, even for those who are not amoralists, and our moral reasons must then be able to motivate us to do as we should.

Secondly, it is not clear that giving 'a fuller explanation of reasons' (p148) is sufficient to establish that we have those reasons. Whilst an account of our moral reasons for action need not persuade an amoralist, we might reply, this does not imply that there is no need to justify the claim that we have such reasons. As I argued in the last section, we need to justify the claim that we should not be amoralists – that we should respond to moral reasons – both so that we can defend our positions and so that we can use this justification to identify our practical moral reasons. Justification need not be an attempt to motivate people, but rather an independent way of showing that we have such reasons – that we should be motivated by those reasons, or respond to moral reasons more generally.

In chapter 5 of *Equality and Tradition*, Scheffler suggests that a normative account should begin with an account of valuing, so that 'the evaluative has priority over the normative' (2012, p101). Rather than start with the idea of value or values, however,

as Utilitarians do, Scheffler suggests that we should start with the idea of what *we value* – with value as a verb, rather than as a noun. Scheffler takes ‘valuing in general to comprise a complex syndrome of dispositions and attitudes’, which ‘include dispositions to treat certain characteristic types of consideration as reasons for action’ (p102). Scheffler then tells us that ‘what is involved in valuing a particular thing will depend to some extent on the type of thing that it is’ (p103). Since we value relationships with other people, our projects, and our membership in certain groups, we take ourselves to have what we can think of as partial reasons. Thus we should expect a normative account, Scheffler concludes, to include partial reasons as some of our most fundamental moral reasons for action.

Now the distinction that Scheffler draws between what is of value and what we value may not be immediately clear, since it might appear that what we *should* value is simply what *is* of value. It appears, for example, that the Utilitarian could accept that we should start with what we value, but hold that what we should value is utility, since utility is what is of value. Scheffler’s claim, then, must be that what we should value is not determined by what *is* of value, but rather by what we are *disposed to treat as being* a reason for action – by what we are disposed to treat as being of value.<sup>3</sup> Since we are disposed to value our relationships, projects, and group memberships, we might say, these are the things that we should value. What is wrong with Utilitarianism, in other words, is that we are not only disposed to value utility.<sup>4</sup>

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<sup>3</sup> I have moved here from ‘dispositions to treat certain characteristic types of consideration as reasons for action’ to dispositions to value a thing. To be disposed to treat a type of consideration as a reason for action, I believe, must simply be to be disposed to act in accordance with that reason, and hence to see that thing as being of value – as playing the practical role of a reason for action.

<sup>4</sup> The Utilitarian can attempt to accommodate the claim that we have partial reasons by suggesting that acting in accordance with such reasons does increase utility. On Scheffler’s account, however, this response will not do, since our valuing utility does not explain why we do in fact value our relationships, projects and group-memberships. Hence Scheffler’s claim that we value our relationships, for example, as being *our* relationships, and not mere instruments to increase utility (p104).

Scheffler holds, however, that this does not amount to an argument ‘that these ‘reasons of partiality’ really exist’, since we are sometimes wrong about what we value, or are disposed to value (p106). He claims, however, that there is no reason to think that we are systematically wrong about what we value. This fits with the claim made in the last section that our moral reasons are what would motivate us were we responsive to moral reasons. There is no reason to think, we might say, that in being responsive to moral reasons we will be wrong about what motivates us, and hence about what those moral reasons are. Appealing to the idea of our being responsive to moral reasons, though, rather than to what we value, or are disposed to value, helps to make it plausible that considering what morally motivates us does amount to an argument that we have particular moral reasons.

The claim that we should think of our moral reasons for action as being practical reasons, then, in that they are to motivate us to act in a certain way, broadly fits with the approaches of both Scanlon and Scheffler. It is important to also acknowledge that many of the claims that I have made and will make about the content and significance of moral philosophy are inspired by a reading of Kant’s *Groundwork* (1785). I attempt an independent account of those claims in order to avoid an appeal to authority, or the need for a detailed discussion of that difficult text. Nonetheless, it is worth pointing out here one clear way in which the account given may reasonably be thought to fit with Kant’s account. The claim that our interest in knowing our moral reasons for action is practical, we can note, fits with Kant’s reasons for aiming to identify the moral law.

The *Groundwork*, Kant tells us in the introduction, is ‘the search for and establishment of the *supreme principle of morality*’ (4:392). Kant’s aim, then, is not only to identify the moral law, but also to establish that law – to show that we should act in accordance with that law. This groundwork, Kant tells us, is ‘indispensably necessary, not merely because of a motive to speculation... but also because morals themselves remain subject to all sorts of corruption as long as we are without that clue and supreme norm

by which to appraise them correctly' (4:390). Kant's interest, then, is not only speculative, but also practical – he holds that knowing our moral reasons is of high instrumental value, as suggested in the last section, because it avoids the corruption to which we are liable in light of our inclinations.

Kant focuses on our actions being done for the sake of law, and not merely in conformity with law, then, both because so acting brings out the force or 'should' of the moral law, as I shall show in the third chapter, and because acting for the sake of law is the best way of acting in accordance with that law. Knowing our moral reasons is of practical, or instrumental interest, on the assumption that we are in fact motivated by the moral law – that we are responsive to its force. Thus motivation is important on Kant's account as I have understood it because, as we shall see, it brings out the force of the moral law, but also because it makes clear how we are able to act in accordance with that law in practice. The moral law is the moral law because it motivates us if we are responsive to reason, and we can best act in accordance with that law by being responsive to reason.

The account of our moral reasons for action which I gave in the last section therefore fits with and helps to make sense of the project and first section of the *Groundwork*. It also fits, I have argued, whilst differing in important ways, with the approaches of Scanlon and Scheffler. This helps to locate and clarify the approach which I shall take, and to show that it is worth pursuing. No doubt there is more to say about the nature and significance of attempts to identify our moral reasons for action. I hope to have said enough, however, to prepare the way for the account of our moral reasons for action for which I will argue in the next three chapters.

### III

The last two sections lay the foundations for the Moral Status View, which I develop and defend in the next three chapters. This section shows how applying the conclusions of the last two sections raises some problems with some prominent



accounts of our moral reasons for action, and therefore motivates the search for an alternative moral position. Although I believe that the points that I raise do establish that the accounts here considered are problematic, my primary aim is to motivate that search, and hence the Moral Status View. Even if the problems which I raise can be met, my goal in this section will be reached if these criticisms succeed in motivating that position.

Let us begin with an approach to moral philosophy which is sometimes called Intuitionism. Intuitionists attempt to establish how we should act – the actions which we should perform, the principles on which we should act, and our moral reasons for action – by appealing to our intuitions.<sup>5</sup> When asking about our intuitions about the actions which we should perform, in order to simplify matters, Intuitionists typically ask about our judgements as to how we should act in hypothetical cases. This allows us to control the variables which may be relevant to our judgements as to how we are to act in particular cases, and to systematically connect the presence of these variables with our judgements. This also allows us to develop moral distinctions and principles which fit with the judgements which we make in different situations.

Some Intuitionists hold that we can also appeal directly to judgements about those distinctions and principles.<sup>6</sup> Judgements about moral distinctions and principles can support but also challenge judgements about the actions which we should perform in various hypothetical cases. If those judgements conflict, it may prompt us to reconsider both judgements, perhaps by considering an option of which we had previously not been aware. If these judgements continue to conflict, however, then we must decide which judgement, or set of judgements, to rely on. This is one way of understanding the method of reflective equilibrium: we reach equilibrium when there

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<sup>5</sup> See, for example, Cohen (2008, p. 3–6), Foot (1967), Kamm (1993, 1996, 2007), Otsuka (2008), Otsuka and Voorhoeve (2009), Thomson (1976, 2008), Unger (1996).

<sup>6</sup> Including Kamm (1993, 1996, 2007) and Otsuka (2008).

is coherence between our judgements about the actions that we should perform and our judgements about our moral distinctions and principles.<sup>7</sup>

Intuitionists can also appeal to judgements about our moral reasons for action.<sup>8</sup> They might think of the role of these moral reasons either as being to support our judgements about the actions which we should perform, as well as our moral distinctions and principles, or as capturing the force or motivation of those norms or principles. On either picture, our judgements about our moral reasons can either fit or conflict with our judgements about the actions we should perform and about moral distinctions and principles. As before, conflict between our judgements might either lead us to revise some of these judgements or to simply rely on some judgements over others.

I want to raise two problems with this approach to moral philosophy. The first regards the reliability of our intuitions, and hence of this method of reaching moral conclusions.<sup>9</sup> It is not clear that our intuitions are based solely on *moral* judgements, whether those judgements are about the actions we should perform, moral distinctions or principles, or our moral reasons for action. Rather, those intuitions might be determined in part by our inclinations – by what we want or desire to judge – as well as by the judgements and inclinations of those people who have shaped us. To some extent, this worry is borne out by disagreement in our intuitions about moral considerations. Once such disagreement arises, it is difficult to know which person's intuitions are to count as being reliable, and why that should be the case.

A second problem is that it is not clear that this method can capture the force or moral motivation of moral norms – that it can identify the reasons which are to motivate us

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<sup>7</sup> See Rawls (1971, p18 – 19, 2001, p29 – 32).

<sup>8</sup> We might read Parfit as suggesting something along these lines in claiming that 'Scanlon's greatest contribution to our moral thinking' is that 'we have and can usefully appeal to intuitive beliefs about what are reasonable grounds for rejecting moral principles' (2011, p370).

<sup>9</sup> See Killoren (2010), McMahan (2013).

if we are responsive to moral reasons. In considering our intuitions about our moral reasons, we can of course ask about whether purported moral reasons do motivate us. The problem, however, is that it is not clear that being morally motivated is as simple as being moved by a particular reason or value. What is needed, it seems, is for us to say enough about a reason or value to show that it does or should motivate us, and what it would be for it to do so. To simply ask about our intuitions about our moral reasons, however, is not to develop an account of our moral reasons in this way.

We can next consider the approach of Consequentialists in giving an account of our moral reasons for action.<sup>10</sup> The nature of Consequentialism is itself a matter of substantial dispute. The term Consequentialist is often claimed to apply to a range of different accounts which do not obviously share a particular feature which makes them Consequentialist.<sup>11</sup> One way to characterise Consequentialism is as holding that whether an action is right or wrong depends solely on the consequences of performing that action.<sup>12</sup> Some Consequentialists hold, however, that actions themselves can be right or wrong in a sense which does not depend on their consequences.<sup>13</sup> Thus it is clearer to say that Consequentialists hold that whether an action is right or wrong depends solely on events, where events include both states of affairs, which may be caused by actions, as well as actions themselves.<sup>14</sup>

Our moral reasons for action, on this view, are reasons to realise or not to realise certain events. This does not yet tell us, however, what those moral reasons for action

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<sup>10</sup> See, for example, Bennett (1989), Bentham (1789), Broome (1991), Howard-Snyder (1994), Kagan (1998), Mill (1861), Pettit (1997), Portmore (2001, 2003), Sidgwick (1907), Skorupski (1995).

<sup>11</sup> See Raz (1988, ch 11).

<sup>12</sup> For example, SEP (2011). I believe that this is the most plausible reading of the core of the Consequentialist view. For reasons of space, however, I shall not defend this claim here. At the very least, it picks out a prominent form of Consequentialism.

<sup>13</sup> See Parfit (2011, p 373–4).

<sup>14</sup> Another way of putting the point is that some Consequentialists hold that our actions are themselves consequences. Whilst this makes the term ‘Consequentialist’ somewhat confusing, I shall follow others in continuing to use that term.

are. Since events cannot themselves *be* moral reasons, the claim must rather be that events *give us* moral reasons for action. The claim that events can give us moral reasons for action is what is supposed to be explained by the claim that events can be good. The goodness of events, claims the Consequentialist, gives us moral reasons for action. In acting on those moral reasons, the Consequentialist thereby suggests, what we are doing is maximising the good. Consequentialists differ as to which events give us moral reasons – as to which events are good. Whilst Utilitarians hold that the goodness of an event is the amount which it increases each person's utility, Consequentialists can appeal to different theories of the good.<sup>15</sup>

The Consequentialist need not suppose, however, that no further justification can be offered for the claim that our moral reasons for action are given by the goodness of events. Although she holds that all of our moral reasons are given by the goodness of events, she need not take those reasons to be fundamental. She may hold that our most fundamental moral reasons for action are not given by the goodness of events, but are such that the goodness of events does establish our less fundamental moral reasons for action. The Utilitarian, for example, can hold that what justifies the claim that we should maximise utility is a conception of the person on which her utility is of great moral importance.<sup>16</sup> Nonetheless, in focusing on the consequences of our actions, the Consequentialist does hold that the goodness of events always plays some significant role in establishing our moral reasons for action.

I want to consider two problems with the approach of the Consequentialist to giving an account of our moral reasons for action as I have here characterised it. The first is that upon reflection, it is not always clear what it is for an event to be good in the sense that it gives us moral reasons for action. We do have a sense of what it is for something to be good relative to some particular end. We understand, for example, what is meant

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<sup>15</sup> See Bentham (1789), Mill (1861), Sidgwick (1907).

<sup>16</sup> This is what allows for the possibility of Parfit's Kantian Argument for Rule Consequentialism, considered in the fourth chapter.

in claiming that a meal is good, or that a shirt is good. We also have a sense of what it is for something to be good *for* a person. We understand, for example, what it is for broccoli, or for singing to be good for a person. To say that something is good for a person, we can say, is to say that it increases her well-being – that it brings about a state of being in which a person is well, or good. We understand, furthermore, what it would be to be motivated by such claims.

Some Consequentialist theories also claim, however, that things can be good *per se*.<sup>17</sup> It is sometimes claimed, for example, that equality is good, or that it is good that a country has a high gross domestic product. It is not so clear what is meant by such claims, especially when they are taken to establish that we have certain moral reasons for action – when they are taken to capture the force of moral norms.<sup>18</sup> We can understand the claims just mentioned, of course, as claiming that equality is good for the people who are to have an equal amount of the thing in question, or that a country having a high gross domestic product is good for the members of that country. But it is not clear what, if anything, is meant by claiming that a thing is good *per se*, or what it would be to be motivated by such a claim.

Of course many Consequentialist theories, including Utilitarianism and needs-based accounts, do claim only that certain things can be good for a person, or relative to some particular end. As we will see when considering Parfit's Kantian Argument for Rule Consequentialism in the fourth chapter, though, Consequentialist accounts which attempt to absorb the moral motivations of apparently competing accounts are often driven to appeal to a more general idea of the good – to the claim that events are or can be good *per se* (2011). In considering whether Consequentialist theories are plausible, then, identifying constraints on a theory of the good is an important task.

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<sup>17</sup> Parfit (2011). I return to this point in chapter 4.

<sup>18</sup> See Foot (2001)

The second problem with Consequentialist accounts of how we should act is that it is not clear that when we are responsive to moral reasons, our moral motivations always are captured by the goodness of events, or at least, that they are entirely captured by the goodness of events. It is not controversial, of course, to claim that we are morally motivated by the idea of events being good for people, or by a person's well-being. We are clearly moved by the idea of a person suffering – by the idea of her having a very low level of well-being. More generally, when making moral decisions, we are often moved by the impact of those decisions on the well-being of other people.

What is less clear, however, is whether these ideas always capture our moral motivations, as the Consequentialist appears to require. Accounts of Consequentialism require an argument for the claim that our moral motivations are captured by some notion of the good. One way to establish the need for such an argument is that there are other moral motivations, such as those of autonomy, which the notion of the good does not appear to capture. As I argue in the fourth chapter, there is no reason to expect a person who is motivated by the idea of autonomy to act in the same way as a person who is motivated by the idea of the good. Thus there is no reason to think that the notion of the good always captures our moral motivations.

A more direct way to establish the need to argue that our moral motivations are captured by a notion of the good is to note that we do not appear to be morally motivated by our own well-being. A person who seeks to advance her own well-being does not typically take this to be a moral task, but a task which she is simply inclined to pursue – which she is motivated to pursue simply in virtue of being a human being. Why, then, should we expect a moral motivation to arise in considering the well-being of other people as opposed to our own? One way of bringing out this moral view might be to appeal to a distinction between a person being selfish and a person being altruistic. Why think, though, that our moral motivations are based on the idea of any person's well-being, or that our duties are based entirely on the significance of a person having a good life?

We might suspect that the Consequentialist fails to offer answers to such questions as a result of neglecting the task of explicitly demonstrating the force of the principles for which she argues – of establishing our moral motivations. Consequentialists begin, we might suspect, by noting that we are often morally motivated by each person’s well-being, and then immediately move to attempting to develop principles based on this concern. If this characterisation is correct, then we can press that we need to establish our moral motivations in more detail both because doing so is of practical interest – because it may help us to encourage others to respond to these motivations – and because it may help us to understand other moral motivations than those given by the notion of the good.

Even if the goodness of events does capture a fundamental moral motivation, furthermore, it is not clear that it is all that motivates us. When treating a person in ways that we take to be moral, for example, we also appear to be motivated by respect for that person, or by concerns about her autonomy. As I note in the next chapter, it may well be that the idea of respect for persons is not in itself a substantial moral notion. The question, however, is why it tells us any less about our moral motivation than the idea of an event being good. Even if we were always able to explain an action which respects a person in terms of the good events which it realises, it is not clear that the idea of the good plays more of a role in our moral motivation than that of respect. Focusing on the practical role of our moral reasons, then – on the fact that they are to motivate us if we are responsive to reasons – calls into question the Consequentialist’s appeal to the goodness of events.

The last position which I shall consider is that of Contractualism. I shall focus on the most prominent, the most developed and arguably the best account of Contractualism: that of T. M. Scanlon (1998).<sup>19</sup> Scanlon’s aim is to give an account of our duties to other people – as he puts it, of what we owe to each other. The core idea

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<sup>19</sup> See also Scanlon (1982).

of Contractualism, he suggests, is that of justifiability to others. In particular, he claims, we have reason to justify our actions to others on grounds that they could not reasonably reject. This leads him to claim that 'an act is wrong if its performance under the circumstances would be disallowed by any set of principles for the general regulation of behaviour that no one could reasonably reject as a basis for informed, unforced general agreement' (p153).

As I showed in the last section, Scanlon is concerned to identify moral reasons for action which are to motivate us – which address what he calls 'the problem of the moral "must"' (p148). He begins with the idea of justifiability to others because he holds that this idea captures our moral motivations. He offers three reasons for this claim. First, he claims that this account of our moral motivations is phenomenologically accurate – that we do appear to be motivated by other people's reasonable objections to our actions. Secondly, he claims that this account offers the right kind of response to what he calls Pritchard's dilemma – that it describes an ideal of relations which can explain why we should be moral, or as he puts it, that is connected with the idea of morality whilst having strong appeal when viewed apart from moral requirements. We can think of this ideal relation, he suggests, as that of mutual recognition.

Scanlon's third reason for claiming that the idea of justifiability to others captures our moral motivations is that it 'plays a large enough role in our practical reasoning to enable it to account for the complexities of "moral motivation"' (p155). The idea of justifiability to others, in other words, tells us how we are motivated to act morally, and not just that we should be so motivated. Scanlon identifies three ways in which the idea of justifiability to others can play this role. First, it explains our positive moral motivations – it explains what it is to be motivated by concerns such as "he needs my help" or that "doing that would put them in danger". Secondly, it explains our negative moral motivations – it explains why we exclude certain considerations, such as the fact that hastening the death of my rich uncle will help me to complete my life



project, so that they are simply irrelevant to our decisions. Thirdly, the role of justifiability to others is dynamic in that it allows us to generate, reconsider and refine our moral reasons concerning our duties to others – concerning what we owe to each other.

I suggested in the last section that Scanlon is right to focus on our moral motivations – on the force of our moral norms, as well as their content. The idea of justifiability to others – of only acting on grounds that others could not reasonably reject – does tell us something, I believe, about our moral motivations, and for the reasons that Scanlon gives. Nonetheless, there are two reasons to doubt that Scanlon's account goes far enough in capturing our moral motivations. The first reason was discussed in the last section: Scanlon offers no separate justification of the claim that our moral reasons are those which could not be reasonably rejected by others – that we should in fact be motivated by the idea of justifiability to others. The second reason to doubt Scanlon's account, which I shall discuss here, is that it is not clear that the idea of justifiability to others tell us enough about our moral motivations to play the role required.

This second doubt begins with the thought that it is not clear that Scanlon's account is phenomenologically accurate – that when morally motivated, we are motivated by the idea of justifiability to others. An action not being based on grounds that are justifiable to others would clearly be a sign of it being wrong. Yet when I perform a duty which I owe to another, such as keeping a promise, it is not clear to me that I am motivated by the idea of that person reasonably objecting to my failing to do so. That she could reasonably object does tell me that I have done something wrong. But what seems to motivate me in performing that act is rather something about a person being the type of entity to which I ought to keep my promises.

This doubt becomes stronger once it is accepted, as I claimed in the last section, that an account of our moral motivations must include cases in which a person fails to make the correct judgement about what is required of her. A person who has failed to

make a judgement about what is required, or has made the wrong judgement, may well be motivated by the idea of justifiability to others – of not performing an action on grounds which others could reasonably reject. She may, however, have a different idea about what it is for an action to be justifiable to others – of the acts which others could reasonably reject. It is not clear, then, that this idea is of sufficient force to motivate us to act in accordance with our moral requirements when we have not already made the correct judgement about what is required of us.

A different way of making this point is that it is not clear that the idea of justifiability to other is sufficiently distinct from our moral concepts to explain their force. This is to suggest that Scanlon's account does not, after all, offer a satisfying response to Pritchard's dilemma. Scanlon considers the objection that we need to specify what does justify our actions to others – that 'the content of the morality of right and wrong but also its reason-giving force are independent of and prior to the idea of justifiability to others' (p169). His response is to suggest that alternative accounts of our moral motivations fail to meet Pritchard's dilemma, since they fail to explain how we are motivated by judgements of right and wrong. This seems to accept, however, that if such an account could be given, it would be an improvement on Scanlon's own position. I take up the challenge of giving such an account in the next three chapters.

Some of the most prominent accounts of how we should act, I have argued in this section, appear less plausible when considered from the perspective of the practical role of our moral reasons for action. The problems that I have raised can hardly be thought to be decisive. There may be other ways to characterise the positions which I have given, and ways of directly meeting these points. In developing the Moral Status View, however, it is worth at least bearing in mind why we might think that we need a position other than those which I have here considered.

This chapter has set out the practical nature of our moral reasons for action. Our moral reasons, I argued in the first section, are those reasons which we would be motivated

by were we responsive to moral reasons. Our interest in establishing those reasons, I showed, is not only speculative, but also practical. This approach, I then went on to show, has similarities to that of Scanlon and Scheffler, and can be seen as a reasonable interpretation of some of the main ideas of Kant's *Groundwork*. Finally, I argued that focusing on the practical nature of our moral reasons raises some problems for some prominent accounts of our moral reasons for action. What is needed, then, is an alternative account of our moral reasons for action by which it is plausible that we are morally motivated. Giving such an account is the task of the next three chapters.

## Chapter 2 — Moral Status

The Kantian ideas of respect for persons and treating persons as ends-in-themselves suggest a distinctive moral position. That position is made less plausible, however, by uncertainty as to what it is to respect persons, or to treat persons as ends-in-themselves. Frances Kamm has recently developed a concept of moral status which might help us to make sense of these ideas (2007). As it stands, I shall show, Kamm's conception of moral status does not identify a distinctive moral position, since it is vulnerable to Consequentialist criticisms. This chapter clarifies and revises Kamm's concept of moral status to avoid these criticisms. The next chapter sets out the Moral Status View, a moral position which draws on this revised concept of moral status, and argues for that position on the grounds that it captures our moral motivations.

The structure of this chapter is as follows. The first section sets out and clarifies Kamm's concept of moral status. On Kamm's account, an entity that has moral status has two features: first, that entity counts in its own right, and secondly, that entity give us reasons to act for its own sake. Kamm further claims that each person has the moral status of being inviolable, or of being entities to which we can owe duties or behaviour. I clarify these notions and suggest how other ideas that Kamm discusses fit within this framework. The second section raises some problems with this account by considering an appealing feature of Consequentialism. Kamm's account, I argue, fails to clearly identify what, apart from consequences, determines how we should act, and also to explain the role that consequences have in answering that question.

The third section revises Kamm's account in light of these problems. Rather than saying that an entity with moral status counts in its own right, I argue, we should say that an entity has the moral status it does in virtue of having a certain property, and that to have this moral status is for certain things to be of final value. To say that we are to act for the sake of an entity, then, is to say that certain events in which a person is involved are of final value. Rather than claiming that persons have the moral status

of being inviolable, furthermore, we can say that in virtue of the moral status of persons, certain ways in which a person causes events are of final value. This meets the problems raised in the second section, and hence prepares the way for a moral position that makes use of the concept of moral status.

## I

Kantians maintain a moral position which they claim to be distinct from those considered in the last chapter. Attempts to set out that position often appeal to Kantian ideas such as respect for persons, dignity and treating persons as ends-in-themselves.<sup>20</sup> These ideas are frequently accepted to be of great intuitive appeal. Yet whilst we can think of cases in which appealing to such notions helps to establish our moral requirements, such as when caring for the elderly or working with homeless people, it is less clear how they are to be understood when taken to capture our fundamental moral reasons. It is not clear, in other words, what it would be to always act in accordance with Kantian ideas, or that those ideas establish a distinctive moral position.

The challenge facing the Kantian, then, is to give a clear account of how she understands our moral reasons for action. One way of attempting to give such an account is by undertaking a close examination of Kant's writings. A better understanding of how Kant understood his own concepts, and the arguments for those concepts, would lead to a better understanding of the Kantian's position, and hence help to determine whether or not her moral position is plausible. Although I consider some of Kant's main ideas in the next chapter, it is important to recognise that such an approach has proved to be fraught with difficulties, not least because of the challenging nature of Kant's texts.<sup>21</sup> Whilst this does not establish that such an

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<sup>20</sup> See for example Darwall (1977), Korsgaard (1996), Wood (1999, 2008).

<sup>21</sup> See Parfit (2011), Rawls (2000), Wiggins (2006).

approach could not succeed, it at least motivates the pursuit of a different line of attack.

A recent approach to developing and arguing for a Kantian position is to consider our judgements in hypothetical cases – to consider what are often called ‘trolley problems’. By considering these judgements, many of the proponents of this method claim, we can establish Kantian and non-Consequentialist principles as well as the moral concepts which support and are supported by those principles.<sup>22</sup> In particular, we can better understand and establish the importance of not treating people as a means, or merely as a means. This alternative approach to giving a Kantian position appears to avoid the need to engage with Kant’s writings whilst allowing us to develop and argue for a distinctive moral position. It carries the promise, in other words, of a fresh approach to giving a Kantian account.

Yet this approach has itself been subject to scepticism. As I noted in the last chapter, there are reasons to doubt that our intuitions as to how we should act in hypothetical cases can justify the moral positions that fit with those intuitions. Nonetheless, we should not be so hasty as to reject this approach entirely. That a moral principle fits with our judgements in hypothetical cases is surely some support for that principle. After all, a principle which wildly disagreed with a significant number of those judgements would surely not be plausible. Furthermore, considering those judgements may give rise to moral principles and concepts which are worth considering, even if they are in need of independent justification.

Frances Kamm is one of the leading proponents of the method of considering our judgements in hypothetical cases (1993, 1996, 2007). Considering those judgements, she suggests, may help us to determine whether acts in other cases are right or wrong, and may also give us a deeper understanding of our pre-theoretical judgements and help to organise our moral thinking (2007, p5, 1996, p8–12). Yet Kamm accepts that

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<sup>22</sup> See, for example, Kamm (1993, 1996, 2007), Foot (1967), Thomson (1976, 2008).

the fact that a principle is supported by our judgements in hypothetical cases is not sufficient to make it plausible. In addition, Kamm holds, 'such principles must be related to morally significant ideas' (1996, p12), and must 'express some plausible value or conception of the person or relations between persons' (2007, p5).

Kamm claims that this role is played by the notion of moral status, as well as by several other related ideas. With the exception of a short chapter in *Intricate Ethics* (2007, ch 7) that sets out the concept of moral status, however, her discussion of these ideas is brief and spread throughout her work. Perhaps as a result, her account of moral status, as well as of these related ideas, has received little attention. This section aims to bring together the main ideas or values that Kamm considers throughout her work within the framework of her notion of moral status. Having revised Kamm's notion of moral status, I then go on in the next chapter to set out and argue for the Moral Status View, which is a distinct and Kantian moral position.

The reasons for spending some time considering and revising the notion of moral status, then, will become clearer in the next chapter. It is worth explicitly setting out how my approach to answering the question of how we should act differs from that of Kamm. Kamm's approach, I have said, is to develop principles by considering our judgements in hypothetical cases and to then consider the moral concepts which support and are supported by those judgements. I argued in the last chapter that we should instead attempt to identify our moral motivations – we should ask how we would be motivated were we responsive to moral reasons. Our moral principles, then, are simply those principles which we would follow were we so motivated. So the hope is that the notion of moral status, properly understood, can capture our moral motivations.

Now Kamm first appeals to the notion of moral status in making a distinction between what it is permissible to do and what happens (p227). What it is permissible to do, Kamm claims, depends not on what happens in performing, or as a result of

performing an act, but on the moral status of the entities involved in that act. An entity's moral status, Kamm further claims, has normative significance for all agents, so that it gives all agents reasons to perform or not perform certain actions. As Kamm puts it, this is to claim that moral status is victim focused: that prerogatives and constraints are not based on agent-relative reasons – such as not being responsible for an act – or partial reasons – such as the loss that a particular person would suffer – but on reasons that hold for all agents arising from the moral status of the involved parties (p229).

Kamm also claims that moral status is an existing value. Failing to respond to a person's moral status is wrong, she suggests, not because it thereby alters her moral status, or because it suggests that she has a moral status that is not her actual status. Moral status is not a value to be realised, but an existing value that it is wrong to fail to respond to (2007, ch 7). Or, as Kamm puts it elsewhere, moral status captures the value of persons, which is to be responded to, and not the value to persons, which is to be realised. I suggest in the third section that we can bring this point out by saying that acts that wrongly fail to respond to the moral status of an entity are not wrong because of the effects of those acts, but because responding to the idea of moral status is of final value.<sup>23</sup>

These claims about moral status are captured in Kamm's chapter on moral status by the claim that one feature of an entity having moral status is that it counts in its own right (ch 7). That an entity counts in its own right captures the idea of that entity being of normative significance for all agents and the claim that moral status is an existing value. Following Korsgaard (1983), Kamm suggests that for an entity to count in its own right is not for it to matter intrinsically, but for it to have value as an end, rather than as an instrument, whether because of its intrinsic or extrinsic properties (2007, p228). That an entity counts in its own right gives us reason to perform or not perform

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<sup>23</sup> I explain the concept of final value further below and in the next chapter.



certain acts that involve that entity, such as acts that would destroy it. Entities that count or have moral value in their own right include persons, animals, art works and natural phenomenon such as the Grand Canyon (p 230).<sup>24</sup>

For an entity to have moral status, Kamm further claims, is for it to give us reasons for action for its own sake. We can save a person or animal for its own sake, because these things can get something out of continuing to exist. We cannot save a work of art, or the Grand Canyon, however, for its own sake, because it lacks the capacity for sentience or consciousness. Hence, Kamm concludes, 'an entity has moral status when, in its own right and for its own sake, it can give us reason to do things such as not destroy it or help it.' (2007, p229). Works of art, the Grand Canyon and embryos, Kamm suggests, lack moral status even though they might count morally in their own right. Hence moral status, Kamm suggests, might explain why a person's good matters, or why we should be concerned about value to persons.

An entity has moral status, then, when it gives us reasons to act in its own right, and for its own sake. This allows, however, that entities other than persons, such as animals, have moral status (p228). Persons have a particular moral status, Kamm holds: the moral status of being inviolable (1996, ch10). Inviolability, Kamm sometimes suggests, is an expression of the sovereignty of a person, or of persons being ends-in-themselves. The intuitive idea is that a person being inviolable means that is impermissible to perform acts that violate that person. This makes it impermissible to perform certain acts involving a person regardless of the consequences, where these consequences include the good of other persons, but also whether other persons would be violated as a consequence of a person not being violated.

For a person to be inviolable, Kamm further tells us, is for it to be impermissible to place her in certain causal relations to others. It is impermissible to place a person in

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<sup>24</sup> See also Scanlon (1998, p169).

certain causal relations to others, Kamm claims, only with respect to that which she has independent of others, or more precisely, to what she is entitled to independent of others. Kamm does not spell out what a person is entitled to, but the examples she considers in her hypothetical cases include a person's life, her bodily integrity, and her effort, or risks. Kamm gives no explicit criteria for what a person is entitled to, however, although she occasionally suggests that she is entitled to what makes her a separate person. Which causal relations would violate a person with respect to what she is entitled to is given by considering our judgements in hypothetical 'trolley problem' cases.

In her chapter on moral status, Kamm instead says that what distinguishes the moral status of persons is that they are entities to which we owe it to behave in certain ways (2007). Persons have the moral status of entities which we can have duties to, rather than merely duties concerning, and which correspondingly can have rights or claims. In failing to perform a duty which we owe to a person, Kamm claims, we not only behave wrongly, but wrong that person. That one owes it to a person to behave in certain ways, Kamm suggests, is connected to the ideas of dignity and respect for persons. These ideas further suggest, Kamm proposes, that our duties are given by what a person wills, and that to which she has claims, rather than her good (p230).

That persons have the moral status of entities to which we owe things fits with persons having the moral status of being inviolable. We violate, or wrong a person, Kamm may claim, when we fail to meet a duty that we owe to that person. The idea of owing things to a person is furthermore related to the idea of persons having certain entitlements. The focus on what persons will, and on their claims, is a different way of understanding the claim that persons have certain entitlements. And although the causal relations in which persons are placed is not emphasised in focusing on owing duties or behaviour to persons, it is clearly compatible. So we can take Kamm's account to be that persons have the moral status of entities to which we owe things,

although we should not lose sight of inviolability as a useful way of understanding this status.

Kamm also suggests that persons should not be subordinated to the greater good (p164–9). We can understand this claim as being that subordinating a person to the good is wrong because it values the good over that person's status. What makes subordination wrong, however, is not that a person is subordinated to the good, but that in subordinating a person to the good we fail to respond to her status. Whilst subordination may be a, or even the way in which we fail to respond to a person's moral status, it is wrong because in subordinating a person to the good, we fail to respond to her moral status. Rather than focus on subordination, then, I shall focus on the claim that responding to moral status is of final value, and the sense of moral status developed above.

Kamm suggests that the basis of the moral status of persons is that persons are rational. In her chapter on moral status, Kamm follows Scanlon in suggesting that persons have the moral status they do because of their capacity to form judgement-sensitive attitudes; to 'form attitudes or decide on actions on the basis of evaluating certain factors as reasons' (p232). That persons have reasons for willing one thing rather than another, Kamm suggests, further supports that what we owe to persons relates to what they will, rather than what is merely good for them. Kamm does not spell this suggestion out however, nor does she comment on how the moral status of persons is linked to their being rational.

So Kamm's account of moral status has the following three features. First, entities that have moral status count in their own right. Moral status therefore allows for an account of what it is permissible to do that does not depend entirely on what happens. Moral status is furthermore victim-focused, in that it gives reasons to all agents to act in certain ways rather than being based on agent-relative or partial reasons. Moral status is also an existing value, rather than a value to be realised, so that responding

to an entity's moral status is of final value. Second, entities that have moral status give us reasons to act for their own sake. This may help, I noted, to explain the sense in which a person's good can give us reasons to act. Finally, persons have the moral status of entities to which we can owe things, or are inviolable. Persons are entitled to certain things, with respect to which it would be wrong to place them in certain causal relations with other persons.

## II

Moral philosophy, I noted in the last chapter, begins with the question of how we should act. By considering what is attractive about Consequentialism, this section identifies two conditions that an account of how we should act must satisfy in order to be plausible. First, that account must clearly identify what, apart from consequences, determines whether an action is right or wrong. Secondly, that account must explain what role consequences do have in determining whether an act is right or wrong. An account based on the idea of moral status as understood by Kamm, I argue in this section, does not meet these two conditions. The next section shows how we can revise the notion of moral status to meet these conditions.

Consequentialists, I noted in the last chapter, hold that the way in which we should act depends solely on consequences, or more precisely, on events. This is to hold, I showed, that our moral reasons for action are given by the goodness of events. The problem with that position, I argued, is that it is not clear that the idea of the good captures our most fundamental moral motivations. This motivates the search for an alternative moral view. Nonetheless, it is important to acknowledge that Consequentialism is attractive in identifying an idea of which we have a clear understanding and which does morally motivate us – the idea of events that are good for a person, or of a person's well-being. Acknowledging that this is an attractive feature of Consequentialism establishes two conditions that a moral position must satisfy in order to be plausible.

The first condition holds because to show that we have reason to prefer a non-Consequentialist position, we must show that it also identifies an idea which we clearly understand. To have a clear understanding of a moral idea is to understand what it would be to be morally motivated by that idea, and hence what it would be to act in accordance with it. We clearly understand a non-Consequentialist idea only if we understand exactly how that idea is distinct from the idea of the good – only if we understand how being motivated by that idea is distinct from being motivated by the idea of the good. This requires that we understand what, apart from consequences, or events, is to determine whether an act is right or wrong. This is our first condition.

The fact that we *are* morally motivated by the idea of events that are good for a person, or by a person's well-being, establishes a second condition that a moral position must satisfy in order to be plausible. A moral position must allow that we are morally motivated by consequences, or more precisely, by events being good for a person, and hence set out a plausible role for consequences or events in determining how we should act. A moral position which did not give consequences a significant role in determining the acts which we should perform would not be plausible, since it would not account for the fact that we are morally motivated by events being good for a person – by a person's well-being.

These are not the only conditions that a moral position must satisfy in order to be plausible. Once we have shown that a moral position satisfies both conditions, for example, we must show that it also captures what morally motivates us. In particular, we must show that we are morally motivated by the distinct idea which that moral position identifies, and that being motivated by this idea explains why we are morally motivated by events being good for a person – by a person's well-being. I aim to meet these conditions in the next chapter. Further conditions may also hold. If we can meet the conditions identified above, however, we can at least establish that a moral position is a serious competitor to the theory of Consequentialism. That would be a significant achievement.

As it stands, however, Kamm's account does not clearly meet either of these conditions. Let us take the first condition first. Now the idea of moral status does offer an answer as to what, apart from consequences, determines whether an act is right or wrong. The problem is that as Kamm understands the idea of moral status, it is not clear that to be motivated by this idea is distinct from being motivated by an idea of the good. It appears that a Consequentialist can simply accept that the idea of moral status determines whether an act is right or wrong, but claim that this is simply another way of saying that whether an action is right or wrong depends on the goodness of events.

To see this, we can begin by noting that the Consequentialist can accommodate the first two features of Kamm's notion of moral status, as clarified in the last section. The Consequentialist can accept the first feature, on which entities with moral status count in their own right, but argue that this is consistent with the rightness of our actions depending solely on consequences, since consequences can be good *for* those entities. She may even claim that moral status helps to explain why we are required to bring about or avoid certain consequences. Even if she sometimes requires that we increase the good of some entities of others at the expense of others, this is consistent with each entity counting in its own right, since we would also increase the good of those entities if required to do so.

The Consequentialist can also accommodate the ideas falling under the idea of entities counting in their own right. We can distinguish between what it is permissible to do and what happens, she can claim, but nonetheless hold that what it is permissible to do depends only on what happens. She can accept that moral status is victim-focused and gives reasons to all agents to act, but hold that these reasons are based on the consequences for each person, rather than some other sense as to how each person is to be treated. Furthermore, she can accept that moral status is an existing value, rather than a value to be realised, and thus that responding to an agent's moral status has final value. That is compatible with Consequentialism if responding to the moral

status of agents is consistent with or requires producing certain consequences for those agents.

The Consequentialist can also accommodate the second feature of moral status, on which entities with moral status give us reasons to act for their own sake. In fact the Consequentialist may claim that this is precisely what we would do in acting so as to bring about consequences that realise the good of each person. Since the Consequentialist can simply accept these two features of moral status, and even appeal to them in justifying her own account, these features of moral status do not give us a distinctive answer to the question as to what, apart from consequences, the rightness or wrongness of an act depends on. Thus they do not help to satisfy the first condition.

Kamm's answer to that question, therefore, must appeal to the third feature of moral status – that persons have the moral status of entities that are inviolable, or to which we can owe duties and behaviour. It is still not clear, however, that this gives an answer that is distinct from that of Consequentialism. For a person to have the moral status of being inviolable, I noted in the last section, is for it to be wrong to place her in certain causal relations to others with respect to that which she is entitled to. This is not a standard notion of entitlement, however: being entitled to a thing just means that it is wrong to place a person in certain casual relations with respect to that thing. The notion of entitlement therefore does no work in explaining why placing a person in such causal relations is wrong.

Kamm's claim, then, appears to be that it is wrong to place a person in certain causal relations with respect to certain things. In particular, a person being inviolable rules out appealing to the consequences of acts that puts that person in certain causal relations. Whilst this is a clear answer to what determines whether an act is right or wrong that appears distinct from that of the Consequentialist, it is difficult to see what the positive notion is supposed to be. To claim that a person is inviolable seems to be

to claim that certain causal relations are wrong, and that we should not appeal to consequences that place persons in such relations. Yet this is not to offer an explanation of why it would be wrong to treat people in certain ways. It is not clear, then, that this feature of moral status qualifies as a reason, and hence that it identifies an idea by which we could be morally motivated.

Nor is it clear that we have such an explanation on focusing on the ideas of owing a person duties and certain forms of behaviour. This is to claim, we saw in the last section, that we have duties to persons, rather than concerning them, that persons have claims, and that we can wrong persons, rather than just act wrongly given their status. The Consequentialist, however, can also accept these claims. To say that persons are owed duties, have claims, and can be wronged, the Consequentialist can hold, is to say that not acting in accordance with these ideas would have a negative effect on people's good. Being morally motivated by these notions, in other words, is not obviously distinct from being motivated by the idea of the good.

What we are left with, then, is Kamm's further claim that such notions are based on a person's will – on what she wills. The Consequentialist, however, might claim that the significance of what a person wills can also be accommodated by focusing on the effect on her good. We are to respect what a person wills, we might claim, because doing so has a positive impact on the good of that person, or the good of other people. Whilst there does seem to be something distinctive about the ideas considered under the third feature of Kamm's notion of moral status, then, we need to say more about those ideas if it is to be clear that to be motivated by them is distinct from being motivated by ideas of the good.

The second problem with Kamm's account of moral status is that it does not clearly meet the second condition identified above – it does not clearly establish the role of consequences in our moral decision-making. The second feature of moral status, I noted above, according to which entities with moral status give us reasons to act for



their sake, suggests some role for consequences in determining whether acts are right or wrong, as reasons to act for the sake of an entity may be reasons to promote that entity's good. I shall argue, however, that even adopting this suggestion, which Kamm does not make explicit, does not give an unproblematic answer as to the role of consequences in determining whether acts are right or wrong, and hence does not clearly meet the second condition.

There are three problems with the suggestion that having reasons to act for the sake of entities with moral status explains the role of consequences in determining which acts are right or wrong. The first problem is that the distinction between the second and third feature of moral status is not well drawn. Kamm supports the distinction between acting for the sake of an entity and acting so as not to violate an entity, or to meet a duty owed to it, by considering a case in which I have a duty to you to look after your mother (2007, p230). The object of that duty, Kamm claims, is your mother, since it is she who is benefited by being looked after – I act for your mother's sake. I owe that duty, however, not to your mother, but to you – only you can release me from that duty, even if your mother can on particular occasions insist that I not fulfil it. Kamm concludes from this example that acting for the sake of an entity and owing a duty to that entity are distinct, and furthermore that an act can be the sake of one entity even though it is owed to another.

It seems wrong, however, to say that to fulfil duties that we owe to a person, or not to violate a person, is not to act for that person's sake. Intuitively, there is a sense in which I act for your sake in meeting my duty to you to look after your mother. So it would be clearer to define the second feature of moral status so that it is explicitly based on the consequences for the good of an entity. The distinction between the second and third feature of moral status would be made even clearer on clarifying the third feature, inviolability or owing duties to persons, as I have suggested is required in order to meet the first condition. We can also note that Kamm's claim that in meeting a duty I owe you to look after your mother, I act not for your sake, but for

that of your mother, supports the idea that to act for the sake of an entity is to promote that entity's good.

The second problem is that giving us reasons to act for its sake is supposed to be a feature of all entities with moral status. It can be more important, however, to act for the sake of some entities than others. It is more important, for example, to act for the sake of persons than for animals. Consequences for the good of certain entities, such as persons, clearly matters more than consequences for the good of others, such as animals. Since the importance of acting for the sake of an entity will vary with its moral status, this feature should not be taken to define moral status, at least insofar as it can vary, but to depend upon the moral status of the entity in question.

The third problem is that Kamm does not make it clear that the wrongness of an act can depend either on the second or the third feature of moral status according to the act under consideration. In the example given, acting for the sake of entities plays no role in explaining why the act is wrong. Not looking after your mother would be wrong in this case because I have a duty to you to do so. Since I do not act for your sake, and the act is not wrong because I do not act for your mother's sake, there is no entity whose sake failing to act for makes my act wrong. The second feature of status, that we act for the sake of persons, therefore plays no role in this case of determining what is right or wrong. In other cases, however, it must do so; I may act wrongly by not aiding a hungry child, even though this is not wrong according to the third feature, since doing so would not violate that child, nor fail to meet a duty I owe to that child. Not only does Kamm's account not allow that the significance of consequences can vary with moral status, then, it does not make it clear that consequences alone will determine whether an act is right or wrong in some cases, but not in others.

I have suggested that the role of consequences in determining whether an act is right or wrong on Kamm's account of moral status is given by its second feature, acting for the sake of an entity. That account of moral status must be revised to meet the three

problems I have raised. First, it should be made clearer that this second feature is based on the consequences for the relevant entity in order to better draw the distinction between the second and third feature of moral status. Secondly, this second feature, acting for the sake of others, should not be taken to define moral status, but to vary depending on the moral status of the entity in question. Thirdly, it should be made clear that whether or not an act is wrong can depend on the second feature in some cases – on whether we act for someone’s sake – but on the third feature in others – on whether we owe a person a duty.

### III

This section revises Kamm’s account of moral status to avoid the problems raised in the previous section. I argue that this revised account of moral status meets the two conditions identified in the last section – that it tells us what, apart from consequences, determines whether an act is right or wrong, and also explains the role that consequences play in making that determination. I suggest revisions to each of the three features of Kamm’s account of moral status. Making these revisions gives us a clearer notion of moral status, and hence provides the basis for a moral view that is both distinct and plausible. According to the Moral Status View, for which I argue in the next chapter, the idea of moral status captures our fundamental moral reasons for action.

The first revision is to the first feature of moral status, on which entities that have moral status count in their own right. It would be clearer to say that for an entity to have moral status is for it to have some property in virtue of which certain things are of final value. Two reasons support this revision. First, to point to a property on which the moral status of an entity depends brings out what it is for an entity to count in its own right. It captures just as well the claim that an entity which has moral status has normative significance for all agents, or is victim-focused. I believe it better captures, however, Kamm’s claim that the moral status of an entity is of existent value, rather

than being a value to be realised, since it makes it clear that moral status depends on an existing property, rather than an event which may be realised. We can think of an entity with moral status as being a source of value, rather than a value to be realised.<sup>25</sup>

The second reason to say that for an entity to have moral status is for it to have some property in virtue of which certain things are of final value becomes clear on considering Kamm's claim that to value an entity in its own right is to value that entity as an end. Kamm claims that an entity has value as an end because, following Korsgaard, she believes that this is the proper contrast with an entity being of instrumental value (1983). Yet it is not obvious what the connection is supposed to be between an entity being of instrumental value and it counting in its own right, or being a source of value. A natural way to read the distinction between valuing something as an end and as an instrument is as a causal distinction – as a distinction that applies to causes and events, or to things insofar as they are involved in events, or in causing events. This is not all that can be meant by saying that we are to value an entity as an end, however, as there is then no obvious connection to the idea of that entity counting in its own right.

Rather than claiming that an entity with moral status has value as an end, then, we can capture the idea of an entity counting in its own right by saying that it has a certain moral status in virtue of having a certain property. The question is then what it is for an entity to have that moral status, or more precisely, how we should act given that moral status. To preserve Kamm's focus on the causal role of an entity, we can draw a distinction between something being of instrumental as opposed to final value. This distinction clearly applies to causes and events, or to things insofar as they are involved in those events, or in causing events. Insofar as an entity has a particular

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<sup>25</sup> This is not the same as saying that an entity is of intrinsic value. An entity is of intrinsic value when the value of its properties does not depend on anything external to that entity – when they are not of extrinsic value. The properties in virtue of which an entity has a certain moral status, however, are not merely of intrinsic value, but are a source of value – they make it the case that certain events are of instrumental or final value.

moral status, it is a source of value, rather than being of final or instrumental value. We can connect these ideas, however, by saying that certain things can be of final value in virtue of an entity having a particular moral status.

For something to be of instrumental value is for the value of that thing to be given by its being an instrument to some other thing. For something to be of final value, on the other hand, is for it to give value to those things which are instruments to it.<sup>26</sup> As I have said, the things in question are events and causes of events, as well as objects or entities insofar as they play these roles. This distinction makes clear that what is of final value must get its value from some other source. On Kamm's account, that source is the moral status of certain entities. Entities with moral status can give certain things final value, which can in turn give instrumental value to other things. This explains the temptation to think that an entity with moral status is itself of final value. We can avoid this temptation in part by speaking of things being of final value in virtue of an entity's moral status, rather than of something with moral status as being an end. I believe, then, that this first revision helps to clarify Kamm's account.

We saw in the first section that Kamm suggests that the moral status of persons is based on their being rational. This is to claim that the property in virtue of which persons have a particular moral status is that of being rational. Kamm gives no argument for the claim that this property is the basis of our moral status, however, and does not connect this claim with the account of moral status which she goes on to provide. In the next chapter I suggest a different property which better fits with Kamm's revised account of moral status: that of having the capacity for practical reason – of being able to use our reason to cause events. My reasons for focusing on this property will become clear in the next chapter.

The second revision to be made is to the second feature of moral status, on which entities that have moral status can give us reasons to act for their own sake. We can

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<sup>26</sup> I further explain this distinction in the next chapter.

now revise this claim to be that certain events – acts or states of affairs – have final value in virtue of an entity’s moral status. This helps meet the three problems raised in the last section as to the role of consequences in determining whether an act is right or wrong. The first problem is met, since it is clear that the second feature appeals to consequences, which as I showed in the last chapter, the Consequentialist understands as including not just states of affairs but also actions. Those events that are of final value in virtue of a person’s moral status, we can say, are those events which are *good for* that person. I return to this point in the next chapter.

On this revision, the second feature of Kamm’s account no longer defines moral status, but instead varies depending on the moral status of the entity in question. This allows that acting for the sake of some entities matters more or in a different sense than others. The moral status of the Grand Canyon is such it is of final value that it is not destroyed or defaced. The moral status of an animal, on the other hand, is such that it is of final value that the animal is not in pain. Thus the second problem raised in the last section for the role of consequences in Kamm’s account is also met.

Since the second feature no longer defines moral status, it is clearer that in some cases, that feature plays no role in determining whether an act is right or wrong. Thus the third problem which I raised concerning the role of consequences in Kamm’s account is also partly met. To show that the wrongness of an act can depend either on the second or third feature of Kamm’s concept of moral status, however, we must also clarify the third feature – that of each person having the moral status of being inviolable, or things to which we can owe duties or behaviour. As we saw in the last section, revision of that third feature is furthermore required to satisfy the first condition identified in the last section – to clearly identify what, apart from consequences, determines whether an act is right or wrong.

Our final revision, then, is to that third feature. It is clearer to say that the moral status of persons is such that certain ways in which a person causes effects, or events, can be

of final value. This revision is suggested on revising the second feature such that in virtue of her moral status, events in which a person is involved can be of final value. This captures the value of consequences, or events. As I noted above, the distinction between instrumental and final value applies to both events and causes, as well as to things insofar as they are involved in events, or in causing events. An obvious alternative to certain events in which a person is involved being of final value, then, is that certain ways in which a person causes events can be of final value.

Analysis of the idea that each person has the moral status of being inviolable, or being such that we can owe them duties, I showed in the last section, reveals two core ideas: an idea that is positive but unclear – what a person wills – and an idea that is clear but not positive – that it is wrong for a person to be placed in certain causal relations. The idea of a person causing events is both clear and positive and fits with both ideas. What matters about what a person wills, and what is clearly distinct from the consequences of an act, is that a person causes an event. What is wrong with a person being placed in certain causal relations, is that in being so placed the final value, or disvalue, of a person causing events is ignored. The focus on a person causing events is clearly a revision of Kamm's focus on a person being in causal relations, but is simpler in that it is not based on causal relations, but rather on causing itself, and is positive in that it is not only focused on certain causal relations being wrong.

We can now put these three revisions together to give our revised notion of moral status. In virtue of having a certain property, we can say, each person has a moral status such that both certain events in which that person is involved and certain ways in which she causes events are of final value. This helps to meet both of the conditions identified in the last section. What, apart from consequences or events, determines whether an act is right or wrong, is certain ways in which people cause events. We also have some explanation of the role that consequences or events play in determining whether an act is right or wrong. Events in which a person are involved

can be of final value in virtue of a person's moral status, and therefore give us moral reasons.

This revised notion of moral status does not yet amount to a moral position, since it does not yet tell us how we should act. We have not yet established the exact nature of the property in virtue of which each person has a certain moral status. Nor have we established which events in which a person is involved, or which ways of a person causing events, are of final value. Establishing these points, furthermore, is necessary to reach a clearer understanding of what it is to treat those events and ways of causing events as being of final value. We need to meet these aims if we are to understand what it would be to be motivated by the idea of moral status.

Kamm appeals to the notion of moral status, I noted above, to support moral principles developed by considering our judgements in hypothetical cases. Our approach is rather to arrive at principles by considering our moral motivations. Acknowledging the practical nature of our moral reasons for action, then, means that we must go beyond Kamm's aims in appealing to the notion of moral status. To set out a distinctive and plausible moral position we must show not only what it would be to be motivated by the notion of moral status, but that we are so motivated when we are responsive to moral reasons. The next chapter aims to meet these tasks.



## Chapter 3 — The Moral Status View

The first chapter motivated the search for a plausible Kantian position by focusing on the practical nature of our moral reasons for action. The second chapter suggested that existing Kantian accounts fail to clearly identify distinct moral ideas, and revised Kamm's notion of moral status in order to address this problem. In virtue of having a certain property, we can say, each person has a moral status such that both certain events in which that person is involved and certain ways in which she causes events are of final value. To turn this into a moral position, I noted, we must set out what it would be to be motivated by each person's moral status, and show that we would be so motivated were we responsive to moral reasons.

By meeting these tasks, this chapter sets out and argues for a distinct moral position which I call the Moral Status View. The Moral Status View holds that the property in virtue of which each person has a certain moral status is that of having practical reason – of having the capacity to use her reason to cause events. In virtue of having this property, I show, both a person using her reason to cause events and events in which she is involved that cause her to so use her reason are of final value. I also illustrate the Moral Status View by applying it in particular cases. Since it is plausible that we are morally motivated by these claims, I argue, the Moral Status View is a plausible and distinct moral position.

A secondary aim of this chapter is to provide support for the claim that this is a Kantian view of our moral reasons for action. Given the difficulties in establishing the best interpretation of Kant, and to avoid an appeal to authority, I have aimed to ensure that the arguments which I put forward can be understood and assessed without any knowledge of Kant's work. Nonetheless, there is reason to explain why I take this view to be a reasonable interpretation of Kant's view and hence part of the Kantian tradition. Establishing that claim would allow us to draw on that tradition to better understand and develop the position here put forward, and perhaps, more

ambitiously, would also help to show how we might understand some of that tradition's central claims.

This chapter runs as follows. Section one sets out my approach in developing the Moral Status View. The second section sets out the core features of the Moral Status View by identifying the property in virtue of which each person has a certain moral status. It outlines an argument for the claim that our fundamental moral reasons are captured by the use of our reason to cause events, and further explains how that idea should be understood. The third section argues that if we are responsive to moral reasons, we are motivated by a person using her reason to cause events. Thus we are morally motivated by each person having a moral status in virtue of having the capacity for practical reason. The way in which a person causing events is of final value, then, is by the use of her reason.

Section four shows that on this conception of moral status, the events in which a person is involved that are of final value are those events which promote the use of a person's reason to cause events. I give an overview of the type of events which are of final value on this account, and show how being morally motivated by the conception of moral status developed results in our being morally motivated so as to realise those events. As well as making the Moral Status View more plausible, in that it can accommodate moral motivations such as those given by the goodness of events, this allows us to better understand how that view relates to other moral positions, such as Consequentialism.

The fifth section completes the development of the Moral Status View by setting out what it is for the use of a person's reason to cause events, as well as events which promote that use of her reason to be of final value. To treat events in which a person is involved as being of final value is to act as if we have reasons to realise that event regardless of what it causes. To treat the use of a person's reason to cause events as being of final value is to act as if we do not have reasons given by events caused solely

by her involvement. Section six illustrates this claim by showing how it applies in some oft-considered hypothetical cases. The final section shows how the Moral Status View captures our moral motivations and establishes our moral duties in four cases which Kant considers in the *Groundwork* (1785).

## I

Focusing on the practical nature of our moral reasons for action suggests taking a particular approach to developing a moral position. Each person should act, I noted in the first chapter, as if she were motivated as she would be were she responsive to moral reasons. Thus the correct moral principles are those principles which we would act in accordance with were we morally motivated. In giving an account of how we should act, then, we can begin not by identifying moral principles or actions, but by establishing our moral motivations. Having established those moral motivations, we can then identify the moral principles which being so motivated would result in our acting in accordance with.

What we are searching for, then, is something that captures our fundamental motivation when we are responsive to moral reasons. We can begin, then, with some basic metaphysics – by asking what sort of thing, or idea thereof, could provide us with our fundamental moral motivation. I venture into the realm of metaphysics only insofar as this is necessary to establish that the Moral Status View sets out a plausible view of that fundamental moral motivation. As we saw in the last chapter, Kamm takes the concept of moral status to be a causal notion. In arguing for the Moral Status View, we want to at least explain how we arrive at the thought that a causal notion could provide the basis for an account of our fundamental moral reasons for action.

We can start from the observation that people exist in space and time. That which provides our fundamental moral motivation in acting, then, must be part of, or at least have some relation to something which is part of space and time. The units of space and time – what *happens* in space and time, we might say – are events. Events, I said

in the first chapter, include both states of affairs and actions. At any particular time the world consists of particular events. These events are related to one another by causal connections. The sort of things that could provide our fundamental moral motivation, then, are events and the causal connection between those events, as well as the things which are involved in those events, or which those causal connections hold between.

The Moral Status View focuses on events, rather than states of affairs, to reflect that what exists, or happens in space and time includes actions, which might be understood to be processes rather than states. It is worth emphasising, however, that the concept of an event is being understood here as broadly as is possible; as including anything that exists or happens. In particular, events are to be understood as including all states of affairs, from the colour of a book to the position of a chair. I also argued in the first chapter that Consequentialists should be understood in this way - as appealing to the goodness of events, rather than states of affairs. As I noted in the last chapter, and as shall become clearer in the next, it is best to adopt this terminology in order to distinguish the Moral Status View from Consequentialism, and to show how it captures what motivates that view.

Now in performing an action, a person changes what happens – she realises, or makes actual certain events, as well as certain causal relations between those events. We will see below that a person having the capacity to change what happens is significant for two reasons. It is worth flagging these reasons here. First, a person is an entity in space and time – she is involved in events and the causal connections between them – and is therefore part of what we are considering in searching for our fundamental moral motivations. We need to understand what it is for a person to change what happens, then, since this may be relevant to our search.

Secondly, in asking how a person should act, we need to understand what it is for her to act – what it is for her to make certain events happen rather than others. In

considering how a person should act, it is tempting to focus on the actions which she is to perform, or the psychological or sociological process by which she performs them – on her intentions, for example, or the institutions which allow her to perform certain actions. To perform a particular action, however, with a particular intention, or via a particular institution, is merely the way in which a person changes what happens. In asking what it is for a person to act, we want to know what it *is* for a person to change what happens – we want to know how this concept is to be understood.

To understand what it is to change what happens, we need to understand not only what it is for something to happen, but *how* something can happen. Broadly speaking, events can happen in two ways. First, and most obviously, events can be part of the process of cause and effect, in which one event or events leads to a subsequent event or events. An event can be both the effect of prior events, and the cause of subsequent events. We can think of events which are part of this process as being links in a chain of events. This process, Kant might have said, and hence the nature of this chain, is governed by natural laws that determine which event or events lead to which subsequent event or events (1785, 4:446–8).

Secondly, events may be the outcome of a process other than that of cause and effect. In causing such an event, this would be a process by which a chain of events is initiated. If this is to be a distinct way in which events happen, this process cannot itself be the result of an event – it cannot be a link in the chain of events. So this process cannot itself be an event, or even a cause of an event when understood to be part of the natural process of cause and effect. Instead, we must see this process as the origin or causer of a chain of events. What happens is then determined not by what has happened, but by what happens in this process.<sup>27</sup> This distinction between events happening as part of a chain of events and as a result of a process that initiates such a

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<sup>27</sup> This process, Kant might have said, is governed not by the natural, but by the moral law.

chain corresponds with, and is perhaps a way of making sense of, Kant's distinction between the phenomenal and the noumenal (4:457–9).

The basis of the Moral Status View is that a rational being is such that she can realise this second process by exercising her capacity for practical reason. I develop this idea in the next section. As a first approximation, however, we can say that for a person to exercise that capacity is for her to reason about which events and ways of causing events she has reason to realise, and to then act in accordance with what she takes those reasons to be. To see each person as having this capacity is to see her as not only being involved in events, but as being able to use her reason to determine which events and ways of causing events are realised, and to act accordingly. In so exercising her reason, a person not only reflects on her moral reasons, but sees herself and others as having this capacity. To make things simpler, we can say that each person can use her reason to cause events.

Each person, then, can not only cause an event insofar as she is part of a chain of events – insofar as she is something that happens in space and time – but by realising this process. Rather than being a link in a chain, we can say, the use of a person's reason to cause events begins a chain of events that are not solely the result of prior events. So we can think of a person not as a cause but as a causer of events. Clearly, the idea of the use of a person's reason being the origin of a chain of events might be thought of as a conception of free will. This is further reason to think that the Moral Status View which I develop is a Kantian position (4:446–63).

Since the process of using one's reason to cause events is enacted by a person, there clearly is a sense in which we can think of that process as being an event. My suggestion is that we can think of that process in a different sense by focusing on its causal nature. To focus on the causal nature of that process, I have suggested, is not to see it as an event, or even as a cause of an event when understood to be part of the process of cause and effect. Again, our interest in a person insofar as she realises this

process is not an interest in how she realises that process when considered as part of the world of events – it is not an interest in her intentions, for example. We are interested in what it is for her to use her reason to cause events, and not the accompanying processes which she undergoes in doing so.

Whilst there is clearly more to say about these ideas, this at least clarifies the concepts on which I shall draw in developing the Moral Status View. The Moral Status View holds that our fundamental moral reasons for action are reasons to respond to each person's moral status. In particular, I shall show, it maintains what might be called a causal account of our moral reasons for action – an account on what matters most is that each person can use her reason to cause events. The next section further clarifies what it is for a person to use her reason to cause events and argues that this idea does indeed capture our fundamental moral reasons for action.

## II

The last section suggested that for a person to use her reason to cause events is for her to reason about which events and ways of causing events she has reason to realise, and to then act in accordance with what she takes those reasons to be. This section develops this idea and outlines an argument for the claim that our fundamental moral reasons are given by the use of a person's reason to cause events. On this view of our fundamental moral reasons, which I shall call the Moral Status View, what matters is that we should respond to the moral status that each person has in virtue of having the capacity to use reason to cause events. The next section offers a further argument for this position by claiming that when so understood, we do take the idea of moral status to be of normative significance.

The first chapter opened with the claim that moral philosophy begins with the question of how we should act. This question, I there argued, is of practical significance; it asks not only for a description of a way of acting, but furthermore for an account of how to act that is of normative force. Since people are amongst those

beings who are to act in that way, in asking this question we assume not only that there is some way that we should act, but further that we are able to respond to that normative force - to be motivated to act in that way. We must therefore assume that we are able to use our reason to cause events in the sense set out in the last section - to reason about how to act, including about our moral reasons, and then act accordingly.

A question immediately arises, however, as to how it is possible for a rational being, such as a person, to use her reason to cause events. As the above remarks show, this is a question about how it is possible for us to be moral. This question is of both practical and theoretical interest: we want such an account both in order that it is more likely that we use our reason to cause events, and thus act morally, and in order that we can give a satisfactory explanation of what it is for us to do so. To give an account of how we can use our reason to cause events, however, is not to prove but only to defend the possibility of our being able to do so. What warrants this approach is that as I have shown, we must assume that we are able to use our reason to cause events in attempting to answer the question as to how we should act.

Asking how it is possible for us to use our reason to cause events forces us to clarify how this idea must be understood. On the initial account given in the last section, for reason to cause events is for those events and ways of causing events not to be the result of some other cause, such as a motive or inclination. Suppose, though, that a person acts in a way that is inconsistent with reason causing events in other cases - with her using her reason to cause events in the future, or with other people using their reason to cause events. On the assumption that the practical use of reason cannot contradict itself, to which I return below, the cause of her action must be that there is some difference in the use of reason in those different cases. Yet since reason itself is identical in each case, that difference and hence the cause of our action must be something other than reason. In acting in a way that is inconsistent with reason causing events in other cases, then, we would be failing to use our reason to cause events.



It is only possible that we use our reason to cause events, then, if we treat other people (as well as ourselves) such that they are able to use their reason to cause events in the sense set out in the last section. We do not succeed in using our reason to cause events, in other words, if we act in such a way that people are unable to reason about which events to realise and then act accordingly. To use our reason so as to undermine the ability of other people to so use their reason, then, either deliberately through acts such as murder, or as a result of simply pursuing our own rational self-interest, is not for us to use our reason to cause events. To put this point in terms which shall be explained below, successfully using your reason to cause events is only possible if you treat the use of other people's reason to cause events as being of final value.

Let us now return to the claim that the practical use of reason cannot contradict itself. One attempt to justify this claim is to suggest that the nature of rationality is such that it cannot be contradictory. Since we are here concerned with the practical use of reason, however, rather than its theoretical use, this response is not satisfactory. We should rather say that if we are able to use our reason to cause events, in attempting to do so we must act as if reason is able to cause events - as if we are able to reason as to how we are to act and then act accordingly. Since the use of our reason to cause events assumes its own ability to do so, it cannot contradict itself without undermining its own operation. As a result, if it is to be possible for us to use our reason to cause events, in attempting to do so we must respect the same use of reason by all rational beings.

This also tells us how it is possible for us to use our reason to cause events - to exercise our practical reason. By acting under the idea of itself, the practical use of reason is able to take itself as an end, and thus to act as if it were possible for reason to cause events. On this view, the will, or practical reason, is an end in itself not only in the sense that it is an objective, existing end - an end we have regardless of our empirical nature and rational choices - but additionally in that it is an end *for* itself. This allows us to defend the claim that it is possible for us to use our reason to cause events, and

hence that it is possible for us to be moral. The possibility of our being moral rests on the possibility of our acting autonomously, since it is only by acting autonomously that our reason could cause events, and only by our reason causing events that we could be moral.

A further question arises, however, as to why we are required to act as if we were autonomous - as to why our acting in this way is of normative force. Although I have shown that we must assume that we are required to act in this way in asking how we should act, I have not argued that each person does or should ask this question, and hence that each of us is required to act in this way. We must therefore go beyond our analysis of how to be moral and establish that we are required to act in the way that this analysis identifies. The obvious way of doing so would be to show that we are required to be moral. Far from being able to establish such a requirement, however, we are not even able to demonstrate that our being moral is possible. Thus we must give some other explanation as to why each of us should act as if we were autonomous by taking the use of each person's reason to cause events as being an end.

We can instead establish this point by showing that we are required to act as if our reason could cause events. Each of us appears to use our reason to determine how to act not only in rationally choosing and pursuing ends, but more generally, including when determining how to treat other people. To use our reason in this way, however, is to act as if our reason were able to cause events - or in Kant's terms, to act under the idea of our reason causing events. In appearing to act in this way, then, we are required to act as if it were possible for us to use our reason to cause events. We are therefore required to act as if the use of our reason to cause events were indeed an end in itself; as if we were autonomous. This is what Kant meant, I suggest, when he claimed that rational beings cannot but act under the idea of free will, and that this shows that we are bound to act in accordance with the moral law.

As we have seen, however, to act as if we were autonomous is to act as if we were moral beings. So in appearing to use our reason to determine how to act, we are required to take the use of our reason to cause events as capturing our fundamental moral reasons for action. As we have seen, this is to act in a way that does not interfere with or undermine the possibility of a rational being such as a person using her reason to cause events. As I clarify below, this is to treat the use of a person's reason to cause events as being of final value. The claim is not that acting autonomously entails that we act morally, but rather that since we appear to use our reason to determine how to act, we must act as if we were autonomous. To act as if we were autonomous, however, is to act as if we were moral beings. Practically speaking, then, we are committed to taking our fundamental moral reasons to be captured by the use of our reason to cause events.

Now it might be objected that this does not establish that our fundamental moral reasons for action are in fact captured by the use of our reason to cause events. Our fundamental moral requirements, it may be pressed, cannot be rooted in the mere appearance of the use of our practical reason. This objection, however, assumes a particular understanding of the concept of a requirement, or obligation. Our being practically committed to the Moral Status View capturing our fundamental moral reasons is a significant result. Similarly, it might be objected that I have not proved that it is possible for us to act autonomously, and hence that it is possible for us to be moral. As I have shown, however, the Kantian attempts only to defend the possibility of our being moral, and in doing so, to identify a way of being moral - to identify what our fundamental moral reasons must be given that possibility. Whilst there is clearly more to say concerning the points made in this section, this at least clarifies the Moral Status View and outlines how it is to be defended.

Before further developing the Moral Status View, it is worth briefly indicating how the approach to be taken differs from other accounts of Kantian ethics. For reasons of space, I shall focus on two different, prominent accounts: those of Christine Korsgaard

(1996) and Allen Wood (2008). Korsgaard offers a constructivist interpretation of Kant, on which humanity is argued to be an end-in-itself as a result of our rational choice of ends conferring value not only on those ends but also on that capacity itself (1996, p119 - 124). What makes an action moral, Korsgaard suggests, is that it is done with moral worth, and what makes the moral law the moral law is that it motivates us morally (p60 - 67). Part of what motivates this view is an attempt to justify the normativity of the moral law; to show that the moral law binds us as rational agents (p43 - 47). The moral law is binding, Korsgaard claims, because it is produced by our own will, and more specifically, from our rational choice of ends.

Wood instead offers a realist interpretation of Kant on which our fundamental moral reasons are captured by the value of humanity. Whilst on Wood's reading, humanity is an end-in-itself because of our rational capacity to set and follow ends, there is no sense in which the exercise of that capacity *makes* humanity an end-in-itself (2008, p90 - 92). Our fundamental reasons, then, are grounded by our rational choice of ends, but not constructed by that choice. Acting with moral worth is only necessary when and because our empirical natures have become corrupted; it does not create an objective value which would not otherwise exist (p24 - 42). Wood argues that according to Kant, it is only possible for us to be moral if we have free will, and that we must act *as if* we have free will because our actions commit us to doing so on pain of being incoherent (p133 - 134).

Unfortunately there is not space to fully spell out the key points and differences in these two accounts. To locate our own approach, we can make two observations. First, these accounts differ as to Kant's meta-ethical view: Korsgaard takes Kant to be a constructivist, Wood a realist. Secondly, whilst Korsgaard takes Kant to aim to account for the normativity of the moral law, Wood instead holds that fundamental normative claims are merely to be explained, or defended, by showing that they are coherent (2008, p54 - 60). One way to bring out these differences is by noting the different roles that they attribute to Kant's idea of autonomy. Whilst for Korsgaard,

the exercise of autonomy is what makes us each an end-in-itself, and hence creates our fundamental moral reasons, for Wood, our being autonomous merely shows that we are able to think of the moral law in certain ways, as well as showing how we can be motivated by it (1996, p240 - 1)(2008, p116 - 122).

Yet both Korsgaard and Wood take the ground of the moral law to be given by a person's rational choice of ends. This seems to force us to choose between their approaches, since this process must be taken to either construct or capture our fundamental moral reasons. On the Moral Status View, however, the ground of the moral law is instead found in the capacity to use our reason to cause events in the sense identified above. This allows us to adopt a realist meta-ethical approach whilst attempting to account for the normativity of the moral law. The use of our reason to cause events does not create or construct our moral reasons, but rather captures those moral reasons. At the same time, what makes the moral law normative or binding for us is that we do act as if we can use our reason to cause events. Practically speaking, then, we are committed to acting accordingly; to taking the use of our reason to be an end, and hence to acting as if we were autonomous in treating that use in all its instances as being of final value.

A further advantage of the Moral Status View is that it gives us a more precise account of what it is to act in accordance with our fundamental moral reasons. In focusing on giving an account of our fundamental moral reasons, neither Korsgaard nor Wood spell out how we are to act in accordance with those reasons. In focusing on how we are required to act, on the other hand, Kamm does not attempt to give an account of our fundamental moral reasons, but rather relies on our judgements in particular cases. The Moral Status View attempts to combine both approaches: to give an account of our fundamental moral reasons that makes it clear how we are to act in accordance with them. This fits with what I have claimed to be Kant's approach: to establish how we should act by asking how it is possible for us to act in accordance with our fundamental moral reasons for action.

### III

I shall now argue that we are morally motivated by the idea of moral status. In considering our moral motivations, it is worth emphasising that the claim is not that whether or not an act is moral depends on a person's motive in performing that act, but only that people are *able* to respond to our moral reasons - that we can be motivated by the force of those reasons. As I noted in the first chapter, once we assume that we can be so motivated, we can identify our reasons by asking which purported moral reasons do in fact move us. To argue that we are morally motivated by the idea of moral status, then, is not to argue that what matters is that people are in fact motivated by that idea, or that an action being moral depends on our being so motivated.

There are other ways in which a person's actual motives might be claimed to be significant on the Moral Status View which I am here developing. It might be suggested, for example, that appealing to a person's motives, or psychological states, is one way to answer our question as to how we should act. As I have said, however, the Kantian begins by assuming that it is possible for all rational beings to act in a way that is moral, and under all circumstances. Quite apart from it being unclear that there is any motive or psychological state which would reliably lead us to act morally, it would be impossible for a person who was not able to immediately realise that psychological state to act in a way that is moral.

An alternative suggestion is that a person's motives or psychological state can tell us whether or not she succeeds in using her reason to cause events, as the Moral Status View requires. There is reason to doubt that this is the case, not only because it is not clear that such a motive or psychological state exists, but because it is difficult to properly assess a person's fundamental motives. Even if this problem could be solved, however, that we acted with those motives, or under that psychological state, would not itself make our actions right or wrong. Put differently, that we acted with that

motive would tell us nothing about what it is for reason to cause events, or how it is possible for it to do so.

Whilst there is clearly more to say about these points, this is enough to show that the Moral Status View does not take a person's actual motives in acting to be of fundamental significance. Our concern is rather with what I have called moral motivation - with what a person judges our moral reasons to be when she is motivated to act morally. The rest of this section argues that the idea of moral status captures our fundamental moral motivations. There are two tasks here: to establish what it would be to be motivated by the idea of moral status, and to establish that we would be motivated by that idea were we responsive to moral reasons.

We can begin by noting that we are often motivated by ideas of status. We often make judgements, explicitly or not, about a person's status. Such judgements lead us to form certain attitudes towards or expectations of that person, which in turn lead us to treat her in a particular way. In being the person who is to treat them in that way, these judgements may depend on judgements about the status of that person in relation to our own status. Judgements of status, however, also tend to influence and to be influenced by the judgements of other people. Hence these judgements, as well as the way in which we treat other people, can themselves be part of the way in which a person comes to be treated as being of a particular status.

Judgements about a person's status tend to be based on that person having a particular property, or properties. Different people can attribute significance to different properties. Given that our judgements of status tend to influence one other, however, it is perhaps more significant to note that these properties vary over time and across different societies and cultures. Such properties have included, but are not limited to, being born to parents of a certain status, having a certain amount of natural talent, being of a certain gender, age, race, or sexuality, and having a certain amount of money. The different treatment which such properties has resulted in has also varied:

whilst being born to a noble family once resulted in a host of explicit privileges, in our own society, having a large amount of money instead tends to lead to certain forms of deference and respect.

It is worth noting that in treating a person in ways which we take to befit her status, we are not typically motivated by the consequences of our actions. Rather, we are motivated by the judgement that a person is of a certain status, and this motivation leads us to form certain attitudes and expectations towards that person. Focusing on the practical nature of our moral reasons for action, then, shows that we should expect the idea of moral status to support a non-Consequentialist position – a position according to which the way that we should treat each other does not solely depend on the consequences how we do so. I say more about the distinction between Consequentialism and the Moral Status View below, and in the next chapter.

This clarifies what it is for a person to be motivated by the claim that a person has a certain status. To claim that a person has a certain moral status, however, is to make the further claim that we *ought* to be motivated by that status – that we ought to treat an entity with certain properties in a particular way. This is to say that our *moral* motivations are captured by the idea of moral status – that when we reflect on how we should act, we find that we are motivated by the idea of moral status. A proponent of an alternative moral theory could accept that people are often motivated by concerns of status, but claim that it is not the case that we should be so motivated – that the idea of status tells us nothing about our moral motivations, or at least, nothing of great significance.

The Moral Status View rather retains the notion of status, but holds that we should treat one another in accordance with our *moral* status. The last chapter clarified the concept of moral status. In virtue of having a certain property, I claimed, both certain events in which a person is involved as well as certain ways in which a person causes events are of final value. To understand what it would be to be motivated by the idea



of moral status – which events and ways of causing events are of final value, and what is meant by this – and to establish that we are morally motivated by moral status when so understood, we need to identify this property, and say what it would be to be motivated by each person having a certain moral status in virtue of possessing it.

The Moral Status View holds that the property in virtue of which each person has a moral status is that of possessing the capacity for practical reason. For a person to exercise that capacity, I showed in the last section, is for her to reason about which events she should realise, and in which ways, and to act accordingly. According to the Moral Status View, it is the exercise of this capacity – the use of each person’s reason to cause events – which captures our fundamental moral reasons for action. As I explain below, we can express this as the claim that the use of each person’s reason to cause events is of final value. Each person having the property of the capacity for practical reason gives her a certain moral status, then, precisely because it means that she is able to realise the final value of using her reason to cause events.

A thing can be of final value, we noted in the last chapter, if it is either a cause or an event, or if it is involved in an event or in causing an event. Since the exercise of a person’s capacity for practical reason is a way of causing an event, then unlike that capacity itself, it can be of final value. Thus it is not the property of having that capacity that captures our fundamental moral reasons on the Moral Status View, but the exercise of that capacity. Nonetheless, a person having that capacity is sufficient to establish that she has a certain moral status, since it is always possible for her to exercise it – to use her reason to cause events. The concept of moral status makes this clear, and furthermore connects the use of a person’s reason to cause events with the notion of status, which, as I have shown, has a certain intuitive appeal.

According to the Moral Status View, then, the ways in which a person causing events are of final value are those ways in which a person uses her reason to cause events. I give a more detailed explanation of what it is for the use of a person’s reason to cause

events to be of final value in the fourth section. Before doing so, however, we need to show that we are morally motivated by the idea of a person using her reason to cause events. Establishing this point will establish that we are morally motivated by each person having a certain moral status in virtue of having the capacity for practical reason, and hence that the Moral Status View is a plausible account of our moral motivations – of what would motivate us were we responsive to moral reasons.

The argument for the claim that we are morally motivated by the use of each person's reason to cause events is simply that having clarified that idea, we find that we are motivated by it when we respond to our moral reasons. We can see this by first considering this idea in itself, and then by considering its application in particular cases. We can begin with the distinction I drew between two ways in which events can happen. When we think about events being caused by previous events – when we think about events as links in a chain – then what motivates us if we are responsive to moral reasons cannot be the process by which one event leads to another, but must rather be those events themselves. That process, after all, is merely the process of one event following another in a law like manner.

When we think about events being caused as a result of the exercise of the capacity for practical reason, though, it is this process itself which motivates us – it is the use of a person's reason to cause those events. There is something quite remarkable about the idea of a person not only being able to be involved in events which are part of a chain of cause and effect, but to reflect upon that process and those events, and in doing so, to gain knowledge of the laws by which that process operates. There is something utterly astonishing, however, about the idea of a person being able to *change* this process of cause and effect – of being able to be the originator or causer of a chain of events.

If we attempt to fully comprehend this idea, I submit, we find that it exerts a powerful force upon us – we are filled, as Kant might have said, with a sense of wonder. Not

only do we respond to the idea of there being such a process of initiating a chain of events, but also to the idea of this process being enacted by a person. In changing the events that happen, and the causal chains by which those events happen, a person exerts a mastery over the world which makes her a distinctive type of being. It is this distinctive property of a person, I suggest, which motivates us to attribute to each person a special moral status. And it is this process of not only living in, but also shaping the world which motivates us to hold that the exercise of each person's capacity of practical reason is of fundamental value.

Now a critic of this view may simply deny that she is so motivated. Whilst it is impossible to prove that we are so motivated, since each of us can only ask this question of ourself, we can attempt to explain why the force of this idea is often overlooked. This is to provide a sort of error theory. The main cause of people overlooking the force of the idea of a person using her reason to cause events, I suggest, or at least those who are responsive to moral reasons, is simply that this idea is so mysterious – that it is so different from the idea of events happening by the natural process of cause and effect. As a result, rather than being motivated by that idea, a person may simply hold that it is incomprehensible. The clarifications which I offered in the last section offer a way of responding to this reaction.

A further source of error, we might suggest, is that when exercising the capacity for practical reason, as well as when considering the actions of other people, the process behind which we have no experience of, it is easy to focus only on events – on what does happen in the world. When we consider how we should act, that is, or examine the actions of other people, it is tempting to see events, which include both states of affairs and actions, as simply occurring, or playing themselves out. To focus on each person's capacity of practical reason is to remind ourself that each person is able to make decisions about what happens – that her actions are not merely events that *happen*, but events which that person *makes happen*, and which she can make happen by the use of her practical reason.

We can also note that it is not controversial to claim that we are morally motivated in actual cases by each person using her reason to make decisions as to how to act, and thus by her ability to use her reason to cause events. We do defer to people when making decisions about how to live their own lives, and take each person's view about how we should act into account when determining the actions which a group of people is to perform. We aim to ensure that our children and citizens more generally are both informed and able to reason about how things are and ought to be. Thus any plausible account of our moral reasons for action needs to explain what it is that motivates us about people's ability to cause events. The moral status view for which I am arguing gives each person's capacity for practical reason a central role.

We are only morally motivated by the idea of a person making events happen, it is important to emphasise, if we think that her reason has some role in determining those events. Nothing moves us about the idea of a person simply making random decisions about how to act, and about how the world should be. We are not morally motivated by a person deciding to cause events for which there is no reason, or to which reason is clearly and uncontroversially opposed. This is not to say that we can necessarily disregard a person's decision to cause a particular event when we cannot see a reason for her doing so. We should accept that we ourselves are often wrong about our reasons to cause events, and should be wary of overconfidence in our own views. If we knew that a person had no reason to cause an event, however, it is hard to see what would morally motivate us about the idea of her doing so.

One way to capture and strengthen what motivates us about a person's capacity to use her reason to cause events is by appealing to values such as autonomy, respect and dignity. That a person can use her reason to cause events – that she can initiate chains of events – is one way of understanding the claim that she is autonomous. In initiating events, we might say, each person shapes the world, and hence can be seen as a source of events. This is to see her not only as a subject of experience, but also as an agent – as a person who determines the way in which things are. To claim that a

person being autonomous captures our fundamental moral reasons for action is to claim that it is this shaping of the world that is the source of moral value.

Similar claims can be made with respect to the ideas of dignity and respect. A moral person, we can say, has not only concern, but respect for other people, where the object of her respect is the capacity of people to use their reason to make events happen – to act as an agent, thereby initiating events. A person's dignity, it can further be suggested, lies in her capacity to determine what happens, rather than merely being involved in or experiencing events. These values, of course, are familiar Kantian ideals. My claim is that it makes sense to hold that in being motivated by these ideals, our fundamental moral motivation is each person's capacity to use her reason to cause events.

It is worth showing how these ideas fit with Kant's concept of the good will and with the moral worth of each person acting from, rather than merely in accordance with duty. The first section of the *Groundwork* opens with the claim that 'It is impossible to think of anything at all in the world, or indeed even beyond it, that could be considered good without limitation except a good will' (1785, 4:393) A good will, Kant tells us, is not good in virtue of what it effects, but in virtue of its volition – it is good in itself, and not because it is useful or fruitful. The end of reason, Kant further claims, is to produce this good will, which must be the highest good and the condition of every other good. Beings who have an empirical, as well as a rational nature – who are subject to inclinations – can realise a good will only by acting from duty, which they achieve by acting from principle – objectively from the law, and subjectively from respect for law. The moral worth of an action, Kant concludes, does not lie in the expected effect of that action, but in the representation of the law itself (1785, section 1).

Now these claims are notoriously difficult. Part of the aim of the first section of the *Groundwork*, I suggest, is to identify that which captures the force or 'should' of the

moral law – to identify what it is that is to motivate us in acting in accordance with that law if we are responsive to reason. Kant begins with the good will, I believe, because he holds that it alone can play this role. Kant claims that when we consider a person with a will that is good, we find that we do hold that it is always good – that it is good under all conditions. If we are responsive to reason, then, we will find that we are motivated by the idea of the good will, in that we take it to be good in itself, and not in virtue of its effects. Thus it is the good will which captures the force or ‘should’ of the moral law – which motivates us if we are responsive to reason.

Kant then goes on to show what it is for a being who is not only rational, but also has inclinations, to be motivated by the idea of the good will: it is to act from duty – to be motivated by principle, and ultimately by a representation of the law, or subjectively by respect for law. We find, furthermore, that we only take the actions of such beings to be of moral worth when people are motivated by the idea of a good will – when they act from duty. An action that is done in accordance with duty, but not from duty, elicits moral approval, but not esteem, since the person who performs that action is not motivated by the idea of a good will – she is not motivated by the representation of the moral law. The good will, then, and more specifically, the representation of the law, captures the force of the moral law – it is what moves us or motivates us when we are responsive to reason.

For a person to act with a good will, then, is for her to act in accordance with the law – with reasons, rather than her inclinations. This is for reason to cause events. A person who acts from duty, rather than in accordance with duty, and is therefore motivated by the force of the moral law, is motivated by the idea of the good will – by the idea of reason causing events. That we hold that an action which is motivated by the idea of the good will to be of moral worth brings out that we are ourselves morally motivated by the idea of the good will. A person who was always motivated by the idea of a good will would always act with a good will. Nonetheless, we approve of actions which are in accordance with duty, but not done from duty, because to

perform those actions is to act as we would were we morally motivated. Thus Kant's arguments support the claim, for which I have given separate arguments, that we are morally motivated by the idea of a person using her reason to cause events.

According to the Moral Status View, then, each person has a moral status in virtue of having the capacity for practical reason. For an entity to have a moral status, I argued in the last chapter, is for both certain events in which she is involved, as well as certain ways of her causing events to be of final value. In virtue of each person having the capacity for practical reason, I have argued in this section, a person causing events is of final value when those events are caused by the use of her reason. The task of the next section is to identify the events in which a person is involved which are of final value. Having identified those events, we can then give a more detailed explanation as to what it is for those events, as well as the use of a person's reason to cause events, to be of final value.

#### IV

I argued in the last section that we are morally motivated by the use of each person's reason to cause events, and thus by each person's moral status, where this holds in virtue of her having the capacity for practical reason. For a person to have a moral status, I showed in the last chapter, is also for certain events to be of final value. We must now identify which events are of final value on the Moral Status View. We can identify the events in which a person is involved that are of final value by noting that certain events *promote* the use of a person's reason to cause events – to exercise her capacity for practical reason. This establishes, I will show, that the events in which a person is involved that are of final value are those events which promote the use of her reason to cause events.

The analysis given in the first section of this chapter shows that an event could not determine the output of the process of a person using her reason to cause events, since that process would then be part of a causal chain of events. It might be suggested,

though, that an event could set that process in motion, precisely because that process is realised by a person as a physical being. As I noted in the first section, however, for a person to have the capacity to use her reason to cause events is for her to be free in the sense that the exercise of that capacity is not caused solely by events. A person either exercises that capacity or she does not; she cannot be forced to exercise or not to exercise that capacity, and an event cannot by itself cause her to do or not to do so.

Nonetheless, because a person is a physical being, the events in which she is involved clearly do affect both her capacity for practical reason and the likelihood of her exercising that capacity. I shall shortly consider some of the ways in which this is the case. Whilst an event cannot cause a person to use her reason to cause events, then, it can *promote* that use of her reason. For an event to promote the use of a person's reason to cause events is for that event both to improve a person's ability to so use her reason and for it to make it more likely that she will exercise that capacity. If we are morally motivated by the exercise of a person's capacity for practical reason, then, we will also be morally motivated by events that promote the use of her reason.

So what morally motivates us about events on the Moral Status View is that they promote the use of a person's reason to cause events. For an event to promote the use of a person's reason to cause events, I have said, is for it to improve a person's ability to so use her reason and for it to make it more likely that she will exercise that capacity. Such events, then, are instrumental to the exercise of a person's capacity for practical reason. Since the exercise of a person's capacity for practical reason is of final value, events that promote the use of a person's reason to cause events are of instrumental value.

According to the concept of moral status developed in the last chapter, however, certain events in which a person is involved are to be of final, rather than instrumental value. We can accommodate this point by saying that events which promote the use of a person's reason to cause events are of final value with respect to other events.



Events are instead of instrumental value with respect to other events if they are instrumental to events which directly promote the use of a person's reason to cause events. As long as we operate solely within the realm of events, then, it makes sense to say that events which promote the exercise of a person's capacity for practical reason are of final value in virtue of each person having that capacity.

This allows, furthermore, that a person using her reason to cause events is of greater value than the events in which she is involved which promote that use of her reason. That events which promote the use of a person's reason to cause events are of instrumental value to her using her reason to cause events implies both that her using her reason to cause events outweighs the value of those events, and that the value of events is contingent, in that it can be outweighed by the value of other events – by events which also directly promote the use of a person's reason to cause events. This fits with Kant's distinction between perfect and imperfect duties, and his claim that perfect duties are strict, or unremitting, to which I return in the final section.

Now there are several types of events which promote the use of a person's reason to cause events. My aim here is not to give a complete account of these different types of events. We need to say something about these events, however, if it is to be plausible that we are motivated to realise those events, and as a result of being motivated by the final value of a person using her reason to cause events. Indicating the type of events which are of final value on the Moral Status View, furthermore, helps to establish the relation of that view to other moral positions, including that of Consequentialism, which I consider further in the next chapter.

One type of event that promotes the use of a person's reason to cause events are events which can be said to be good for a person, or to constitute her well-being. A person uses her reason to cause events, I have said, by reasoning about which events she has moral reason to realise, and by acting accordingly. So using her reason, however, will often result in a loss of well-being, or at least of the well-being that she might

otherwise realise, since she could instead use her reason solely to increase her well-being – she could act solely out of self-interest. It is in our rational self-interest, then, not to exercise the capacity for practical reason. Kant appears to suggest that this is the main source of immorality (1785, 4:404–6).

Now the lower a person's well-being, the less likely she is to use her reason to cause events. This is most obviously true in cases in which a person faces a choice between exercising her capacity for practical reason and acting in her self-interest. The more pressing her self-interest, the more likely she is to be motivated by it. There are other possible explanations for this claim, however. That a person experiences a low level of well-being is often a symbol of her moral status being disregarded. A person's whose moral status is disregarded is perhaps more likely to disregard the moral status of others. It is also possible that a person with a low level of well-being will have less time and motivation to learn how to use her reason to determine her moral reasons for action. In these ways, then, it seems likely to be of instrumental value that we realise a decent level of well-being for each person.

This is not to argue, it is important to emphasise, that a person with a history of a low-level of well-being is no longer able to exercise the capacity for practical reason. As I have said, each person cannot be forced to exercise or not to exercise this capacity. All I have suggested is some ways in which a person having a low level of well-being may fail to promote the exercise of that capacity – in which it may make it less likely that she will exercise that capacity, or make the exercise of that capacity less effective. We can allow that a person remains a morally responsible agent whilst accepting that certain events make it more or less likely that she will act in a way that is morally responsible. At the most, this picture would imply that the moral responsibility of a person can be diminished by certain events.<sup>28</sup>

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<sup>28</sup> Whilst there is clearly more to say about this, my primary aim is not to give an account of moral responsibility.

Thus an event being good for a person can make her more likely to exercise her capacity for practical reason, and thus help to realise what the Moral Status View holds to be of final value. It might be objected that on this account, a person's well-being ceases to be of value when it is not more likely to lead a person to use her reason to cause events. Whilst this is true, we can take much of the sting out of this criticism by briefly noting that this account allows that there are reasons to treat a person's well-being as being of final value in more cases than it might at first appear. Doing so also helps to spell out some ways in which the Moral Status View is non-Consequentialist.

First, it might be the case that increases in a person's well-being nearly always do make a person more likely to use her reason to cause events, if only incrementally. Secondly, since we often will not know whether or not an increase in well-being would make it more likely that a person will use her reason to cause events, we have practical reasons to treat that well-being as always being of final value. Thirdly, a person's well-being may in part be constituted by the feeling that she is worthwhile, in the sense that other people treat her well-being as being of final value. Finally, as I have already suggested, a person may be more likely to promote the well-being of other people if other people promote her own well-being.

So in being morally motivated by a person using her reason to cause events, we will often be morally motivated by those events in which a person is involved and which constitute her well-being. Nonetheless, this will not always be the case. It is at least not obvious, however, that this counts against the Moral Status View. We are not always motivated by the well-being of others, I believe, when we are responsive to our moral reasons, especially if their well-being is already at a high level. This is one way in which the Moral Status View appears to differ from the position of Consequentialism. I suggested in the first chapter that our motivation to pursue our own well-being is not always a moral motivation, but a motivation which we have in virtue of our human nature. This is enough to show that we cannot simply assume

that to be moral is to be motivated by the well-being of others to the same extent that we are motivated by our own.

Another type of event in which a person is involved and which may promote the use of her reason to cause events are those events in which a person possesses certain other capacities. To exercise the capacity for practical reason, I have said, is for a person to reason about which events she should cause and to act accordingly. A person's capacity to reason about which events she should cause, however, depends on various intellectual and psychological capacities. Having those intellectual capacities requires education and experience, as well as certain types of knowledge, or the capacity to access such knowledge. Having the relevant psychological capacities requires that a person is in good mental health, and has a strong sense of self-worth. We can better act in accordance with those reasons, furthermore, if we have greater physical capacities, which will depend in part on our surrounding environment.

The Moral Status View accounts for the value of having such capacities, it is worth emphasising, without appealing to an idea of the good, or of a person's well-being. For a person to possess those capacities is of value because it allows her to better use her reason to cause events, and not because it is good for her to have them. Even if it *is* good for a person to have some of these capacities, that does not show that this is what morally motivates us to realise such states of affairs. Whilst the Moral Status View captures and explains the moral motivations of the Consequentialist, then, it also appears to establish that there are non-Consequentialist motivations to realise events, in addition to those motivations that are directly given by the final value of a person causing events. One tentative suggestion, which I shall not explore here, is that it captures part of the moral motivations of perfectionism.

This is enough to make it plausible that certain events in which a person is involved are of final value on the Moral Status View, and that this position explains what motivates us to realise those events in responding to our moral reasons. A further

project, which I do not pursue here, would be to give a more developed account of the events which the Moral Status View takes to be of final value. My aim in this chapter, however, is only to develop the key features of the Moral Status View, and to show that it is at least plausible to hold that it captures our moral motivations. I defend the claim that the Moral Status View is distinct from Consequentialism in the next chapter.

We can conclude this section by again noting some of the more obvious ways in which these claims about events being of final value fits with the *Groundwork*. I noted in the last section that Kant claims that the good will is not only the highest good, but furthermore the condition of any other thing being good. The idea of the good will, I argued, is the idea of reason causing events, so that to claim that the good will is the highest good is to hold that we are morally motivated by the idea of reason causing events. To claim that the good will is the condition of any thing being good, then, is to claim that reason causing events is the condition of any other thing being good. This clearly fits with the claim, for which I have argued in this section, that events are of value as instruments to the value of reason causing events.

Further support for this interpretation of Kant is provided by his compelling claim that the idea of the good will is 'like a jewel... as something that has its full worth in itself' whose 'usefulness would be, as it were, only the setting to enable us to handle it more conveniently in ordinary commerce or to attract to it the attention of those who are not yet expert enough, but not to recommend it to experts or determine its worth' (1785, 4:394). The claim that events are to be valued as instruments to the use of reason to cause events is a way of making sense of the claim that the usefulness of the good will is only the setting for the jewel of the good will itself. Whilst some may make the mistake of thinking that events are themselves of final value, an expert – one who reflected on her deeper moral motivations – would realise that their value depends entirely on that of the good will, or of reason causing events.

## V

So far, we have established that the Moral Status View holds that each person has a certain moral status in virtue of having the capacity for practical reason – in virtue of being able to use her reason to cause events. This moral status, we have further shown, is such that the use of each person’s reason to cause events, as well as those events which promote that use of a person’s reason, are of final value. We have also shown that people are morally motivated by this conception of moral status, and hence that it is plausible to claim that our fundamental moral reasons are reasons to respond to each person’s moral status when so understood. What remains to be given is a more detailed account of what it is to be motivated by this idea. In particular, we need to set out what it is to treat those events and ways of causing events as being of final value.

For an event or a way of causing an event to be of final value, I said in the last chapter, is for it to be of value in virtue of the moral status of a particular entity, as opposed to being of value in virtue of being an instrument to some other thing. What is wrong with failing to treat something that is of final value as being of final value, then, is that in doing so we fail to respond to the moral status of the relevant entity. The way in which we fail to treat something as being of final value, however, is by treating it as if it were instead of instrumental value – by treating as if it were of value in virtue of being an instrument to some other thing. To give an account of what it is to treat an event or a way of causing events as being of final value, then, it is sufficient to give an account of what it is to treat that event or way of causing events as being of instrumental value.

For a thing to be of instrumental value, I have said, is for the value of that thing to be that it is an instrument to some other thing. The distinction between instrumental and

final value, I said in the last chapter, is a causal distinction.<sup>29</sup> For a thing to be of instrumental value, then, is for it be of value solely because it causes some other thing, or things. So for us to treat a thing as being of instrumental value is for us to value it solely because it causes some other thing – it is to act as if the only reasons that we have with respect to that thing are given by it causing that other thing, or things. By acting as if the only reasons that a thing gives us are given by its causing some particular thing, we treat it as being of instrumental, and hence not of final value.

What it is to act as if the only reasons that a thing gives us are given by its causing particular things, however, depends on the nature of that thing. We can start by setting out what it is to treat an event as being of instrumental value. One event can cause another event, I noted above, by being a part of a process of cause and effect. Since that process is not of value in itself, to say that the only reasons that an event gives us are given by its causing particular things is to say that we should realise that event in order to realise the events which it causes. So for an event to be of instrumental value is for our reasons to realise that event to be given only by events which that event causes, and not by that event itself. To treat events in which a person is involved as being of final value, then, is to act as if we have reasons to realise that event regardless of the events that it causes.

You treat my being in pain as being of instrumental value, for example, if whether or not you cause me to be in pain depends only on the effects that are thereby realised. You treat my being in pain as being of final value if you act as if you have reason to avoid my being in pain regardless of those effects. To act as if you have such reason is not necessarily to act in accordance with that reason – to cause me not to be in pain. That reason may be outweighed by other reasons, including reasons that are given by what is caused by the event of my being in pain. Suppose that my being in pain causes

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<sup>29</sup> There are other, non-causal understandings of the distinction between instrumental and final value. Whilst I am sceptical as to how intuitive these understandings are, I appeal to a causal distinction in accordance with the Moral Status View as developed thus far.

five other people not to be in pain. The final value of the event of five people being in pain may well outweigh the final value of the event of my being in pain. Treating an event as being of final value is only to respond to a reason to realise that event regardless of the consequences of doing so.

We need a different account, though, of what it is to treat the use of a person's reason to cause events as being of instrumental value. To treat the use of a person's reason to cause events as being of instrumental value is to act as if the only reasons which that process gives us arise from its causing particular events. To act in accordance with such reasons is to change or interfere with the exercise of a person's practical reason in order to produce particular outcomes. This is to disregard the distinction between two different ways of causing events drawn in the first section – it is to act as if that use of her reason to cause events were of the same value as an event by which a subsequent event is caused, and which we may have reason to make happen.

To change the process by which a person causes events is to act as if we had reasons to realise those events by way of that process regardless of that process itself – regardless of what is determined by the use of that person's reason. To avoid treating the exercise of a person's capacity for practical reason as being of instrumental value, then, we must act as if we do not have reasons to realise events that are solely caused by the involvement of that capacity, as acting on those reasons would be to interfere with the exercise of that capacity. Those are events which are only the result of chains of events in which that person is involved.<sup>30</sup> To treat the use of a person's reason to cause events as being of instrumental value, then, is to act as if we have reasons to realise events caused solely by that person's involvement in a chain of events.

So to say that the use of a person's reason to cause events is of final value is to say that events caused solely by her involvement - that are solely the result of causal chains of

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<sup>30</sup> This is not the same as saying that a person's involvement in a chain of events is necessary to cause that event.



which she is part - do not give us reasons for action. To treat the exercise of a person's capacity for practical reason as being of final value is to act as if we do not have such reasons. In so acting, we will only involve that person if doing so is in accordance with reasons given by events that are not caused solely by her involvement. To treat the exercise of a person's capacity for practical reason as being of final value, I have said, is not to interfere with that person's use of that capacity to realise events. This fits with the claim that this specifies an idea of free will – of a person being free to use her reason to determine how she is to act.

To treat events in which a person is involved as being of final value, I have also shown, is to act as if we have reasons to realise that event regardless of what it causes. The events which are of final value, I have further suggested, are those events which promote the use of a person's reason to cause events. To treat those events as being of final value, we might say, is to promote the use of a person's reason to cause events regardless of the events that she thereby causes.<sup>31</sup> Strictly speaking, I have said, these events are of instrumental value to the use of a person's reason to cause events. This is because it is the undergoing of this process which is of final value in virtue of each person having the capacity for practical reason.

This section has further clarified the Moral Status View by establishing what it would be to be motivated by each person having a moral status in virtue of having the capacity for practical reason. To be so motivated, I argued in the previous section, is to treat both the use of a person's reason to cause events and the events which promote the use of a person's reason to cause events as being of final value. To treat the use of a person's reason to cause events as being of final value, I have shown in this section, is to act as if we do not have reasons given by events caused solely by her involvement.

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<sup>31</sup> Since it must be a person's *reason* that causes events, this is not to say that a person causing any event is of final value. If a person causes events by the use of her reason, there must be at least some reason to cause those events. Since I am concerned here only to set out the Moral Status View, and not with how we are to apply it, I will not attempt to establish how we can know whether or not an event could have been caused by a person's reason.

To treat events in which a person is involved as being of final value, I have also shown, is to act as if we have reasons to realise that event regardless of the events that it causes.

## VI

A distinctive feature of the Moral Status View, I have said, is that it holds that the use of a person's reason to cause events is of final value. To treat the use of a person's reason to cause events as being of final value, I showed in the last section, is to act as if we do not have reasons given by events caused solely by her involvement. Now whilst this principle is clear enough, it may be hard to see how it is to be applied. The last section also gave an illustration of what it is for events in which a person is involved to be of final value by considering the case of a person being in pain. This section illustrates what it is for the exercise of the capacity for practical reason to be of final value.

We can give such an illustration by considering a series of hypothetical cases. One approach to justifying moral principles and concepts, I noted in the last chapter, is to show that these principles and concepts fit with our judgements as to how we are to act in hypothetical cases, including those which I here consider. Whilst I shall suggest that our judgements in these cases do fit with the Moral Status View, and hence provide some support for that position, my primary aim is to illustrate what it is for the exercise of the capacity for practical reason to be of final value. Although I acknowledge that my analysis of these cases is inspired by and closely related to that of Frances Kamm, for reasons of space, I shall not attempt to demonstrate this here (1993, 1996, 2007).

In the hypothetical cases considered I assume that all persons involved are innocent and non-threatening, that further life is a good for them, that they have not consented to such harm and would not otherwise be comparably harmed. We can begin by considering

*tunnel*: By pulling a lever, you can divert an empty, runaway train, so that it kills one rather than five other people.

I believe our intuition here is that it is permissible to act so as to divert the train. We have reason to pull the level in order that five people do not die. This is consistent with our valuing the event of each person not dying as being of final value. The final value of the event of five people not dying, however, outweighs that of one person not dying. That five people do not die, furthermore, is not caused by the one person being killed by the train. Thus there is no sense in which we fail to treat the one person's causing events as being of final value.

Now consider

*bridge*: By pressing a remote control, you can make one person fall off a bridge in front of an empty, runaway train, so that the train kills her but stops before reaching five people.

I believe our intuition here is that it is not permissible to act so that the person falls from the bridge. As in *tunnel*, we have reason to act so that five do not die, and this is consistent with our valuing the event of each person not dying as being of final value. Unlike *tunnel*, however, five people not dying upon pushing the button would be caused by the one person being hit by the train. What causes the train to stop, we can note, and the one but not the five to die, is the one person's causal involvement – that she is hit by the train – and not the effects on her of that involvement – that she is thereby killed.<sup>32</sup>

If I push the button, then, the reason that I act on, that of the five not being killed, is given by an event caused solely by a causal chain in which the one person is involved – solely by the one person being hit by the train. If I acted in accordance only with

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<sup>32</sup> That the person dies in stopping the train is not essential to her doing so. We can imagine a being who stopped the train without being killed.

reasons given by that which would not be caused solely by that person's involvement, then clearly, I would not push the button, since I would not then appeal to the fact that the five would be saved, and I have reason not to move people in front of runaway trains. In pushing the button, then, I would treat the one person's causing events as being of instrumental, and hence not of final value. Even though pushing the button is consistent with treating the event of the one person's dying as being of final value, since it is outweighed by the event of the five being saved, it is not consistent with treating the one person's causing events as being of final value.

We can next consider

*loop*: as in *tunnel*, you can divert a train to kill one rather than five. In addition, the track from the one loops back to the five. Hitting the one will stop the train reaching the five.

Whilst it is less clear what our intuition is here, I shall provisionally assume that it is permissible to divert the train, as in *tunnel* (I return to this point below). This is sometimes supported by appealing to an intuition that the extra bit of track between the one and five could not make the act impermissible (we can suppose in *tunnel* that the one person would also stop the train continuing down the side track). This case is often appealed to in order to undermine attempts to explain why it is permissible to act in *tunnel*, but not in *bridge*. Thus it is worth illustrating the account of moral status which I have given by showing how it handles this account.

Now as in *tunnel* and *bridge*, we have reason to act so that the five do not die, and this is consistent with our valuing the event of each person dying as not being of final value. At first glance, however, it might appear that since our reason to divert the train is to save the five, the Moral Status View makes such an action impermissible, since unlike in *tunnel*, that reason is given by an event which is caused by the involvement of the one. The Moral Status View, however, does not allow us to involve a person for reasons that are given by events caused *solely* by that person's involvement. Whilst I

gave an explanation of that qualification in the last section, it is worth illustrating the point by showing how this appears to make it permissible to act in *loop*.

An event is caused solely by a person's involvement, I have said, if it is only the result of all chains of events in which that person is involved. The event of five not being killed on diverting the train in *loop*, however, appears to be the result of two different causal chains. That there are two different causal chains is made clear by the fact that there is a different final cause of being killed: that of being hit by the train from the front, and that of being hit from behind.<sup>33</sup> Since the event of five being saved is not caused solely by the involvement of the one, but also by the diversion of the train, in diverting the train, we would not be treating the use of a person's reason to cause events as being of instrumental value.<sup>34</sup> The Moral Status View allows, then, that it is permissible to divert the train.

It might be objected to this account that the final cause of death of the five people is not significantly different when they are killed by a train from a different direction, and hence that these causal chains are not really distinct. Otsuka considers a modified version of *bridge* in which pulling the lever also causes the train to be illuminated (2008). Being hit by an illuminated train is a different final cause of death, yet the illumination is surely not of any moral significance – our intuition remains that it is impermissible to pull the lever so that the person falls and halts the train. We can modify our account slightly to deal with this case by saying that two causal chains that result in the same event are different only if the final causes of that event are significantly different.

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<sup>33</sup> Admittedly, there are versions of *loop* on which the train does still approach from the original direction. I believe it is then impermissible to divert the train, since the case is more like *bridge*. For what is worth, I find that my intuitions support this claim.

<sup>34</sup> This fits with Kamm's distinction between a person's involvement *producing* an event, and *sustaining* that event. I believe that focusing on the final cause of an event helps to clarify that account, however, and to solve some problems that Kamm's account faces, as brought out by Otsuka. As I have said, for reasons of space I cannot go into such points here.

When introducing *loop* I provisionally endorsed pulling the lever. On the modification suggested, however, whether pulling the lever treats the use of a person's reason to cause events as being of final value depends on whether the train approaching from a different direction is in fact a significantly different final cause of death. On this point there may be disagreement. So we can instead consider

*tunnel-avalanche*: as in *tunnel*, you can divert a train to kill one rather than five. In addition, if diverted, the train on reaching some point would cause an avalanche, which would kill the five. Hitting the one would halt the train before it reaches this point.

Our intuition here appears more clearly to be that diverting the train is permissible. This fits with the account suggested, since it is clearer that the two final causes of death of the five are significantly different. This illustrates our account of what it is to treat the use of a person's reason to cause events as being of final value. Since our intuitions in such cases fit the principle developed, furthermore, disagreement over our intuitions in the *loop* case need not be thought to be problematic.

One way of pushing back against the claim that we do not treat a person as being of instrumental value in *loop* or *tunnel-avalanche* is that if the involvement of the one person did not stop the train, we would not divert the train. This shows, it might be claimed, that we treat the one person as an instrument, since the way in which we act depends on the events which her involvement causes. What this overlooks, however, is that if the involvement of the one person did not stop the train, so that we would not divert it, then that person is no longer involved in what happens – in causing events. The Moral Status View holds that we treat the use of a person's reason to cause events as being of instrumental value only if we act in a way that involves that thing for reasons given by events caused solely by the involvement of that person. Since in not diverting the train, we would not involve the person, there is then no question of

failing to meet this condition. We do not interfere with the use of a person's reason to cause events, in other words, if we do not act in a way that involves them.

Thus we have an account of what it is to treat both an event in which a person is involved and a person using her reason to cause an event as being of final value. Our concern with treating a person using her reason to cause an event as being of final value, I have said, is a concern not with *what* happens, but with *how* it happens. To involve a person in a situation for the sole purpose of altering a causal chain of events is to fail to respond to her moral status by treating the use of her reason as being a mere instrument to altering that causal chain. The Moral Status View specifies a notion of autonomy which emphasises the value of people when understood as causal agents.

This clearly fits with a Kantian notion of treating people merely as a means. Kant's second formulation of the categorical imperative, the formula of humanity tells us to 'so act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means' (1785, 4:429). On the Moral Status View, to treat a person as being merely a means is to treat her reason causing events as being of instrumental, and hence not of final value. One way of understanding the Moral Status View, then, is as an interpretation of Kant's formula of humanity. In developing that view, I have chosen to end with this claim, rather than to begin with it, in order to avoid giving an argument that appeals to Kant's authority.

## VII

I finish this chapter by showing how the Moral Status View explains the actions that we are to perform in particular cases. This serves several functions. First, it helps to bring out how we are to apply the Moral Status View – how, in practice, we are to use that account to determine how to act. Secondly, it helps to show that the Moral Status View is plausible insofar as it appears to get the right result in these cases. Thirdly, it allows us to see how what is claimed to motivate the Moral Status View, as set out above, fits with our moral motivations in particular cases.

The four cases which I shall consider are those which Kant considers in the *Groundwork* (1785). These four cases cover duties which are owed to ourselves and to others, as well as perfect and imperfect duties. The first case is that in which a person considers suicide 'because of a series of troubles that has grown to the point of despair' (4:421–422). To treat something as being of final value, I have shown, is to not act as if we have reasons given by events caused solely by that person's involvement in a chain of events. The relevant feature of a person's involvement in this case is the preservation of her life – it is her using her reason to cause her own continued existence. For a person to commit suicide in this case would be for her to act on reasons given by events caused solely by the use of her reason to preserve her life – by the effects of her continuing to live.

According to the Moral Status View, then, it is not permissible for a person to commit suicide in such a case. What motivates us in this case is the value of a person using her reason to cause events, or more simply, her autonomy. A person who commits suicide out of despair is no longer motivated by her own autonomy – her ability to not only be part of events, but to make events happen – but only by the feeling of despair. Thus she fails to act in accordance with our deeper moral motivations, and thus to be responsive to our moral reasons. A person who commits suicide out of despair, we might say, has given up on the idea of shaping the world in which she lives.

It is perhaps worth emphasising that the purpose of considering this case is to illustrate and support the Moral Status View, and not to come to any strong conclusions about suicide, or the permissibility thereof. Kant's case is quite specific, and does not include cases in which a person commits suicide because of reduced capacity, actual or imminent, or a case in which a person feels so much despair that she is no longer able to use her reason. That suicide is impermissible when done out of a sense of despair, furthermore, tells us very little about how we should react to a person who does commit suicide on this basis. To say that an act is wrong is not



necessarily to say that the act is blameworthy, or even that determining the level of blame is an appropriate reaction to that act.

The second case is that in which a person considers making a promise which he knows he cannot keep in order to meet his immediate needs (4:422). What is relevant here is that each person uses her reason to cause events by making a promise to the other person. For a person to make such a promise when he knew that he could not keep it would be to act on reasons given by events caused solely by a person making that promise – the event of his needs being met. This would therefore treat the making of a promise as being solely of instrumental value, and hence not of final value. If he were to keep that promise, on the other hand, he would treat the making of the promise, which is caused by the involvement of the other person, as also being a reason for action.

Hence it is impermissible for a person to make such a promise in this case, as doing so fails to treat the use of a person's reason to cause events as being of final value. Our moral motivation in not making a promise that we cannot keep is that we value each person's autonomy – we value her ability to use her reason to cause events. In making a promise to another person we are to respect that she has made that promise because she takes herself to have reason to do so. If we make a promise that we cannot keep, we undermine a person's autonomy in that we make it impossible in this case for her to use her reason to cause events. Similar claims would hold for many other cases of deceiving another person.

The third case is that in which a person considers not developing a natural talent which 'could make him a human being useful for all sorts of purposes', but which he does not appear to need to develop in order to meet his needs (4:423). What is relevant here is the state of affairs of her having an ability to cause events that she would have were she to develop that talent. For a person not to develop that talent would be to treat having that talent as being of instrumental value – it would be to act as if her

only reason to have that talent were given by the events that would then be realised, namely the meeting of her needs. That having that talent would promote the use of the reason of other people to cause events, however, means that it is of final value, and should be treated as such.

On the Moral Status View, then, it is not permissible not to develop that natural talent. What morally motivates us in developing that talent is having that talent so that one is able to cause events. It is worth noting that this allows that we might be morally motivated not only by the events which such a talent might be used to realise, but by the ability to cause those events itself. As I noted above, the Moral Status View does not only appeal to the goodness of events, but also to capacities which extend our ability to use our reason to cause events – it also captures, I tentatively suggested, part of what motivates perfectionism. That ability is ultimately of instrumental value to the use of reason to cause of events, however – it matters because it makes it more likely that we and the benefactors of such events will use our reason to cause events.

The final case is that in which a person considers helping a person in need when her own needs are securely met, so that she does not want help from other people (4:423). What is relevant here is the event of meeting the needs of the person in need. For a person not to realise that event when she could easily do so, and for her not to do so because she needs no help from others, would be for her act as if her reason to realise that event were only given by the effects of doing so – of her own needs being met. That the meeting of a person's needs promotes the use of her reason to cause events, however, shows that it is of final value, and is to be treated accordingly. Hence the moral status view requires her to help that person. Our moral motivation in this case is the event of that person's needs being met it is the well-being of the person in need.

Thus the Moral Status View explains how we should act in each of these four cases. Whereas the first and third cases concern duties that are owed to ourselves, the second and fourth cases concern duties that are owed to others. Whereas the first and second

cases concern perfect duties, which are based on a person using reason to cause events being of final value, the third and fourth concern imperfect duties, which are based on the events in which a person is involved. As I noted above, that our perfect duties are based on the final value of a person causing events shows that they are necessary and hold in all conditions. That our imperfect duties are based on the final value of events shows that they are of contingent value both in that they can be outweighed by the final value of reason causing events and by other events which as events are of final value.

This shows both how we should apply the Moral Status View and explains how the moral motivations which support that view apply in particular cases. It also offers some support for that view, I believe, in that both the ruling and explanation offered by the Moral Status View as to how we should act in these cases are plausible. The main purpose of considering these cases, however, is to further illustrate the view for which I have argued. To show that the ruling and explanation of these cases is contested is not enough to show that the Moral Status View is not correct. Not only might we be able to modify the Moral Status View to meet criticisms of this type, but we can also bite the bullet in simply resisting alternative rulings and explanations of these cases.

This chapter has argued for the Moral Status View by arguing that it captures our fundamental moral motivations – that it captures how we would be motivated were we responsive to our moral reasons. This establishes that the Moral Status View is a plausible view of our fundamental moral reasons for action. According to that view, each person has a moral status in virtue of having the capacity for practical reason such that both the use of her reason to cause events and the events which promote that use of her reason are of final value. That we are morally motivated by this view, I have argued, becomes clear on considering the unique ability of persons to initiate causal chains, which is a way of specifying each person's autonomy, and the freedom of her will.

This chapter has also set out what it is to treat the use of a person's reason to cause events and the events which promote that use of her reason as being of final value. In addition, I have shown how the Moral Status View explains how we are to act in particular cases – how it both tells us which actions to perform in those cases and explains what morally motivates us to do so. I have also shown throughout how the Moral Status View fits with some of the major claims of the *Groundwork*, and can thus be seen as both a reasonable interpretation of and a way of further understanding Kant's moral position. This is enough, I believe, to establish that as an account of our fundamental moral reasons for action, the Moral Status View is Kantian, distinctive, and plausible.

## Chapter 4 — The Kantian Argument for Rule Consequentialism

The last three chapters have developed and defended a Kantian position which I have called the Moral Status View, on which our fundamental moral reasons for action are reasons to respond to each person's moral status. The Moral Status View, I have argued, makes sense of the practical nature of our moral reasons – it captures what motivates us when we are responsive to moral reasons. I have also claimed that the Moral Status View is non-Consequentialist. Parfit's recent Kantian Argument for Rule Consequentialism appears to threaten this claim in arguing that Kantians should follow Rule Consequentialist principles (2011). This chapter argues that Parfit's argument is not sound.

I aim to refute Parfit's argument for two reasons. First, if sound, Parfit's argument has important implications for both our moral principles and our moral reasons. That apparently different moral positions support the same moral principles matters not least, I shall show, because it suggests that those positions point to the same moral reasons. In particular, Parfit's argument suggests that the Moral Status View points to moral reasons that lead us to act in the same way, and are hence no different from those identified by the Consequentialist. The second reason that I aim to refute Parfit's argument is that he does not explicitly acknowledge the practical nature of our moral reasons. Showing how this leads him astray brings out the significance of this approach, for which I argued in the first chapter, as well as that of the Moral Status View.

This chapter proceeds as follows. The first section gives Parfit's argument and shows that we have reason to suspect that it is not sound. What motivates Parfit's argument, I note, is a concern about deep disagreement – that 'if there [were] no single true morality... there might be nothing that morality turns out to be' (vol 2, p155). Focusing on the practical nature of our moral reasons, I suggest, helps to explain why the type of disagreement which Parfit has in mind need not have this consequence. Parfit's

conclusion is surprising, I further note, because Kantians are typically understood to hold that whether or not an act is right does not depend solely on its consequences, but also on the distinctive idea of respect for persons. That the Kantian takes respect for persons to capture our moral motivations bolsters the suspicion that Parfit loses sight of what is distinctive about Kantian views.

Sections two and three consider how a Kantian might try to respond to Parfit's argument by appealing to respect-based reasons. Michael Otsuka, for example, argues that Parfit's argument is not sound because it fails to properly capture moral reasons not to treat a person merely as a means (2009). Parfit has two ways of responding to the objection that he overlooks respect-based reasons: that we do not have such reasons, or that although we have such reasons, they are not reasons not to follow Rule Consequentialist principles. These responses, I argue, amount to a challenge to identify a non-deontic and decisive reason not to will the universal acceptance of UA-optimific principles. To meet this challenge would be to show that we have reason to act in accordance with a principle that is not Rule Consequentialist.

The fourth and final section argues that the Moral Status View meets this challenge, since it identifies such reasons. These are reasons given by the use of a person's reason to cause events – that result from that use of her reason being of final value. I argued that we have such reasons in the last chapter by appealing to our moral motivations. Acknowledging the practical nature of our moral reasons, I further argue, undermines Parfit's version of Consequentialism, since it undermines his claim that Consequentialists can appeal to impersonal goods – to reasons that are given by events being good per se, rather than being good for a person. I conclude, then, that there are substantial differences between the claims of the Moral Status View and plausible accounts of Consequentialism as to what morally motivates us, and no reason to expect that they establish the same moral principles.

Parfit's argument is as follows:

(A) Everyone ought to follow the principles whose universal acceptance everyone could rationally will, or choose.

(B) Everyone could rationally choose whatever they would have sufficient reasons to choose.

(C) There are some UA-optimific principles.

(D) These are the principles that everyone would have the strongest impartial reasons to choose.

(E) No one's impartial reasons to choose these principles would be decisively outweighed by any relevant conflicting reasons.

Therefore

(F) Everyone would have sufficient reasons to choose these optimific principles.

(G) There are no other significantly non-optimific principles that everyone would have sufficient reasons to choose.

Therefore

(H) It is only these optimific principles that everyone would have sufficient reasons to choose, and could therefore rationally choose.

Therefore

Everyone ought to follow these principles.

UA-optimific principles are 'the principles whose universal acceptance would make things go best' (p377). Impartial reasons, Parfit claims, are reasons 'we would have... even if our situation gave us an impartial point of view' (p40), where 'we have an impartial point of view when we are considering events that would affect or involve

people who are all strangers to us' (p40). I say more about this notion of an impartial reason in the next section.

Parfit calls this argument the Kantian Argument for Rule Consequentialism. Premise A is the Kantian Contractualist Formula, a revised version of one of Kant's formulations of the categorical imperative. This revised principle, Parfit argues, deals with several problems that Kant's own formulations of the categorical imperative face, and thus 'might be what Kant was trying to find: the supreme principle of morality' (p342). The conclusion, that everyone ought to follow UA-optimific principles, is what Parfit calls the universal acceptance version of rule consequentialism.

What motivates this argument, Parfit tells us, is a concern with what he calls deep disagreement. He claims that '[moral] disagreements are deepest when we are considering, not the wrongness of particular acts, but the nature of morality and moral reasoning, and what is implied by different views about these questions' (p418–9). What is troubling about deep disagreement, Parfit claims, is that 'if we and others hold conflicting views, and we have no reason to believe that *we* are the people who are more likely to be right, that should at least make us doubt our view. It may also give us reasons to doubt that any of us could be right' (p419). In particular, Parfit claims that 'if there [were] no single true morality... there might be nothing that morality turns out to be' (vol2, p155).

Now the type of disagreement that Parfit appears to be particularly concerned about is disagreement about moral principles. If Kantians accept premise A, the Kantian Contractualist Formula, as Parfit argues they should, then by that argument, they must accept the universal acceptance version of Rule Consequentialism – they must accept Rule Consequentialist principles. This is why Parfit takes the Kantian Argument for Rule Consequentialism to show that there is no deep disagreement between Kantians and Consequentialists. Parfit accepts, however, that the resulting view is not 'wholly Consequentialist', since it is not Consequentialist in its claims



about why we should follow those principles – about our moral reasons. What it is that we need to be able to believe that we could be right about, then, to avoid the problem of deep disagreement, is moral principles.

This focus on moral principles fits with Parfit's general approach to moral philosophy, which places little or no emphasis on what I have called the practical nature of our moral reasons for action. Moral reasons, on Parfit's approach, appear to be of purely speculative significance, in that their role is to justify moral principles – it is to show that moral principles are true. This is why, presumably, Parfit does not take disagreement about moral reasons to be deep in itself, or, put differently, why he appears to be happy to concede that the Consequentialist is in some sense wrong about our moral reasons. It also explains Parfit's approach to Kant, which is to focus on the most plausible statement of the moral law when understood as a moral principle. That Parfit takes this approach also explains why his argument that Kantians should accept premise A is that this version of the moral law avoids apparent problems and counter-examples.

Emphasising the practical nature of our moral reasons for action, for which I argued in the first chapter, not only helps to show where Parfit's argument goes wrong, but also calls into question his motivation in giving that argument – his concern with disagreement about moral principles. As it stands, Parfit's argument has the surprising implication that disagreement about moral reasons for action need not result in disagreement about moral principles. One of the implications of the Kantian Argument for Rule Consequentialism, then, is that to avoid what Parfit calls deep disagreement, we need not avoid disagreement about moral reasons. Insofar as this makes it easier to solve Parfit's problem of deep disagreement, this might seem to be a welcome conclusion.

But if moral reasons are also of a practical nature, so that in asking how we should act, we are asking about our moral motivations, then in order to avoid disagreement about

moral principles, it appears to be necessary to avoid disagreement about our moral reasons. If our reasons are of a practical nature, I showed in the first chapter, an act is right if and only if it would be performed by a morally motivated person. It would be very surprising, however, if people with different motivations performed the same actions in every situation, and hence if they acted in accordance with the same principles. So we should expect different views about our moral motivations – about our moral reasons when understood as practical reasons – to lead to different views about our moral principles.

This helps to explain why we should be suspicious of the Kantian Argument for Rule Consequentialism. As I noted in the first chapter, Consequentialists hold that the way in which we should act depends solely on the consequences of our actions. More precisely, they hold that our moral reasons for action are reasons to realise events, where events include not only states of affairs but also actions. According to Consequentialists, I further showed, those moral reasons are given by the goodness of events. Now there are two ways in which Kantian views appear to differ from those of the Consequentialist. First, Kantians tend to explicitly claim that they do not hold that the way in which we should act depends solely on consequences, or events. In claiming that Kantians should accept Rule Consequentialist principles, Parfit is claiming that this is a mistake.

The second way that Kantians appear to differ from Consequentialists is that they hold that at least some of our moral reasons for action are given by the distinctive notion of respect for persons. If our moral reasons are held to be purely speculative, then to claim that the idea of respect for persons is distinctive to Kantians is just to identify what it is, apart from consequences, that the rightness of our moral actions is to depend upon. If our moral reasons are also practical, however, in that they capture our moral motivations, then the Kantian is also claiming that respect picks out a distinctive moral motivation. And indeed, it does at least appear that the idea of respect motivates us differently from the idea of the good, or of a person's well-being.

If this is right, then we should expect Kantian views and Rule Consequentialism to point to different moral principles.

Of course whilst this helps to show that we have reason to be suspicious of Parfit's argument, it does not establish that his argument is not sound. Before arguing for that conclusion in the next two sections, however, I should also explain why emphasising the practical nature of our moral reasons calls into question the significance of disagreement about our moral principles, and hence undermines what motivates Parfit's argument. If our moral reasons are purely speculative, then disagreement about those reasons and the principles which they support must either result from speculative error, or from there being no fact of the matter about those reasons. Unless we think that all Consequentialists or all Kantians are guilty of a speculative error, then, it is tempting to conclude from their persistent disagreement about our moral reasons for action that there is no truth about those moral reasons – that, as Parfit puts it, 'there is nothing that morality turns out to be' (vol2, p155).

If our moral reasons are not merely speculative, but also practical, however, then deciding which moral reasons are correct is more than a speculative exercise. We then have an explanation of persistent disagreement about our moral reasons that does not rely on there being no correct account of those moral reasons. We have an explanation, that is, as to why some people are wrong about our moral reasons, and why we take them to be so. Such disagreement obtains because the task of identifying our moral motivations – the motivations we would have if we were responsive to reasons – is sufficiently difficult that disagreement about it is likely to remain despite many years of consideration. Showing that one account is to be preferred over another is not just a matter of establishing speculative errors, but of showing which account better establishes our moral motivations – what motivates us, that is, if we are responsive to our moral reasons.

This helps to clarify my reasons for considering the Kantian Argument for Rule Consequentialism. First, if Parfit's argument is sound, there are important implications for both our moral principles and our moral reasons. Most obviously, his argument purports to show that Kantians and Rule Consequentialists should accept the same moral principles. This is a significant result, since in asking how we should act, we are asking, at least in part, about our moral principles, or norms. But that argument also has implications for our moral reasons. If our moral reasons have a practical role, I have shown, then we should expect them to establish different moral principles. So Parfit's argument shows either that Kantians and Rule Consequentialists do not, in fact, point to different moral motivations, or that our moral reasons do not, in fact, have this practical role. Parfit's argument, then, has significant implications for my approach, and for the Moral Status View.

The second reason to engage with the Kantian Argument for Rule Consequentialism is that as I suggested above, Parfit does not focus on the practical nature of our moral reasons. I have argued that this approach provides strong support for the Moral Status View. If this is correct, then showing that Parfit's argument is not sound, as it fails to accommodate the Moral Status View, is both further reason to think that the Moral Status View has serious implications, and reason to take seriously the practical nature of our moral reasons. Whilst the first reason for engaging with Parfit's argument is in part to defend this approach, the second reason goes beyond defense to showing that we neglect this approach at our peril. Engaging with the Kantian Argument for Rule Consequentialism, then, both helps to defend and bring out the significance of the claims of the last three chapters.

I suggested above that in arguing that Kantians should accept premise A, which he calls the Kantian Contractualist Formula, Parfit makes no attempt to consider the practical role of our moral reasons. In a sense, then, to argue that Parfit's argument is not sound because it neglects Kantian considerations is to argue that the Kantian Contractualist Formula is not a satisfactory statement of Kant's position. One way of

doing this would be to show that an alternative statement of Kant's view better interprets his position. The suggestions I made as to how we are to read Kant in the last chapter perhaps go some way towards meeting this end. If we could show that premise A is not the best reading of Kant's view, then Parfit's argument would never get going.

Such an approach would not be entirely satisfactory, however, and not only because it is not clear what it would take to be certain of that conclusion. Even if the Kantian holds that the so-called Kantian Contractualist Formula does not encapsulate her concerns, she may still take it to be true. So it is worth spelling out exactly what the reasons are that Kantians take Parfit's argument to overlook, and to show which premise of his argument is false given these reasons. Even if we do not endorse Parfit's reading of Kant, in other words, we can use the Kantian Argument for Rule Consequentialism as a foil to bring out the Moral Status View. We will better meet the aims that I have outlined above by showing exactly where Parfit's argument goes wrong, rather than by refusing to take it seriously.

## II

The Kantian's best response to Parfit's argument, I suggested in the last section, is that it overlooks reasons based on the idea of respect. These respect-based reasons, the Kantian may hold, are such that premise F of the Kantian Argument for Rule Consequentialism is false: that it is not the case that everyone has sufficient reason not to choose UA-optimific principles. Depending on whether or not respect-based reasons are impartial reasons, premise F is false because either premise D or premise E is false. I show in the next two sections that Parfit has two responses to such an argument: that we do not have such reasons, or that we have such reasons, but they are consistent with our having sufficient reason to choose UA-optimific principles. These responses, I show, amount to a challenge to identify non-deontic reasons which are such that we have sufficient reason not to choose UA-optimific principles.

Michael Otsuka gives such an argument in claiming that Parfit's argument cannot accommodate the respect-based reason of not treating a person merely as a means (2009). Since Otsuka holds that respect-based reasons are impartial reasons, he takes this to show that premise D of Parfit's argument is false. As I argue below, however, there are different ways of understanding the notion of an impartial reason. On certain understandings of an impartial reason, respect-based reasons are not impartial reasons. The Kantian's claim would then be that premise E is false – that these respect-based reasons decisively outweigh our impartial reasons when understood in the way picked out by premise D. Either way, the main claim is that premise F is false, and hence that the Kantian Argument for Rule Consequentialism is not sound.

To say that premise F is false, I have noted, is to say that it is not the case that everyone has sufficient reason to choose UA-optimific principles. As I show in more detail below, the impartial reasons which Parfit's argument appeals to are given by the goodness of events, or more specifically, by the intrinsic property of events. As I suggested in the second chapter, any plausible account of our moral reasons for action must hold that we have moral reasons to realise events – that many of our moral reasons can be thought of as being given by the goodness of consequences, or events. Rather than deny that we have such reasons, then, the Kantian's claim will be that such reasons are outweighed by respect-based reasons. Thus she will make the more specific claim that we have respect-based reasons such that everyone has sufficient reason *not* to choose UA-optimific principles.

Now Parfit's first response to this type of argument, which I consider in this section, is that whilst we do have certain respect-based reasons, those reasons are reasons to choose UA-optimific principles (p238).<sup>35</sup> This is to claim that respect-based reasons are reasons to act in accordance with Rule Consequentialist principles. There are two

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<sup>35</sup> I consider the response that we have respect-based reasons, but that they are not strong enough to give us decisive reason not to choose UA-optimific principles when considering his second response.

ways in which Parfit could claim to so accommodate respect-based reasons. First, he could claim that respect-based reasons are impartial reasons, and hence that premise D shows that respect-based reasons are reasons to choose UA-optimific principles. Secondly, he could claim that respect-based reasons are not impartial reasons, but that they are consistent with those reasons – that respect-based reasons are not reasons not to choose UA-optimific principles.

Parfit takes the second option in responding to Otsuka's objection: he claims that respect-based reasons are not impartial reasons, but rather give rise to impartial reasons, and are hence consistent with our impartial reasons (p478). In order to be able to assess this response, however, and more generally, whether or not respect-based reasons conflict with impartial reasons, we first need to understand Parfit's conception of an impartial reason. Parfit claims that premise D of the Kantian Argument for Rule Consequentialism is true given the definition of an impartial reason. As well as directly considering how Parfit understands the concept of an impartial reason, then, we can consider how he must understand that concept if by definition it is to support UA-optimific principles.

UA-optimific principles, I noted in the first section, are 'the principles whose universal acceptance would make things go best' (p377). Now to talk of how *things go* is to talk of events – of actions and states of affairs. Thus Parfit clearly understands impartial reasons to be reason to realise events. This is in keeping, as I showed in the first chapter, with a Consequentialist view of our moral reasons for action. We can also reach this conclusion by considering the definition of impartial reasons which Parfit provides. Impartial reasons, Parfit claims, are reasons 'we would have... even if our situation gave us an impartial point of view' (p40), where 'we have an impartial point of view when we are considering events that would affect or involve people who are all strangers to us' (p40). Impartial reasons, then, are the reasons that we have when *considering events*, and are therefore reasons to realise events.

This fits with a distinction Parfit draws between reasons to promote events and reasons to respect things (p235–9). This is a distinction, Parfit tells us, between different kinds of value. Whereas reasons to promote events are given by the goodness of events, reasons to respect things are not given by events, but by things, such as flags, corpses, and persons. Reasons to respect things, furthermore, are not given by those things being good – those things are of a different kind of value. Parfit’s distinction, then, is a distinction according to which different types of things are of different kinds of value. Parfit clearly understands impartial reasons as being reasons to promote events – as reasons given by the goodness of events – rather than reasons to respect things.

That Parfit draws this distinction between reasons to promote events and reasons to respect things, notes Otsuka, implies that Parfit does accept that we have respect-based reasons. It also shows, however, that Parfit holds that respect-based reasons are not impartial reasons, so that he would take Otsuka’s argument, if correct, to establish that premise E, rather than premise D is false.<sup>36</sup> This implies that Parfit must attempt to accommodate respect-based reasons by taking the second strategy suggested above: by showing that respect-based reasons are consistent with impartial reasons, rather than claiming that they are impartial reasons.

Parfit attempts to do this by claiming that we have reason to promote events which respect things – that we have reason to perform respectful acts (p238). This is to claim that we have reasons to promote acts in virtue of our reasons to respect persons, or that respect-based reasons give rise to impartial reasons. Hence the Kantian Argument for Rule Consequentialism, according to Parfit, shows that respect-based reasons, as well as other types of reason, require us to act in accordance with Rule

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<sup>36</sup> As I noted above, what matters is whether either premise is false, and not which premise. That Otsuka holds that it is premise D is false puts pressure on Parfit’s conception of an impartial reason. This forces us to clearly understand Parfit’s conception of an impartial reason, which makes it clearer that it does not accommodate respect-based reasons.



Consequentialist Principles. Parfit's first way of responding to Kantians who claim that his argument cannot accommodate respect-based reasons, then, is to accept that we have those respect-based reasons, but to claim that this does not undermine his argument since those reasons support UA-optimific principles.

Now to assess whether we do indeed have reasons to promote respectful acts, as Parfit claims, we need to better understand what is meant by that claim. In particular, we need to better understand what is to have a reason to promote events. Parfit claims, I noted above, that reasons to promote events are given by the goodness of events. Now the best view about what it is to promote the goodness of events, Parfit claims, is

Actualism: Possible acts and other events would be good as ends when they have intrinsic properties or features that give us reasons to want them to be actual, by being done or occurring, and to make them actual if we can. Possible acts and other events would be good as a means when our making them actual would be an effective way of achieving some end. (p236)

A reason to promote an event, then, is given by the goodness of that event in that either that event has intrinsic properties that give us reason to realise it, or in that realising that event would meet some other end.

To say that we have reasons to promote respectful acts, then, is to say that either that a respectful act has intrinsic properties that give us reason to realise it, or that realising that act would meet some other end. Parfit goes for the first option in claiming that 'when we could respond to the value of ... things by treating them in respectful ways, these *acts* would be good as ends, having the kind of value that is to be promoted' (p238, his emphasis). Parfit's claim, then, is that his account accommodates respect-based reasons because respectful acts have intrinsic properties that give us reason to realise those acts. In assessing this line of response to the Kantian, then, we can begin by assessing this claim.

It is perhaps worth emphasising at this point that Parfit need not claim that those reasons are our fundamental moral reasons. He can allow, that is, that there may be a more fundamental moral reason that the intrinsic properties of respectful acts give us reason to realise those acts. That fundamental moral reason may even be something to do with the value or status of persons. In giving the Kantian Argument for Rule Consequentialism, Parfit need not be claiming that our fundamental moral reasons for action are Consequentialist reasons, or that they are reasons to promote events.<sup>37</sup> His claim is only that respect-based reasons require us to act in accordance with Rule Consequentialist principles, and hence that they are consistent with, and more specifically give rise to, reasons that are given by the intrinsic properties of respectful acts.

Nonetheless, having clarified this first line of response to the Kantian, we can see that it is not satisfactory. This becomes clear on asking why we should accept that respectful acts have intrinsic properties which give us reasons to realise those acts. Since Parfit gives no argument for this claim, we can only suppose that he takes it to be obvious that it is true. We can put pressure on this claim, however, by noting that for something to *give us* a reason for action is for it to give some explanation or justification for the claim that we are to perform that action. For an intrinsic property of an act to give us a reason to realise that act, then, that property must give some explanation or justification for the claim that we should perform that act.

What, though, is the intrinsic property of respectful acts which explains or justifies the claim that we are to perform them? The obvious candidate is the property of being respectful. This will not do, however, because an act's being respectful does not, strictly speaking, offer any explanation or justification of the claim that we should perform that act. Our reason to perform a respectful act is that performing that act is

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<sup>37</sup> As I noted in the first section, he appears to even accept that our moral reasons are not Consequentialist.

a way of respecting a thing, and not that being respectful is of intrinsic value. That an act is respectful, in other words, does not explain why that act is of value, but rather tells us, as Parfit appears to accept, that it has a certain kind of value: a value given by the thing to be respected. Parfit's claim, then, must be that respectful acts have some other intrinsic property which give us reason to perform them.

Yet it is not clear why we should accept this claim without some account of those intrinsic properties. Furthermore, since the acts which count as being respectful are likely to be very different in different cases, it is not clear that there will be some property, other than that of being respectful, which they all have in common. In particular, it is not clear that there is any property which they have in common which gives us a reason to perform that action – which explains why or justifies the claim that we are to do so. What explains or justifies the requirement to perform a respectful act, it seems, is not a property of that act, but the value of the thing to be respected. In appealing to the value of that thing, it is not clear that we appeal to any property of the act which is to respond to its value – to any property of the respectful act. Parfit fails to show, then, that respectful acts would be good as ends – that they have the kind of value that is to be promoted.

Of course Parfit might instead claim that respectful acts would be good as means – that performing those actions would meet some end. For it to be the case that we have reason to promote respectful acts, however, that end must be a good end – it must be an end that is given by the intrinsic property of an event. Otherwise that act will be a way of responding to a reason to respect a thing, rather than of meeting a reason to promote an event. Yet it is also not clear that there will always be a good end to which a respectful act is an end, not least because it is not clear what that good end is supposed to be. Thus Parfit does not establish that respectful acts are good as either ends or means, and hence that we have reasons to promote respectful acts. Once we examine what it is to have a reason to promote events in more detail, then, this line of response to the Kantian objector does not clearly succeed.

I have not shown, however, that it is false that we have reasons to promote respectful acts, nor that there is not some other reason to think that respect-based reasons are consistent with impartial reasons – that they are not reasons not to choose UA-optimific principles. Parfit's first line of response to the Kantian objector, then, amounts to a challenge to show that we have respect-based reasons which are not consistent with impartial reasons. One way of doing so would be to identify respect-based reasons which are reasons for everyone not to will UA-optimific principles. A less ambitious strategy would be to show that we have respect-based reasons which there is reason to expect to be reasons not to choose UA-optimific principles. This weaker strategy is that which I adopt in the final section.

### III

Parfit's second line of response to the Kantian who claims that the Kantian Argument for Rule Consequentialism cannot accommodate respect-based reasons, I noted in the last section, is to either deny that these are moral reasons, or that they are moral reasons of sufficient strength for us not to choose UA-optimific principles. This section considers this line of response, which Parfit takes in responding to what he calls the wrong-making features objection (p389–394). This line of response, I argue, amount to a challenge to the Kantian objector to show that the reasons to which she appeals are non-deontic; that they are reasons which justify or explain, rather than being based on, the claim that an action would be right.

We can begin by considering the concept of a deontic reason. A deontic reason for action, Parfit tells us, is a reason that appeals to that action being right or wrong. In asking which principles everyone could will to be universally accepted, Parfit notes, we are attempting to explain or justify which actions are right or wrong – we are attempting to establish our deontic reasons. It would be circular, and therefore unacceptable, to appeal to deontic reasons in asking which principles everyone could choose, and hence to show that a premise of Parfit's argument is false, since those are

the very reasons which the Kantian Contractualist Formula is supposed to establish. Thus to succeed, objections according to which the Kantian Argument for Rule Consequentialism overlooks certain moral reasons must claim that such reasons are non-deontic.

We can now consider the wrong-making features objections. According to that objection, the wrong-making features of an act can give us decisive non-deontic reasons not to perform that act, and hence not to choose the UA-optimific principles which requires it. Parfit suggests, for example, that optimific principles might require us to kill one person as a means to save five. It might be objected, however, that killing a person is a means is a wrong-making feature of an act such that we have decisive non-deontic reasons not to perform that action, and hence not to choose the UA-optimific principles which require us to do so. If correct, this would show that premise F of Parfit's argument is false: that we have decisive non-deontic reasons not to choose UA-optimific principles.

Parfit's response to the wrong-making features objection is:

(X) if the optimific principles require certain acts that we believe to be wrong, the features or facts that, in our opinion, make those acts wrong would not give us decisive non-deontic reasons not to act in these ways. What might be true is only that, by making these acts wrong, these facts would give us decisive deontic reasons not to act in these ways. (p395).

Parfit summarises his argument for (X) as follows:

We should expect (X) to be true. If the optimific principles require some kind of act, we must have strong impartial reasons to want everyone to act in this way. If we did not have such reasons, it would not be better if everyone acted in these ways, so the optimific principles would not require such acts. Since we would

have strong impartial reasons to want everyone to act in this way, we should expect that these reasons could not be decisively outweighed expect by the fact that such acts would be wrong. (p396)

Parfit's strategy, then, is to claim that reasons for not willing an optimific principle that are based on the features of that principle, such as killing as a means, must be deontic and therefore cannot be appealed to in applying the Kantian Contractualist Formula.

Yet it is not clear why we should accept this claim. What appears to drive Parfit's argument is the thought that we have two kinds of reasons for action: partial and impartial. If this is the case, then the only non-deontic reasons which could outweigh our impartial reasons are partial reasons. Yet in arguing for premise E, Parfit gives several arguments to establish that partial reasons do not outweigh our impartial reasons – that they are not sufficient reason not to choose UA-optimific principles. X then appears to follow. If non-deontic reasons are either partial or impartial, then, Parfit's claim X appears to be very plausible.

The problem with this line of reasoning, however, is that it is not clear that our reasons for action are either impartial or partial. One way to cast doubt on this claim is to put pressure on Parfit's concept of an impartial reason. As I noted above, Otsuka takes this line in suggesting that premise D of Parfit's argument is false (2009). Furthermore, we saw in the last section that Parfit takes impartial reasons to be reasons to promote events, rather than reasons to respect things. This appears to make space, then, for the Kantian objector to claim that we have respect-based but non-deontic reasons not to choose UA-optimific principles. This is precisely the line that Otsuka takes in appealing to reasons not to treat people merely as a means.

Parfit argues further against Otsuka's objection in Appendix C. In that appendix, Parfit supposes that not treating a person merely as a means is a non-impartial reason not to will an optimific principle. Parfit then argues that this non-impartial reason is a

deontic reason, and hence inadmissible, since it is put forward only as a result of considering our judgements in hypothetical cases. When considering these cases, Parfit claims, people 'were struck first by the belief that [these acts] would be wrong, and only then concluded that the wrongness of [these acts] gave you a further, and perhaps decisive reason not to act in such a way' (2011, p451). That people arrived at this reason in this manner, Parfit claims, shows that it is a deontic reason, and hence that it cannot be appealed to in applying the Kantian Contractualist Formula.

Even if Parfit is right with respect to Otsuka's objection, however, this response does not rule out the possibility of establishing a non-impartial and non-deontic reason that is sufficient for us not to choose UA-optimific principles. Rather, this line of response amounts to a challenge to the Kantian objector to identify a reason that would be sufficient not to choose UA-optimific principles and that is clearly not deontic. The Kantian objector, in other words, must identify a reason which justifies or explains that claim that some people have sufficient reason not to choose UA-optimific principles, rather than simply assuming that such a claim is true. Even if Otsuka fails to meet this challenge, a Kantian objector, following Otsuka's line of attack, may yet succeed.

I argued in the first section that we have reason to be suspicious of Parfit's Kantian Argument for Rule Consequentialism given that Kantians take themselves to appeal to moral principles that do not depend solely on consequences, or events, but also on the idea of respect for persons. This suspicion is strengthened, I further showed, if our moral reasons are accepted to be of a practical nature – if in asking how we should act, we are asking not only about moral principles, but about moral motivations. A Kantian, we can thus conclude, is likely to object to Parfit's argument that it cannot accommodate respect-based reasons. This is to claim, I showed, that either premise D or E, and hence premise F of the Kantian Argument for Rule Consequentialism is false, and hence that it is not sound.

The last two sections have considered two lines of response that could be adopted by a proponent of the Kantian Argument for Rule Consequentialism. The first is to claim that whilst we have respect-based reasons, they are not inconsistent with impartial reasons – they are not reasons for any person not to choose UA-optimific principles. This amounts, I showed, to a challenge to show that we have respect-based reasons which there is reason to expect to be reasons not to choose UA-optimific principles. The second line of response is to claim that we do not have such respect-based reasons, or that they are at least not sufficient not to choose UA-optimific principles. This amounts, I have argued in this section, to a challenge to show that those reasons are non-deontic – to show that they explain or justify the claim that we should not choose such principles.

#### IV

Taken in tandem, the responses considered in the last two sections establish that the task facing the Kantian objector is to establish that we have, or at least should expect that we have, non-deontic and decisive reasons not to choose UA-optimific principles. This is the task I take up in this fourth and final section. The Moral Status View, I argue, identifies non-deontic and decisive reasons for each person not to choose UA-optimific principles. These are reasons that are given by the final value of each person using her reason to cause events. That we have such reasons, I argued in the last chapter, is made clear on focusing on the practical nature of our moral reasons for action. Focusing on that practical nature, I further show in this section – on our moral motivations – also calls into question Parfit's characterisation of Consequentialism, and thus helps to establish that the Moral Status View is not a Consequentialist position.

According to the Moral Status View, I showed in the second chapter, the moral status of each person holds in virtue of her having the capacity to use her reason to cause events. A person uses her reason to cause events, I showed in the last chapter, by



reasoning about which events she has reason to cause and the way in which she is to cause them, and then acting in accordance with those reasons. Thus the use of a person's reason to cause events is not itself an event, but a process by which events are caused. So to say that the use of a person's reason to cause events gives us moral reasons is to say that we have moral reasons that are given by something other than an event, or a property of an event. Such reasons, then, are not impartial reasons as Parfit understands that concept – they are not reasons to promote events, but reasons to respect things.

As established in the last section, however, this is not enough to show that such reasons are not consistent with impartial reasons – that they are reasons not to choose UA-optimific principles. To see that these reasons are inconsistent, we can draw on the further feature of the Moral Status View that in virtue of each person having the capacity to use her reason to cause events, the exercise of that capacity is of final value. A person treats a thing as being of final value, I have said, if she acts in a way that involves that thing only if so acting is in accordance with reasons not given by events caused solely by the involvement of that thing – by events that are the effects only of causal chains of which that thing is part.

To treat the use of person's reason to cause events as being of final value, then, is to involve her only when that is in accordance with reasons which are given by events that are not caused solely by her involvement. UA-optimific principles are those principles the universal acceptance of which would make things go best. What would make things go best, however, may sometimes be that we involve a person so as to realise an event caused solely by her involvement. But involving that person will not always be in accordance with reasons given by events which are not caused solely by her involvement. We should therefore expect treating the use of a person's reason to cause events as being of final value to rule out our willing those principles the universal acceptance of which makes things go best. The Moral Status View, in other

words, gives us moral reasons which we should expect to give us reasons not to choose UA-optimific principles.

This argument is worth spelling out in some detail. We can begin by revisiting Parfit's concept of an impartial reason, as clarified in the second section. UA-optimific principles, we saw, are the principles that are established by what Parfit understands to be our impartial reasons – by our reasons to promote events. Reasons to promote or realise events, we saw, are reasons that we have in virtue of the goodness of those events. More specifically, they are reasons given by the property of an event – reasons to make an event with certain properties actual. UA-optimific principles, then, are those principles which are established by the properties of events which give us reason to make those events actual.

Good events, however – those events whose properties give us reason to make them actual – may include those events which are caused solely by the involvement of the use of a person's reason to cause events. We treat the use of a person's reason to cause events as being of final value, however, I have said, only if we do not act in a way which involves that person because those events are good – because of reasons given by the properties of such events. The Moral Status View, in other words, requires us to act in accordance with reasons that are not given by the goodness of certain events. Thus in responding to reasons to make events actual, we may fail to treat the use of a person's reason to cause events as being of final value.

We will fail to treat the use of a person's reason to cause events as being of final value if responding to those reasons given by events caused by the involvement of a person would cause us to involve that person in a way which we would not otherwise do – which we would not do if we did not respond to those reasons. In involving a person in a way in which we would not involve her if we did not respond to reasons given by such events, we fail to treat the use of her reason to cause events as being of final value. In such cases, then, the Moral Status View will require us to perform actions

that are not supported by UA-optimific principles, and hence that we do not will the universal acceptance of those principles.

Since this argument is rather abstract, it is worth illustrating by considering a hypothetical case. Following Otsuka, we can again consider

*bridge*: By pressing a remote control, you can make one person fall off a bridge in front of an empty, runaway train, so that the train kills her but stops before reaching five people.

In pressing the remote control, I showed in the second chapter, the Moral Status View holds that a person, and more specifically the use of her reason to cause events, would be involved in such a way as to cause the event of five people being saved. The Moral Status View therefore forbids us to appeal to reasons that are given by the goodness of that event – by the goodness of saving five lives. UA-optimific principles, however, are based on reasons to promote events – on the goodness of events. Since saving five people is clearly a good event, UA-optimific principles will take such reasons into account. Furthermore, given the strength of such reasons, those principle are likely to endorse our pressing the remote control. Since if we exclude reasons given by that event, it is clear that we should not press the remote control, the Moral Status View appears to give us reasons not to will UA-optimific principles.

Now the proponent of the Kantian Argument for Rule Consequentialism might object that the argument I have given only shows that the Moral Status View identifies reasons which *might* be reasons not to will UA-optimific principles. She may argue, for example, that UA-optimific principles do not require that we press the remote control in *bridge*, because doing so is ruled out by the goodness of other events. Alternatively, as we saw in the last section, she may claim that reasons to treat the use of a person's reason to cause events as being of final value are deontic reasons, and hence inadmissible when considering the principles which each person has sufficient reason to will. Although I will shortly show that the latter objection can be met, the

former objection shows that we should not assume that considering *bridge* establishes that we have reasons not to will UA-optimific principles.

As I have shown, however, the reasons identified by the Moral Status View will only fail to conflict with our impartial reasons if responding to the goodness of events caused solely by the involvement of a person – of the use of a person’s reason to cause events – does not result in our performing different actions. There is no reason, however, to expect that this will always be the case. Even if the proponent of the Kantian Argument for Rule Consequentialism can point to the goodness of other events in cases such as *bridge*, is no reason to think that she will always be able to do so. Since the Consequentialist holds that the goodness of events does give us substantial reason to realise those events, we should expect that whether or not we respond to the goodness of particular events will change the actions we will perform in a significant number of cases. We should expect, in other words, that the Moral Status View gives us sufficient reason not to choose UA-optimific principles, and hence that premise F of Parfit’s argument is false.

We can now turn to the line of response to the Kantian objector considered in the previous section. That the Moral Status View appeals to our moral motivations – to how we would be motivated were we responsive to moral reasons – shows that it does not appeal to deontic reasons. That each person’s moral status, and more specifically the use of her reason to cause events, motivates us if we are responsive to moral reasons shows that it offers an explanation of why we are to perform certain actions, and hence identifies reasons which are not deontic. Put differently, the claim that each person has a moral status to which we are to respond explains rather than relies on the claim that certain actions are right or wrong. Hence such reasons are admissible when applying the Kantian Contractualist Formula, and thus imply that premise F of the Kantian Argument for Rule Consequentialism is false.

One way of bringing out the claim that the Moral Status View does not appeal to deontic reasons is to consider what it takes the relation to be between the ideas of the right and the good. Non-Consequentialists, it is sometimes claimed, hold that the right precedes the good (Rawls, 1971, p392–6). This is presumably supposed to be understood as the negation of the claim that the good precedes the right: that whether or not an action is right depends solely on whether that actions and its effects are good. Without an account of what it is that makes an action right, however, if not the good, it appears that the non-Consequentialist simply fails to give any explanation of why an action is right or wrong – that she fails to identify what Parfit calls a non-deontic reason. The notion of moral status, I have argued, offers such an explanation.

Thus the Moral Status View successfully meets the challenge to the Kantian objector that was clarified in the last section. The Moral Status View identifies non-deontic and decisive reasons, and we should expect that acting in accordance with these reasons will lead us not to act in accordance with UA-optimific principles, and hence that these reasons give us sufficient reason not to choose the universal acceptance of those principles. We should expect these reasons to rule out our choosing UA-optimific principles, I have shown, because they prevent us from responding to reasons given by the goodness of certain events – those events caused by the involvement of the use of a person’s reason to cause events. These reasons are non-deontic, I have further argued, in that they offer some explanation of the claim that certain actions are right or wrong.

It is worth emphasising that to show that the Kantian Argument for Rule Consequentialism is not sound, we need not show that the Moral Status View is correct, but only that it is a plausible interpretation of Kant’s moral position. The upshot of Parfit’s argument is that Kantians should follow Rule-Consequentialist principles. As I showed in the first section, however, Kantians have reason to suspect that Parfit’s Kantian Contractualist Formula overlooks part of the moral motivations which Kant’s view identifies, and in particular, respect-based reasons. The moral

motivation which it overlooks, I have argued, is that of each person's autonomy, and more specifically, the use of a person's reason to cause events being of final value. If my arguments are correct, then it follows that Parfit's argument is not sound as long as the Moral Status View is a plausible interpretation of Kant's moral position.

Even if the Moral Status View is not a plausible interpretation of Kant's moral position, however, than as long as it is a plausible moral view, it establishes a position which supports moral principles that are not Consequentialist. Whether or not the Moral Status View is a Kantian position, in other words, the arguments given in this section re-establish the deep disagreement with which Parfit is so concerned. This should not trouble us, since as I argued in the first section, focusing on the practical role of our moral reasons for action undermines the significance of that so-called deep disagreement. Rather than look for some further way of avoiding deep disagreement, we should refocus our attention on the practical role of our moral reasons for action, in order to see which moral position best captures our moral motivations, and hence supports the correct moral principle.

Focusing on the practical role of our moral reasons for action also undermines Parfit's claim to have identified a plausible version of Consequentialism. According to Parfit, the impartial reasons to which the Consequentialist appeals can be impersonal. Those reasons, in other words, can be reasons that are given by an event being *good per se*, and not only reasons that are given by an event being *good for* a person, or entity. Parfit notes that many people are opposed to this claim – that they hold that events cannot be good per se, but only good for a person. If these people were right, then the concept of an impartial reason and hence the version of Consequentialism to which Parfit appeals in giving the Kantian Argument for Rule Consequentialism would not be plausible.

Parfit's response to these people is that an outcome or event can be '*impersonally best* in the *impartial-reason-implying sense*', by which he means it can be 'the outcome that,

from an impartial point of view, everyone would have most reason to want, or to hope will come about' (p372, his emphasis). Our impartial reasons, in other words, include those reasons which we have when we consider events in which each person involved is a stranger, and those reasons will be given not just by events which are good for a person, but those events which are good *per se*, in that everyone has most reason for those events to be realised. Since our impartial reasons are given by the events that we have reason to be actual when each person involved is a stranger, the Consequentialist, Parfit claims, can appeal to impersonal reasons.

I argued in the first chapter that focusing on the practical nature of our moral reasons for action undermines the claim that we have impersonal reasons – reasons given by an event being good *per se*. This argument, it is worth noting, also undermines Parfit's response to those who object to that claim. We can see this by asking what it is that is supposed to morally motivate us about the events which we would decide to make actual when each person involved were a stranger. Without an answer to that question, that there is a sense in which we have impersonal reasons does not establish that they are moral reasons of a practical nature. Yet Parfit gives us no reason to think that we are morally motivated by such events, and it is furthermore not obvious that we are so motivated when responsive to moral reasons.

We can bring this point out by considering the concept of an impartial spectator. Parfit's argument, we have seen, is that we can see that we have impersonal reasons by considering an impartial spectator who is forced to make a decision about which events to make actual. In being a spectator, the role of that person is to act as if there are moral reasons to realise certain impersonal events over others, and hence to make some choice about which event should be realised. That we can make a choice about which event should be realised, however, does not establish that the event which is chosen gives us moral reasons for action. It is simply not clear, in other words, that we are morally motivated by the standpoint of the impartial spectator – that we would be motivated by that standpoint were we to be responsive to our moral reasons.

Focusing on the practical nature of our moral reasons for action, then, undermines the plausibility of Parfit's version of Consequentialism. This matters in part because it supports the Moral Status View, on which events can be good for a person or entity, but not good per se. It also matters, however, because it further undermines the first line of Parfit's response to the Kantian objector, on which respect-based reasons are not inconsistent with impartial reasons – on which they are not reasons not to choose UA-optimific principles. If Rule Consequentialist principles cannot appeal to events being good per se, but only to events being good for a person, then there are fewer events the goodness of which to she can appeal to try to establish principles which fit with our respect-based reasons. Focusing on the practical nature of our moral reasons for action, in other words, drives a further wedge between the Moral Status View and the position of the Consequentialist, and hence further undermines the Kantian Argument for Rule Consequentialism.

This completes my argument for the claim that the Kantian Argument for Rule Consequentialism is not sound. I have argued that premise F of that argument is false, or more precisely, that we should expect it to be false, since we have non-deontic and decisive reasons which we should expect to be sufficient not to choose UA-optimific principles. If we accept Parfit's conception of an impartial reason, then we should expect premise F to be false because we should expect premise E to be false, whereas if we do not accept his conception, we should expect premise D to be false. Hence Parfit's argument does not establish that Kantians and Consequentialists should follow the same moral principles, or that they do not capture different moral motivations. Nor does it suggest that our moral reasons are not practical in the way defended in the first chapter. This is enough to defend the claim that the Moral Status View is non-Consequentialist, and therefore meets my first reason for considering Parfit's argument.

We can finish with a diagnosis of the Kantian Argument for Rule Consequentialism – by explaining where Parfit's argument goes wrong. This meets my second reason for



considering Parfit's argument. Parfit overlooks the possibility that respect-based reasons such as those identified by the Moral Status View are not accommodated by his argument, I suggest, because he overlooks the practical nature of our moral reasons for action. As I showed in the second section, we should expect that different moral motivations will lead us to act in different ways, and hence that positions which point to different moral reasons will support different principles. The reasons identified by the Moral Status View bear this expectation out. Not only have I shown that the Moral Status View has significant implications for existing moral debates, then, but I have also shown that we neglect that practical nature of our moral reasons for action at our peril.

## Part 2 – Political Liberalism

## Chapter 5 — The Problem of Reasonable Disagreement

At the heart of Political Liberalism, as developed by John Rawls, lie ideas about justice, stability, freedom and equality, and a reasonable agreement (1991, 2001). Yet whilst the problems that motivate Political Liberalism are perhaps as pressing as ever, as we shall see it remains unclear how these ideas are to be understood. In large part, this is because it is not clear what justifies Political Liberalism – what problem it claims to solve. Whilst Political Liberals often emphasise the fact of reasonable disagreement – that reasonable people disagree about our fundamental moral reasons for action – it is not obvious why such disagreement is a problem, or how Politically Liberal accounts solve it. As an account of how we should act, then, Political Liberalism has proved to be frustratingly elusive.

This chapter clarifies the problem of reasonable disagreement in order to determine how Political Liberalism is justified. The Political Liberal's key claim, I suggest, is that our political reasons for action are those reasons which could be accepted by each reasonable person. To be plausible, I argue, an account of our political reasons must be such that first, in acting in accordance with those reasons, we would act in accordance with the relevant moral reasons for action, and secondly, it is plausible that each person would act in accordance with those reasons under the right conditions. The problem of reasonable disagreement, then, is that reasonable disagreement appears to make it impossible to give an account of the political reasons of the members of a modern democratic society which satisfy these criteria.

The structure of this chapter is as follows. Section one introduces Political Liberalism and establishes that it is not obvious how it should be understood. Political Liberals, I show, begin with the idea of a reasonable agreement – with the claim that political reasons for action are those reasons which could be accepted by each reasonable person. It is not clear how we should understand this claim, however, in part because it is not clear what it is to be a reasonable person. To answer that question, we need to

explain what is supposed to justify Political Liberalism – to identify the problem that it is supposed to solve. Such an explanation cannot simply appeal to the problem of reasonable disagreement, I show, since it is not clear why such disagreement is a problem, or how the Political Liberal claims to solve it.

The second section makes some preliminary clarifications by detailing the concept of a political reason and by setting out the scope of Political Liberalism – by identifying the people to whom the Political Liberal claims political reasons to apply. A political reason, I show, is a reason to influence other people, and Political Liberalism claims that the reasons which it identifies apply to the members of a modern democratic society. The third section establishes two criteria that an account of our political reasons must meet in order to be plausible. First, it must be the case that in acting in accordance with those reasons, we would act in accordance with our relevant moral reasons for action. Secondly, it must be plausible that each member of a society would act in accordance with those reasons under the right conditions.

Section four explains how we should understand the concept of a reasonable person given these criteria. By assuming that there is some account of our political reasons for action which satisfies these criteria, I show, we arrive at the conclusion that for a person to be reasonable is for her to use her reason to determine her moral reasons, and to act in accordance with what she takes those moral reasons to be. Section five sets out how we must understand the problem of reasonable disagreement given this conception of a reasonable person. Reasonable disagreement, I show, has both an epistemic and a practical role: it undermines our claim to know our political reasons for action, and it undermines the claim that it is plausible that each member of society would act in accordance with those reasons in any conditions.

We can begin by briefly considering some existing views of Political Liberalism. These views emphasise different ideas. Nagel argues that liberals must appeal to an idea of liberal impartiality, which 'takes us outside ourselves to a standpoint that is independent of who we are', and in which we try to make 'the epistemological standpoint of morality impersonal as well' (1987, p229, p230). Quong claims that the foundational commitment of Political Liberalism is to free and equal citizens (2010). Scheffler suggests that Political Liberalism combines the advantages of a *modus vivendi*, which 'treats with utmost seriousness the deep differences in people's values and ways of life', with the claim that a political conception will be accepted 'for moral reasons of one sort or another' (1994, p. 7). Leland and Wietmarschen instead begin with the ideas of legitimacy and mutual justifiability (2012).

Each of these views raises certain problems for the Political Liberal. Nagel does not explain how the idea of liberal impartiality is justified, or argue that this idea could feasibly be accepted by the members of a modern democratic society. Scheffler raises issues for the feasibility of Rawls' theory as he understands it by pointing to ambiguities in the idea of a political conception of justice. Quong suggests that his theory is only addressed to those who accept the liberal's conception of free and equal citizens, and hence does not apply to all citizens living within modern democratic societies. Leland and Wietmarschen argue that Political Liberalism requires a conception of reasonable which they accept may not be feasible to implement. In addition to these problems, the key ideas to which these views appeal are not always fully spelt out. Not only are there several views of Political Liberalism, then, but it seems that each stands in need of further defense and clarification.

Rather than consider the foundations of Political Liberalism, we might instead begin with a central idea: that of being reasonable. Yet there is also disagreement as to what the role and meaning of this idea must be if Political Liberalism is to be plausible. O'Neill argues that for Rawls, being a citizen is constitutive of reasonableness, and that 'what is to count as reasoned... is the thinking of citizens with a common political

identity' (1997, p421). She then raises some problems for Rawls' theory when so understood. Kelly and McPherson distinguish between philosophical and political reasonableness, and argue that a person can be politically reasonable despite being philosophically unreasonable (2001). Wenar identifies five features that he takes to define Rawls' notion of reasonableness, and argues that this notion is partially comprehensive and hence could not be accepted on each comprehensive view, as Rawls claims (1995). Leland and Wietmarschen identify two conceptions of reasonableness, and argue that only one is plausible (2012).

Given the differences between and difficulties with these views and approaches, it is difficult to know where to begin in attempting to understand Rawls' theory. Part of the problem is that given Rawls' methodology, it is difficult to fully grasp the relation between all of his fundamental ideas and how each of them is to be understood. A detailed consideration of just one of the views and approaches mentioned above would therefore be a substantial and difficult task. Furthermore, there is no guarantee that an analysis of these claims would lead to a positive account of Rawls' theory, rather than the conclusion that these claims misunderstand Rawls' view, or begin in the wrong place. So I shall instead attempt a fresh approach which begins by considering the idea of a reasonable agreement. Even if this is not the only or best way to think about Rawls, progress will have been made if we can reach a clear and plausible version of Political Liberalism. I return to the views of Leland and Wietmarschen and Quong below.

Political Liberalism's most prominent proponent, John Rawls, tells us that '...the problem of political liberalism is: How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable though incompatible religious, philosophical, and moral doctrines?' (1991, p.xviii). Similarly, he claims that 'the fundamental question of political philosophy for a constitutional democratic regime... is what is the most acceptable political conception of justice for specifying the fair terms of cooperation between citizens regarded as free

and equal and as both reasonable and rational, and (we add) as normal and fully cooperating members of society over a complete life, from one generation to the next?' (2001, p7–8).<sup>38</sup>

A distinctive and central aim of Political Liberalism, then, is to identify a political conception of justice about which there is reasonable agreement. To identify such an agreement is to identify the most acceptable political conception of justice, and it is only by reaching such an agreement that a stable and just society of free and equal but profoundly divided citizens can exist over time. So as a first approximation, we can say that Political Liberalism is *political* in that it holds that instead of depending on some independent standard, the correct conception of justice is that which could be accepted by each reasonable person. It is *liberal* in that it holds that the conception which could be accepted by each reasonable person is recognisably liberal.

I shall take the core claim of Political Liberalism to be that our political reasons for action are those reasons which could be accepted by each reasonable person. Of course Rawls' statements of the task of Political Liberalism, as well as his theory more generally, also appeal to notions of justice, stability, reasonableness, people as free and equal, and to the idea of the fair terms of cooperation. What ultimately justifies his theory, however, at least for the later Rawls of *Political Liberalism* and *Justice as Fairness*, is that it could be accepted by each reasonable person - or at least, so I shall assume in taking this approach. As I shall show in chapter seven, we can better understand those ideas by understanding how they are justified. Thus our interest in establishing the nature of Political Liberalism can be seen as an interest in establishing the foundations of political theory, and in particular, in establishing our fundamental political reasons for action.

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<sup>38</sup> My focus here is on Political Liberalism as developed by Rawls. For a non-Rawlsian account of Political Liberalism, see Larmore (1990).

Now considering this statement of Political Liberalism prompts several questions about how that position should be understood. First, we can ask how we are to understand the concept of a political reason. Secondly, we can ask what the scope of Political Liberalism is – we can ask which people political reasons are reasons *for*. These are questions that must be answered by any account of our political reasons for action. A third question that can be asked, which is particular to Political Liberalism, is what it is for a person to be reasonable. Although we have an intuitive grasp of this idea, we need to say more about it if it is to provide the basis of an account of our political reasons for action.

I answer the first two questions in the following section. To answer the third question, however, we need to understand why we should take our political reasons to be those reasons which could be accepted by each reasonable person. To understand what it is for a person to be reasonable, in other words, we need to understand why we should take the idea of a reasonable agreement to be significant. Put differently, we need to understand the problem which Political Liberalism claims to solve. Political Liberalism is *political*, I suggested above, in that it holds that the correct conception of justice is that which could be accepted by each reasonable person. If being political is to be a distinctive feature of a theory, however – if it is distinct, for example, from being moral, as I shall argue is the case – then it must be shown that appealing to the reasons which could be accepted by each reasonable person offers a solution to a distinctive problem.

The obvious problem to suggest is the problem of reasonable disagreement. Modern democratic societies, claims Rawls, are characterised by the fact of reasonable disagreement. The fact of reasonable disagreement is the fact that reasonable people will disagree about our fundamental moral reasons for action. This is a fact in modern democratic societies, argues Rawls, because the use of our reason under free institutions will lead us to different conclusions about our fundamental moral reasons



for action.<sup>39</sup> Whilst for reasons of space I shall simply accept this claim here, it is worth noting that modern democratic societies do at least currently appear to be so characterised.

Political Liberals clearly are exercised by the problem of reasonable disagreement. It makes sense to suggest, then, that the account of our political reasons which they put forward is justified by the need to solve that problem. The problem of reasonable disagreement, the Political Liberal might claim, appears to make it impossible to give an account of our political reasons which can be accepted by each reasonable person, and hence impossible to give a satisfactory account of those reasons. We cannot avoid the problem of reasonable disagreement, she might emphasise, since despite disagreement about our political reasons, people will continue to coordinate their actions, hence realising some principle, as it is in their rational self-interest to do so.

What justifies Political Liberalism, according to this analysis, is that it solves the problem of reasonable disagreement. When politically deliberating, on this account, we should not appeal to those reasons which cannot be accepted by each reasonable person, and hence to some of what we take to be our fundamental moral reasons for action. This is to support an ideal of mutual justifiability, according to which a conception of justice is only justified if it is justifiable to each person – only if each reasonable person would accept that conception. Our political reasons, for example, on this account, do not depend on the claim that abortion is wrong, since reasonable people dispute that claim.

This explanation of Political Liberalism will not do, however, as it is not clear why reasonable disagreement about our political reasons would make it impossible to give a satisfactory account of our political reasons for action. What would be wrong with an account of our political reasons for action which could not be accepted by each reasonable person? To answer this question, it is tempting to appeal to some other

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<sup>39</sup> This is a result, claimed Rawls, of the burdens of judgement (1991, p54–58).

idea which the Political Liberal takes to be central to her account, such as stability, or persons being free and equal. As I have said, however, it is not clear how the Political Liberal understands these notions, or why we should take her understanding to be correct. On the approach we are pursuing, the Political Liberal's claim about our political reasons for action is supposed to clarify and justify claims about these ideas, and not the other way round.

Now there is clearly *something* troubling about reasonable citizens being unable to accept the account of our political reasons for action which is realised in their society. Yet what exactly is that troubles us – what is the problem of reasonable disagreement? The Political Liberal obviously does aim to give an account of our political reasons for action which solves that problem. As that problem stands, however, we do not understand what it is for a person to be reasonable, or why we need a conception of justice about which there is reasonable agreement. What is needed, then, is an alternative explanation of what justifies a conception of justice, which can in turn explain how we are to understand the problem of reasonable disagreement, including what it is to be a reasonable person.

We can sharpen these questions about the nature of Political Liberalism by considering Frost's remark, repeated by Nagel, that a liberal is someone who can't take her own side in an argument (1987). This remark suggests that liberals face a dilemma. If the liberal offers no justification for her position, then there is no reason to accept it – if she *does not* argue for her position, then the argument is lost. To claim that what justifies liberalism is that it is neutral, for example, risks embracing this horn, since being neutral is clearly not a fundamental normative reason for action. Since liberals hold that we should not impose our views of our moral reasons on other people, on the other hand, it appears that they cannot appeal to any reason to justify that claim – that liberals *cannot* take their own side in an argument, as Frost puts it, because in doing so they will immediately undermine their own position.

I develop the first horn of the dilemma in the third section. We can note here, however, that the second horn appears to be particularly sharp for the Political Liberal, since it appears that reasonable people would dispute the ideal of mutual justifiability. Some reasonable people, it appears, such as those who hold that abortion is tantamount to murder, will struggle to accept that our political reasons for action are those reasons which could be accepted by each reasonable person, since *prima facie*, a person has reason to appeal to what she believes to be our fundamental moral reasons for action.<sup>40</sup> If reasonable people dispute the Political Liberal's account of our political reasons for action, however, then it appears that by her own lights, her account does not solve the problem of reasonable disagreement.

Now whether or not the Political Liberal can meet this objection depends on how the problem of reasonable disagreement should be understood. On some understandings of what it is for a person to be reasonable, it may be that reasonable people could accept that they are not to appeal to those reasons which some reasonable people could not accept. Alternatively, it could be the case that Political Liberalism does not require a reasonable agreement about an account of our political reasons for action, but only that those political reasons are based on moral reasons about which there is reasonable agreement. Whether or not the Political Liberal manages to solve the problem of reasonable disagreement depends, then, on what makes that problem a problem – on why we need a reasonable agreement about our political reasons for action.

Political Liberalism, I have shown in this section, holds that our political reasons for action are those reasons which could be accepted by each reasonable person. Our question is how we are to understand this view if it is to be justified. What appears to justify the Political Liberal's account, I noted, is that it solves the problem of reasonable disagreement. Without a better understanding of that problem, however, this

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<sup>40</sup> This point is often overlooked by those with views of our moral reasons for action that are close to the ideals appealed to by political liberals.

explanation will not do. One way of bringing this point out, I have said, is that without that better understanding, it is not clear that, by her own lights, the political liberal does solve the problem of disagreement. What is needed, then, is an explanation of what justifies Political Liberalism that does not appeal to the problem of reasonable disagreement.

## II

Before attempting to give such an explanation, we should answer the first two questions that I raised above as to how we are to understand the claim that our political reasons for action are those reasons which could be accepted by each reasonable person. The first question is how we are to understand the concept of a political reason. A political reason, I show, is a reason to influence another person or persons. The second question asks what the scope of Political Liberalism is – it asks which people it identifies reasons for. Politically Liberal reasons, I show, are claimed to apply to the members of a modern democratic society.

We can clarify the concept of a political reason by distinguishing political reasons for action from moral reasons for action. Our political reasons for action, it is often pointed out, are reasons to support certain practices or institutions. Since this is only true of certain practices and institutions, however, this does not tell us what it is for a reason for action to be political. Practices and institutions are a way of acting on our reasons for action, and are not themselves reasons for action, or entities that could generate such reasons. What makes a practice or institution political, then, is that it is a way of acting on our political reasons for action, and not the other way round. Even if we can determine whether or not a particular reason for action is political by asking whether it is met by supporting certain institutions, we need some other account of what it is for a reason for action to be political.

One way in which we use practices and institutions is to coordinate our actions. We might instead suggest, then, that political reasons for action are reasons for us to

coordinate our actions in a certain way. The actions of a group are coordinated when they cohere with one another, or have a certain unity – when those actions relate to or respond to one another in a certain way, or when taken together they have a particular purpose, or a set of purposes. Whereas moral reasons for action arise from asking how each person should act, we might claim, political reasons for action arise from asking how we should act – from asking how we should coordinate our actions. Whilst this approach seems promising, however, it is clear that we can also have moral reasons to coordinate our actions in certain ways – to coordinate our actions, for example, so as to save a drowning child. Thus we need some further way of distinguishing our political reasons for action.

A key difference is that when asking political questions about how a group of people should act, we take into account how we expect each member of that group to act. When asking moral questions about how a group of people should act, however, we assume that each person will act as she should, as long as it is possible for her to do so. When asking those moral questions, of course, we do take into account how we expect people who are not part of the group that we are asking about to behave. But when asking political questions, we also ask how we expect each member of that very group to act. How each member of a group is expected to act will vary, it is worth emphasising, as other members of that group act differently.

In asking how a particular member of a group should act, then, we are asking how she should act given how other members are expected to act in response to her action. A person's political reasons for action, then, are reasons for her to act in certain ways given how certain other people are expected to act in response to her action. More simply, a person's political reasons for action are reasons for her to act in certain ways given how doing so will influence the actions of certain other people. They are reasons, that is, for a person to influence other people's actions in certain ways. To ask about our political reasons for action, then, is to ask how each person should influence the actions of each other person.

What underpins the concept of a political reason for action, I suggest, is that whilst it is possible for each person to perform actions, it is not possible for her to act as another person – to directly determine the actions that are performed by another person. Hence a person cannot have reasons, moral or otherwise, to act as other people – to directly determine their actions. Nonetheless, a person can determine the actions of another person indirectly – by acting herself, she can influence the actions of another person. Thus there is a distinct question as to how each person should influence the actions of each other person. This is a question, I have suggested, about our political reasons for action.

We might also ask why the Political Liberal is concerned to give an account of our political reasons for action. In a sense, this is what we are trying to discover, since a fully satisfactory answer to this question requires that we understand what motivates and justifies Political Liberalism. It is at least plausible to think, however, that the Political Liberal's interest in giving an account of our political reasons for action is not only speculative, but furthermore practical. Without an account of our political reasons for action, it is not clear how each person should influence the actions of others. Furthermore, since we will continue to influence each other's actions, since it is rational for us to do so, in practice, we will realise some account of our political reasons for action, no matter how implausible that account turns out to be.

Having clarified the concept of a political reason, we can now ask about the scope of the Political Liberal's account of our political reasons for action. The Political Liberal aims to give an account of the political reasons for action of the members of a modern democratic society – an account of how those members should influence one another's actions.<sup>41</sup> She focuses on modern democratic societies for three reasons. First, the members of a society do influence one another's actions to a significant extent. This is reflected in the fact that they share a public political culture. Although people in

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<sup>41</sup> See Rawls (1991, p40–43, p2001, p1–5)

different societies also influence one another's behaviour, they do not do so in the same ways and to the same extent as those in the same society. The Political Liberal focuses on *modern democratic* societies because they are one of the currently existing forms of society.

Secondly, the Political Liberal holds that it is not possible for people living in societies to influence one another's actions to the same extent. This is because people at a more global level do not share the same public political culture. Since coordinating the actions of a large number of people who differ in their aims and capabilities is a complex task, it would be too costly and often impossible to coordinate those actions without the use of institutions. Given the differences in our public political cultures, however, global institutions would struggle to mediate between individual people rather than between different societies, apart from at a very basic level such as that of human rights. Thus individual action cannot be regulated to the same extent at a global level.

The Political Liberal's third reason for limiting the scope of her account to modern democratic societies is that such societies present distinctive problems. Within such societies, there is fundamental disagreement about how we should influence one another – about how we should coordinate our actions. This is not the case for groups that share a common set of aims or purposes. This is the problem of reasonable disagreement, which I shall return to shortly. Furthermore, whereas a member of a modern democratic society can normally decide whether or not she is a member of a group, she typically cannot decide whether or not she is a member of a society, since there is no other way for her to meet her basic ends and needs.

### III

Political Liberalism, then, aims to give an account of the political reasons for action of the members of a modern democratic society – of how those members should influence each other's actions. To clarify the nature of Political Liberalism, I argued in

the first section, what is needed is an account of how her position is justified that does not begin with the problem of reasonable disagreement. This section provides such an account by identifying two criteria that accounts of our political reasons must meet in order to be plausible. In showing how Political Liberalism is to be justified, I show in the next section, these criteria explain the significance of the problem of reasonable disagreement – they explain why that problem is a problem.

To show that her account is justified, the first criterion that the Political Liberal must meet is to show that each person does have the political reasons for action which she identifies – that she does have reason to influence each other person only in a way that could be accepted by each reasonable person. To claim that a person has such reasons is to claim that she would act in accordance with those reasons if she were just. A different way of putting this point, then, is that part of the task facing the Political Liberal is to justify the claim that a just person would act in accordance with those reasons for action. If she cannot justify that claim, her account will not be satisfactory. This is the first horn of Frost’s dilemma, as introduced in the first section.

In claiming to identify what it would be for each member of a modern democratic society to be just, the Political Liberal is also claiming to identify what it would be for a modern democratic society to be just. A just society, she thereby claims, or at least, a just modern democratic society, would be a society in which each member acted in accordance with her political reasons for action. In a just society, each member would influence each other’s actions in the right way – in the way which she has reason to. I start by asking what it would be for a person, rather than a society to be just, however, because a person can act justly or unjustly in an unjust society – in a society in which other members fail to act in accordance with their political reasons for action.

Now since influencing the actions of other people is itself an action, our reasons for influencing the actions of other people in a certain way must ultimately be moral reasons for action. Depending on your view of our moral reasons for action, these



might be reasons to influence other people so that they act in a certain way, or reasons to only influence other people in a certain way when you do act so as to influence them. Regardless, for the Political Liberal to justify the claim that each person has the political reasons for action which she identifies, she must show that in acting in accordance with those reasons, each person would act in accordance with our moral reasons as to how we are to influence each other's actions. This is the first criterion which an account of our political reasons must meet in order to be plausible.

To establish the second criterion, we can begin by noting that an account of our political reasons for action must show that it is possible for each person to act in accordance with those reasons. We would have little practical reason to establish these reasons if it were not the case that each person could act in accordance with them.<sup>42</sup> Our political reasons for action, I argued in the last section, are reasons to influence other people in certain ways. A person can only have reasons to influence other people in certain ways, then, if it is possible for her to do so. Thus in giving an account of our political reasons for action, the political liberal must consider how it is possible for people to influence each other.

The ways in which it is possible for a person to influence other people are far from obvious. The question is not only how a person can influence one other person over a short period of time, but how she can influence the behaviour of many other people over a long period. Influencing another person will often cause that person to influence other people in turn. The effects of influencing a single person in a particular moment, then, will ripple out across space and time. The ways in which a person can

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<sup>42</sup> One way to support this claim is to appeal to the familiar principle of ought implies can. Of course, this principle is not universally accepted. David Estlund has recently questioned whether the nature of normative reasons is such that it must be likely that we would act in accordance with them (2014). I do not make that stronger claim, however. Following Cohen, Estlund also casts doubt upon the principle of ought implies can, suggesting that a better principle might be 'ought if we can' (p117). I differ from Cohen in holding that normative questions are not ultimately only questions about what we should think, but also about what we should, and hence can do. (Cohen, 2008, p250–4).

influence a particular person, furthermore, will depend on various facts about that person and her situation. Thus establishing how it is possible for people to influence one another is no simple matter.

In order for an account of our political reasons for action to be plausible, however, it must be not only possible but also plausible that each person would act in accordance with those reasons under the right conditions. This is our second criterion. To see this, we can note that on any plausible account of our political reasons for action, each person has reason to influence the actions of other people so that those people act in accordance with our political reasons for action – so that they act in a way that is just.<sup>43</sup> To be able to influence other people so that they act in a way that is just, it must not only be possible but also plausible that under the right conditions, people would act in accordance with those political reasons for action.

It is worth noting that the claim that it is plausible that each person would act in accordance with a set of reasons under the right conditions is equivalent to the claim that a society in which each person acted in accordance with those reasons would be stable. A stable society is a society in which the major institutions and practices are expected to remain more or less the same over a substantial period of time.<sup>44</sup> I focus on the second criterion rather than the idea of stability because for reasons given above, I aim not to identify a just society but to set out each person's political reasons for action. Since the idea of stability is at the heart of Politically Liberal accounts, however, is worth pausing to demonstrate that these claims are indeed equivalent.

We can begin by noting that the major institutions and practices are the main ways in which members of a society influence one another. We can see this by noting that the

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<sup>43</sup> This is not because the nature of normative reasons is such that it must be likely that we can realise reasons of justice, but because on a plausible theory of justice, we must have reasons to influence one another so as to be just.

<sup>44</sup> See Rawls (1971, p398–400, 1991, p140–144, 2001, part V).

major institutions and practices have both a coordinative and a motivational role. The coordinative role arises because as I have noted, the ways in which it is possible for people to influence one another are tremendously complicated. The major institutions and practices help us to coordinate our behaviour so that we can influence one another in the way that we have reason to. They allow us to understand the ways in which we influence one another, and thus make it possible for us to determine how we can do so, and hence how we should.

Institutions and practices can also help to motivate people to influence one another as they should. Hobbes argued that we can only realise an ordered or stable society by supporting a sovereign who makes it rational for each person to act in a certain way (1651). It is rational for each person to support that sovereign, claimed Hobbes, as it would otherwise be rational for each of us to perform actions that, when taken together, do not best satisfy our interests. The genius of democracy is that it allows that institutions and practices can effectively function as agents; that we can support entities that motivate our acting as we should without granting power to a particular person or persons. It is important to note, however, that these entities will then only persist with the support of the members of society. Without coercive power, in other words, those entities cannot ultimately ensure their own support.

We can show that the second criterion is equivalent to the claim that a just society would be stable by showing that one claim implies the other. To show that a just society being stable implies that the second criterion would be met, we can show that if the second criterion is not met, so that it is not plausible that people would act in accordance with purported political reasons for action, then it is not plausible that a society in which each person is to act in accordance with those reasons would be stable. As I noted above, in a democracy, each member of a society is required to support the major institutions and practices of that society. If people fail to act in accordance with purported political reasons for action, then it is unlikely that the major institutions and practices by which we act in accordance with our political

reasons for action will remain effective. A society being unstable, then, is a sign of injustice, since it is a sign that people do not act in accordance with our political reasons for action.

If, on the other hand, it is not plausible that a society in which each person is to act in accordance with purported political reasons for action would be stable, then it is not plausible that people would act in accordance with those purported reasons. A society that is unstable is a cause of injustice, in that it makes it more likely that people will fail to act in accordance with their political reasons for action. As I have argued, the major institutions and practices are one of the main ways in which people influence one another's actions in the way that they have reason to. Thus a society in which those major institutions and practices become ineffective as a result of instability is a society in which it is less plausible that people will act in accordance with their political reasons for action.

This demonstrates our equivalence: the second criterion is equivalent to the claim that a just person would act in a way that would realise a stable society, and that a just society would be stable. The argument for the claim that a just society would be stable, then, is the same as the argument for the second criterion: we have reason to influence one another so as to be just, but it is not possible to do so if society is unstable. That a society is unstable, then, is a cause of injustice, since it means we cannot influence one another to be just. I have also shown that instability is a sign of injustice, in that it shows that we do not act in accordance with any particular set of reasons for action, and hence cannot be acting in accordance with our political reasons for action.

This section has identified two criteria that an account of our political reasons for action must meet in order to be plausible. First, it must be the case that in acting in accordance with those reasons, we would act in accordance with the relevant moral reasons – our moral reasons as to how we are to influence one another. Secondly, it must be both possible and plausible for us to act in accordance with those reasons.

This gives us an account of how Political Liberalism is to be justified that does not begin with the problem of reasonable disagreement. So we can now ask how that problem is to be understood if solving it is to show that the Political Liberal's account of our political reasons for action is justified.

#### IV

The problem of reasonable disagreement, I noted in the first section, is that reasonable people disagree about our fundamental moral reasons for action. To understand why reasonable disagreement is a problem, I further showed, we must understand what it is for a person to be reasonable. So if the criteria identified in the last section are to determine how the problem of reasonable disagreement must be understood if solving that problem is to justify Political Liberalism, we must first show how they determine the concept of a reasonable person.<sup>45</sup> This is the task of this section.

Our approach to establishing how the Political Liberal conceives of a reasonable person is to start with the assumption that there is an account of our political reasons for action which satisfies the two criteria identified in the last section. What justifies this assumption is that if there is no such account, then there is no way in which we ought to act politically – there is no way in which we ought to influence one another. In the sense that Kant proceeds in the *Groundwork* (1785) by first assuming that the moral law exists, and then asking what it must be, this is to take a Kantian approach to developing a version of Political Liberalism.

We can next assume that each person has the capacity to act in accordance with these political reasons for action. If we could not act in accordance with our political reasons, then there would be little point in attempting to establish those reasons. I argued in the first part of the thesis that our moral reasons are of a practical nature, in that they motivate us if we are responsive to moral reasons. We can say something similar about

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<sup>45</sup> See Rawls (1991, p48–54, 2001, p6–7).

our political reasons. If we cannot act in accordance with political reasons, then they are not of a practical nature – they are of no normative force. This would undermine their status as reasons.

The two criteria that an account of our political reasons for action must meet in order to be plausible, I showed in the previous section, are that first, in acting in accordance with our political reasons for action, each person would act in accordance with our moral reasons as to how we are to influence one another, and that second, it is plausible that each person would act in accordance with those reasons under the right conditions. As I have said, we are assuming that there is some account of political reasons for action which meets these criteria, and which each person can act in accordance with. As I suggested in the first section, we can understand the problem of reasonable disagreement, and hence the conception of a reasonable person, by asking how we must understand these concepts if Political Liberalism is to be justified.

Considering the first criterion shows us that in assuming that each person has the capacity to act in accordance with our political reasons for action, we must assume that each person has the capacity to act in accordance with our moral reasons for action, or at least, our moral reasons to influence one another. We do not assume that each person has this capacity because having or exercising this capacity is of intrinsic value, but because exercising that capacity is the way in which each person acts morally. By considering the second criterion, we can also assume that it is plausible that each person would exercise her capacity to act in accordance with our political reasons for action under certain conditions. Furthermore, we can assume that in exercising that capacity, a person would act in accordance with our moral reasons for action, or at least, under certain conditions.

Now for a capacity to be such that by exercising it, it is not only possible but also plausible that we act in accordance with our moral reasons as to how we are to influence one another, it must meet two criteria. First, it must be the case that by

exercising that capacity, a person comes to know how she should act so as to influence other people in a range of different situations. Each person is faced with various complex situations, in which there are many ways in which she can act, and many relevant variables. Secondly, it must be the case that by exercising that capacity, each person comes not only to know how she should act so as to influence other people, but to furthermore be motivated to act in that way. If these two criteria are not met, it is not plausible that by exercising that capacity she will act in accordance with the relevant moral reasons.

Whilst institutions and practices can sometimes ensure that the exercise of a capacity meets these criteria, they cannot replace that capacity, nor, ultimately, ensure that it is exercised. As I noted in the second section, it is not possible for one person or entity to act as another person, but only to influence that person's actions. Institutions and practices, I noted, can coordinate our actions, and motivate us to act in certain ways, so that they can play an important role in our acting in accordance with our moral reasons for action. They cannot exercise a person's capacity for her, however. Thus they cannot guarantee that a person comes to know how she should act, or ensure that she is motivated to do so.

The extent to which institutions and practices can make it plausible that by exercising a capacity, a person will act in accordance with her moral reasons to influence other people depends on the capacity in question. It is worth emphasising, however, that knowledge of the way in which we are to act – of the actions, rules or institutions which we are to perform, follow, or support – is not all that is required of the exercise of that capacity. As I have noted, it must also be the case that by exercising that capacity, each person comes to also be motivated to act as she should. As I have said, on this approach the political liberal aims to identify a plausible way in which each person can *act* in accordance with our moral reasons for action.

Now the political liberal, I noted in the second section, aims to give an account of the political reasons for action of the members of a modern democratic society. One capacity that each person has, and in a modern democratic society is permitted to make use of, is that of reason. A significant way in which each member of a modern democratic society acts as she is motivated to, then, is by the use of her reason. The capacity which the political liberal identifies must, therefore, give some role to the use of our reason, since the members of that society are otherwise likely to use their reason in such a way as to fail to act in accordance with our moral reasons to influence one another.

One such capacity is that of being rational. For a person to be rational, we can say, is for her to use her reason to act on ends such as needs, wants or desires that are not themselves given by her reason. To meet the criteria identified, it would have to be shown that by being rational, each person would come to know how she should act, and furthermore be motivated so as to act in that way. Yet there is no reason to think that in acting so as to meet her needs, wants or desires, a person will always act in accordance with her moral reasons as to how she is to influence others. Although a society's institutions and practices might help to coordinate and motivate our actions so that this is the case, people are only likely to support those institutions and practices, as is required in a democratic society, if they exercise some other capacity which leads them to act in accordance with our moral reasons for action.

We must suppose, then, that each person has the capacity to use her reason not only to act on ends that are not themselves given by reason, but to determine what those ends should be. If exercising this capacity is to lead a person to act in accordance with her moral reasons for action, the claim must be that she can determine our moral reasons, or ends, and that she can act in accordance with those moral reasons. Whilst this capacity need not only be constituted by a person's reason, as I have argued, reason must have a significant role if it is not to lead us to act in a way that goes against



our moral reasons. We can suppose, though, that in exercising this capacity, a person also exercises other capacities, such as that of judgement.

It is this capacity, I suggest, to which the Political Liberal refers in speaking of people being reasonable. What justifies this claim is that this explains why the Political Liberal takes reasonable disagreement to be a problem. By further clarifying this capacity, we can show how the Political Liberal must understand what it is for a person to be reasonable, and hence how she understands the problem of reasonable disagreement. To meet the two criteria identified in the last section, the claim must be that by exercising this capacity, it is plausible that each person will act in accordance with our moral reasons as to how we are to influence one another, both directly, and by supporting certain practices and institutions.

To meet the first criterion, the claim must be that in exercising that capacity, a person will come to know our moral reasons as to how we are to influence one another. This capacity may well be fallible, in that in exercising that capacity, a person will sometimes be wrong about our moral reasons as to how we are to influence one another. In particular, she may be wrong about our most fundamental moral reasons as to how we are to influence one another. For it to be plausible that in exercising that capacity, a person will act in accordance with our moral reasons as to how we are to influence one another, however, a person must come to have some knowledge of those moral reasons by exercising that capacity.

To meet the second criterion, the claim must be that in exercising that capacity, a person will act in accordance with our moral reasons as to how we are to influence one another. In exercising that capacity, then, it must be the case that a person is motivated to act in accordance with what she takes to be our moral reasons as to how we are to influence one another. We need not identify that motivation. The claim is not, then, that each person is motivated to act in accordance with what she takes to be our moral reasons for action solely because she takes them to be our moral reasons for

action, or that she exercises the capacity to be reasonable purely for the sake of being moral.

The capacity at which we have arrived, then, which we can call the capacity of being reasonable, is the capacity to reason about our moral reasons as to how we are to influence one another and to act in accordance with what we take those moral reasons to be. We arrive at this capacity by supposing that there is some capacity which each person has such that she can satisfy the two criteria identified in the last section. If each person does not have the capacity to be reasonable, then there is no plausible account of our political reasons for action. Whilst our approach is Kantian, however, the substance of this position is not. Exercising the capacity to be reasonable is not of final moral value, but is rather a way in which we can act in accordance with our moral reasons for action.

For this to be a plausible way of acting in accordance with at least some of our moral reasons for action, I noted above, it must also be the case that it is plausible for each person to exercise that capacity. We might also ask, then, what is necessary for this to be the case – how each person must be motivated in order to exercise that capacity, and what the conditions must be for her to do so – which institutions and practices make it plausible that she would be so motivated. For reasons of space, I do not pursue this question here. My claim is only that we must assume that it is both possible and plausible that under the right conditions, people would exercise the capacity to be reasonable, and that in doing so, as discussed, would act in accordance with our moral reasons as to how we are to influence one another.

It is worth noting, however, that it is not implausible to think that each person does in fact have the capacity to be reasonable, and that she would exercise that capacity and in doing so act in accordance with at least some of our moral reasons for action, or at least under certain conditions. By inspecting our own behaviour, as well as that of others, it seems plausible that people are able to reason about their reasons for action,

and to act in accordance with those reasons. In asking how we should act, we tend to assume that it is at least possible for us to modify our behaviour in light of the answer which we give to this question. This is not the place, however, to assess empirical evidence for this claim.

Now we are initially interested in the capacity to be reasonable as a way of acting in accordance with our moral reasons for action. Thus we are interested in that capacity as a process, and not in the outcome of that process. There is no immediate requirement, then, to give conditions that help to identify when a person, or her action, counts as being reasonable. On the view I have given, a person is reasonable when she exercises her capacity to be reasonable, and an action is reasonable when it could be the outcome of so exercising that capacity.<sup>46</sup>

It might be claimed that we need such criteria in order to explain how we can know that a person is being reasonable, or that her action is reasonable. It is not yet clear, however, why such an account is required. It may be the case that for it to be plausible for each person to exercise the capacity to be reasonable, she needs to know whether or not she is exercising that capacity. She can know this, however, without having independent criteria as to whether or not she is being reasonable. The claim must be, then, that people need to know when other people are being reasonable. In meeting the criteria identified in the last section, however, we initially need only to know how it could be plausible for each person to act in accordance with at least some of our moral reasons for action.

Where it is necessary to be able to determine when other people are being reasonable, we can do so by exercising our own capacity to be reasonable. Each person can use her reason, that is, to determine whether or not a person is acting in accordance with

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<sup>46</sup> In theory, then, a person could be reasonable without actually exercising her capacity to be reasonable – she may just happen to always act in accordance with what she could reason to be our moral reasons for action. In practice, however, a person will only consistently be reasonable if she exercises that capacity.

what she could reason to be our moral reasons for action. A person clearly could not reason that it is moral to kill other people for pleasure. Apart from such obvious cases, however, determining when a person is being reasonable is very difficult. In doing so, we should be sure to give a person every chance to defend her view of our moral reasons for action. It is not clear, however, that the philosopher owes us further criteria as to when a person or her action counts as being reasonable.

Whether or not a person is being reasonable, furthermore, will depend on the actions of other people. It is not reasonable, for example, to expect a person to bear too great a share of the task of bringing about and sustaining a just society. A person who dedicates her life to fighting injustice does more than exercise her capacity to be reasonable. If other people are unreasonable, or our institutions are seriously unjust, then we do have some obligation to try to bring about a more just society. On this obligation, however, there are limits. Part of the reason that many of us fail to act in accordance with our political reasons for action is that other people also fail to do so.

This section has analysed the capacity which each person must have if it is to be plausible for her to act in accordance with her moral reasons as to how we are to influence each other. Each person, I have argued, must be assumed to have the capacity to be reasonable, where this is to use her reason and other faculties to determine our moral reasons for action and to act in accordance with what she takes those reasons to be. What justifies the claim that each person has this capacity is that if she does not, there is no plausible account of our political reasons for action. Whilst the Political Liberal appeals to this notion of reasonableness, then, it is not a Politically Liberal notion, but one that is relevant to all accounts of our political reasons.

## V

Having established what it must be for a person to be reasonable if Political Liberalism is to be justified, we can now return to the problem of reasonable disagreement. To understand the nature of Political Liberalism, I argued in the first section, we need to

understand how it is justified. The Political Liberal claims that what justifies her account is that it solves the problem of reasonable disagreement. This section shows how we should understand that problem given the conception of the reasonable person identified in the last section. The next chapter uses these conclusions to determine how Political Liberalism must be understood if it is to be justified.

The last section established that each person should be assumed to have the capacity to reason about her moral reasons as to how she is to influence others and to act in accordance with those reasons. We should also assume, I showed, that it is plausible that each person would exercise this capacity under the right conditions. This suggests that it is plausible for the members of a modern democratic society to act in accordance with our political reasons for action simply by exercising this capacity to be reasonable. If each person exercised that capacity, it appears, they would act in accordance with our moral reasons as to how we are to influence one another, and thus realise a just society.

Now the problem of reasonable disagreement is that even if the members of a modern democratic society exercise their capacity to be reasonable, they will disagree about our fundamental moral reasons, including those reasons as to how we are to influence one another. As a result, they will fail to be motivated so as to act in accordance with a single set of political reasons. Nonetheless, as it will remain rational for each member to coordinate her actions with those of others, there will be some principle with which her society accords. There is no reason to think, however, that this principle will be supported by our moral reasons as to how we are to influence one another.

What makes the problem of reasonable disagreement a political problem is that in acting in accordance with different purported political reasons, citizens would attempt to influence one another in different ways. Where these differences are fundamental, it would become much harder for each citizen to exercise her capacity to be reasonable. In particular, it would be much harder for each citizen to act in

accordance with what she takes to be our moral reasons.<sup>47</sup> As a result, the number of immoral actions would be significantly increased. Put in terms of stability, if citizens act in accordance with fundamentally different purported political reasons, our society would become significantly unstable, resulting in it being much harder, and even impossible for us to act in accordance with our moral reasons for action.

Differences in the ways in which citizens attempt to influence one another count as being fundamental, we can say, precisely when they significantly undermine the ability of citizens to exercise their capacity to be reasonable. Our problem does not arise when political disagreement does not have that effect - when such disagreement forces us to improve our moral reasoning, or when agreeing to disagree allows each of us to continue doing what we take to be right. The Political Liberal holds that we can all agree that some disagreements, such as those regarding constitutional essentials, would significantly undermine our ability to exercise our capacity to be reasonable. Such agreement shows not only that this problem obtains, but furthermore makes it possible to come together in finding a solution.

Epistemic disagreement about our fundamental moral reasons is only a political problem, then, when it leads us to attempt to influence one another in fundamentally different ways. Where this is not the case, it is not necessary for citizens to act in accordance with reasons that each reasonable person could accept. On the contrary, citizens should not act in accordance with the same moral reasons as citizens who they do not take to be their epistemic peers. Of course epistemic disagreement can be a reason for us to re-examine our beliefs about our moral reasons. If having done so, however, we hold that those who disagree with us are not our epistemic peers in this regard, then such disagreement need not undermine those beliefs. Whilst epistemic and political disagreement may share the same source - the burdens of judgement,

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<sup>47</sup> It may also become harder to for each citizen to reason about what those moral reasons are.

which largely arise from our epistemic condition - the correct response to such disagreement is entirely different.

Reasonable disagreement is a problem, then, because it undermines the possibility of our satisfying the two criteria identified in the third section – of it being plausible that we act in accordance with our moral reasons as to how we are to influence one another. Since an account of our political reasons for action must meet these criteria in order to be plausible, it appears that there is no plausible account of the political reasons of the members of a modern democratic society. Unless we are prepared to suppress the reason of those members who disagree with us, it appears that each of us must either spend our life attempting to persuade them of our own moral beliefs, despite knowing that the attempt is doomed to failure, or altogether abandon the hope of realising a just society.

The problem of reasonable disagreement, we can now see, has both an epistemic and a practical role, which corresponds to the first and second criteria. The epistemic role is that reasonable disagreement about our fundamental moral reasons appears to make it impossible to know what those fundamental moral reasons are. If different people each reason about our moral reasons as to how we are to influence one another, but arrive at quite different conclusions, then it appears to be impossible to know what those moral reasons are. Thus it appears to be impossible to know that the first criterion identified in the third section is satisfied. To simply insist that we have moral reasons which other reasonable people dispute would be dogmatic.

The practical role is that reasonable disagreement about our fundamental moral reasons for action appears to undermine the claim that it is plausible for each person to attempt to act in accordance with any set of political reasons for action. If different people attempt to act in accordance with different purported moral reasons as to how we are to influence one another, then there will be no set of political reasons which each person attempts to act in accordance with, and hence no set of political reasons

which it is plausible that we will act in accordance with. As I have said, since it will remain rational for each member to coordinate her actions with those of other members, some principle of coordination will be realised nonetheless. There is no reason to think, however, that such a principle will be based upon our moral reasons as to how we are to influence one another.

An account of the political reasons of the members of a modern democratic society, then, needs to solve both the epistemic and practical role of the problem of reasonable disagreement. These two roles may come apart, in that a solution to the epistemic role may not be a solution to the practical role, and vice versa. We may be able to know, that is, that we have certain moral reasons as to how to influence one another without it being plausible that each person will act in accordance with those reasons. On the other hand, it may be plausible for each person to act in accordance with reasons which we cannot know to be our moral reasons as to how we are to influence one another. Distinguishing these two roles, I show in the next chapter, helps to establish the most plausible version of Political Liberalism.

The Political Liberal, I have shown in this chapter, claims that our political reasons are those reasons which could be accepted by each reasonable person. Unless we understand this claim, the nature of Political Liberalism will remain a mystery. The best way to understand this claim, I have suggested, is to ask what justifies Political Liberalism. The Political Liberal claims that what justifies her position is that it solves the problem of reasonable disagreement. On closer inspection, I have shown, we lack a clear understanding of that problem. What is needed, then, is an account of that problem which is such that solving it would justify a political position.

I have given such an account by identifying two criteria which an account of our political reasons for action must meet in order to be plausible. The first criterion is that in acting in accordance with those reasons, we act in accordance with the relevant moral reasons – with our moral reasons as to how we are to influence one another.



The second criterion is that it must be plausible that each member of a modern democratic society would act in accordance with those reasons. Considering these criteria shows that a reasonable person is a person who uses her reason to determine our moral reasons and acts in accordance with what she takes those moral reasons to be.

The problem of reasonable disagreement is that even if each member of a modern democratic society is reasonable, we will fail to act in accordance with our moral reasons as to how we are to influence one another. Thus it appears that in a modern democratic society, the two criteria cannot be met. The Political Liberal claims that the members of modern democratic societies should influence one another's actions in a way that could be accepted by each reasonable person. The question, then, is how we should understand that claim if it is to solve the problem of reasonable disagreement so understood – if it is to be plausible that each person would so act, and in so acting, be in accord with our moral reasons as to how we are to influence one another. This is the question which I shall answer in the next chapter.

## Chapter 6 — Political Reasons

Political Liberals hold that our political reasons for action are those reasons which could be accepted by each reasonable person. The last chapter raised a question as to how we should understand that claim if Political Liberalism is to be justified. This chapter answers that question. Our political reasons for action, I argue, are non-fundamental moral reasons which it is plausible that each member of a modern democratic society would accept. This account of our political reasons, I argue, solves the problem of reasonable disagreement as clarified in the last chapter: acting in accordance with those reasons is a plausible way of acting in accordance with our moral reasons as to how we are to influence one another.

The problem of reasonable disagreement, I showed in the last chapter, is that even if the members of a modern democratic society are reasonable, they will fail to influence one another in accordance with our moral reasons, since they will disagree about what those moral reasons are. The Political Liberal claims that this problem is solved if our political reasons are those reasons which could be accepted by each reasonable person. We need to establish how we must understand this claim if it is to solve the problem of reasonable disagreement – how we must understand it if it is to be plausible that each person would act in accordance with those reasons under the right conditions, and that in doing so, would act in accordance with our moral reasons as to how we are to influence one another.

Establishing the second point requires setting out what the Political Liberal takes the relation to be between our political and moral reasons. An obvious suggestion, which I consider in the first section, is that our political reasons are a type of moral reason – that they are our moral reasons as to how we are to influence one another. On this understanding, the Political Liberal claims that the ideal of mutual justifiability and the conception of the person as free and equal are fundamental moral reasons as to how we are to influence one another. Such a position, I suggest, is adopted by Jonathan

Quong (2010) as well as by Leland and Wietmarschen (2012). Leland and Wietmarschen further argue that Political Liberalism must require citizens to be intellectually modest in order for it to be plausible that each person would act in accordance with those reasons.

The second section argues that such versions of Political Liberalism are not satisfactory, since they do not solve the problem of reasonable disagreement as clarified in the last chapter – since it is not the case that each reasonable person would accept mutual justifiability or a conception of the person as free and equal when understood to be moral reasons. Both Quong and Leland and Wietmarschen go wrong, I conclude, in assuming that our political reasons must be a type of moral reason. Those who hold this view, we can say, turn out not to be Political Liberals at all, but rather Moral Liberals, in that they appeal to certain moral reasons. This motivates the search for an alternative account of Political Liberalism based on a different relationship between our political and moral reasons for action.

Section three argues that we should instead take our political reasons to be non-fundamental moral reasons which it is plausible that each member of a modern democratic society would accept. In claiming that our political reasons for action are those reasons which could be accepted by each reasonable person, I argue, the Political Liberal is pointing to a process which tells us what our political reasons for action must be if they are to satisfy the criteria identified in the last chapter. If each member of a modern democratic society follows this process, then it is plausible that she will act in accordance with non-fundamental moral reasons as to how we are to influence one another's actions, thus solving the problem of reasonable disagreement.

The fourth section identifies our fundamental political reason for action – it identifies the most fundamental moral reason as to how we are to influence one another that could be accepted by each reasonable person. That fundamental political reason, I argue, is to be reasonable, and hence to act in accordance only with those reasons

which can be accepted by each reasonable person. Each reasonable person can accept this reason, I argue, since she can accept the reasoning set out in this chapter. In particular, she can accept the importance of solving the problem of reasonable disagreement, as clarified in the last chapter.

Another way of understanding this fundamental political reason for action, I argue in a fifth section, is as the claim that we should respond to each person's political status as free and equal, where political status is distinct from the notion of moral status developed in the first part of this thesis. It is this concept of political status to which I shall appeal in the remaining chapters. Considering the nature of Political Liberalism, then, by asking how it must be understood if that position is to be justified, will be shown to have substantial implications as to the correct account of justice.

## I

The first criterion which an account of our political reasons for action must meet in order to be plausible, I noted in the last chapter, is that in acting in accordance with those reasons, we must act in accordance with our moral reasons as to how we are to influence one another. An obvious way of attempting to meet this criterion is to claim that our political reasons simply *are* our moral reasons as to how we are to influence one another. This section considers versions of Political Liberalism which take this approach. The next section argues that this approach does not succeed, since it fails to solve the problem of reasonable disagreement as clarified in the last chapter.

Now if the Political Liberal holds that our political reasons are a type of moral reason, then in claiming that our political reasons for action are those reasons which could be accepted by each reasonable person, she is claiming that our moral reasons to influence one another in a certain way are those reasons which could be accepted by each reasonable person. This could be either because each reasonable person being able to accept certain reasons *makes* those reasons our moral reasons, or because it *shows* that we have those moral reasons. Thus there are two different ways in which

the Political Liberal of this stripe can claim to meet the first criterion identified in the last section.

On the first understanding of the Political Liberal's position, the significance of reasonable agreement is normative, in that it determines the identity of our norms or fundamental moral reasons. In acting in accordance with reasons that could be accepted by each reasonable person, we act in accordance with our moral reasons because reasonable agreement makes those reasons our moral reasons. On the second, the significance of reasonable agreement is epistemic, in that it gives us knowledge of those fundamental norms. In acting in accordance with reasons that could be accepted by each reasonable person, we act in accordance with our moral reasons because reasonable agreement shows that those are our moral reasons.

If the political liberal takes the first option, on which the significance of reasonable agreement is normative, she need not be committed to constructivism about our moral reasons for action. She need not hold, that is, that *all* of our moral reasons are those which could be accepted by each reasonable person, but only that this is the case for those moral reasons we have to influence one another in a certain way. She can hold, then, that there is something special about our fundamental moral reasons to influence one another in a certain way, such that they include only those reasons which could be accepted by each reasonable person. One way of putting this claim is that a morally decent person would only influence other people in a way that each reasonable person could accept.

I argue in the next section that accounts according to which our political reasons are a type of moral reason are not plausible since they fail to solve the problem of reasonable disagreement as clarified in the last chapter. Having done so, I will go on to argue for an account of Political Liberalism which is based on a different relationship between our political and moral reasons. Before turning to these arguments, however, I want to consider some versions of Political Liberalism which do hold that our political

reasons are a type of moral reason. Whilst strictly speaking, this is not necessary to my argument, it does help to bring out its significance.

Political Liberals, I noted in the first section, appeal to an ideal of mutual justifiability: to the claim that a conception of justice is justified only if it is justifiable to each person. A person acts justly, according to this claim, only if she acts in a way that is justifiable to each person – only if each reasonable person can accept her reasons for so acting. Political Liberals also appeal to a conception of each person as being free and equal. Whilst both ideals are clearly key to Political Liberalism, I noted, it is not clear exactly how they should be understood, or what role they play in giving an account of our political reasons for action. This is part of what we are seeking to clarify in considering the foundations of Political Liberalism.

The approach we are now considering is one on which our political reasons for action are a type of moral reason for action – on which they *are* our moral reasons as to how we are to influence one another. On this approach, the Political Liberal holds that the ideal of mutual justifiability, or the conception of the person as free and equal, is a moral ideal that tells us how we should influence one other.<sup>48</sup> If such a claim were correct, then it would be clear that in acting in accordance with the ideals of Political Liberalism, we would act in accordance with our moral reasons as to how we are to influence one another. So the appeal of this type of Political Liberalism is that it appears to give us a straightforward answer as to how the first criterion identified in the last section is met.

To meet that criterion, however, the proponent of an account of our political reasons for action who takes this approach must further establish that it does correctly identify our moral reasons as to how we are to influence one another. Thus the proponent of such a version of Political Liberalism must establish that our moral reasons as to how

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<sup>48</sup> Whilst I am not aware of an account of Political Liberalism that is based on some other ideal, I have not ruled out their being possible.

we are to influence one another are indeed captured by the ideal of mutual justifiability, or by the conception of each person as being free and equal. To show that her account meets the second criterion, she must also show that it is plausible that each person would act in accordance with the ideal of moral justifiability, or the conception of the person as free and equal, when understood to be moral ideals.

Jonathan Quong appears to take such an approach in *Political Liberalism without Perfectionism* (2010). Quong starts out by claiming that the political liberal's 'foundational commitment is to the moral claim that persons (or citizens) are free and equal, and thus the exercise of political power is legitimate only when it can be publicly justified' (p2). Quong's claim, it is important to emphasise, is not only that each person being free and equal is a fundamental political reason for action, but that persons being free and equal is furthermore a *moral* claim. He holds, then, that the political reasons for action to which the Political Liberal appeals are a type of moral reason – those moral reasons, I argued in the section, as to how we are to influence one another.

Leland and Wietmarschen also appear to take this approach in arguing that in order to be plausible, Political Liberalism must hold that to be a reasonable person is to be intellectually modest (2012). Leland and Wietmarschen begin that argument by claiming that 'political liberals worry about disagreements bearing on politics because these disagreements threaten to render an ideal of mutual justifiability unrealisable' (p724). This claim seems to suggest that political liberals take the ideal of mutual justifiability to be fundamental in the sense that it is a moral reason that governs how we are to influence one another. Thus we appear to find proponents of both type of accounts of Political Liberalism on which our political reasons are a type of moral reason.

Leland and Wietmarschen's argument for the claim that Political Liberalism requires citizens to be intellectually modest can also be reconstructed in such a way that clearly

relies on the claim that our political reasons are a type of moral reason. Whilst this does not prove that they assume this claim to be true, it does at least make it plausible that they do so. Whether or not this is argument is faithful to Leland and Wietmarschen's own, furthermore, it does show how we must understand Political Liberalism on the assumption that our political reasons are a type of moral reason. It also suggests a more general argument against the claim that our political reasons are a type of moral reason, which I give in the next section.

On the analysis we have given, we can understand Leland and Wietmarschen's argument as being that the significance of reasonable agreement must be epistemic, rather than normative – that we act in accordance with reasons that could be accepted by each reasonable person because such reasonable agreement *shows*, rather than *makes* it the case that those reasons are our moral reasons. If the fact that reasonable people accept a purported reason shows that it is a moral reason, then it follows that reasonable people must be the most intellectually competent – that they must be the best judges of those reasons. Thus we reach Leland and Wietmarschen's conclusion that Political Liberalism requires its citizens to be intellectually modest – that in order to accept that reasonable people dispute the moral reasons which Political Liberalism prevents you from appealing to, you must accept that the most intellectually competent people disagree about those reasons.

Now the key premise in this argument is that the second criterion identified in the last chapter, according to which it must be plausible for each person to act in accordance with our purported political reasons, is only met if the significance of reasonable agreement is epistemic, rather than normative. Leland and Wietmarschen put this point differently, in that they instead speak of identifying a plausible and stable rationale for each person not to appeal to morally disputed reasons. The analysis given in the last chapter shows that Political Liberalism only requires such a rationale, however, in order for it be plausible that each person acts in accordance with the requirements of Political Liberalism.



The argument for that key premise is as follows. The ideal of mutual justifiability, we saw above, requires a person not to appeal to some of what she takes to be our fundamental moral reasons for action when politically deliberating – to those moral reasons which are disputed by other reasonable people. It is only plausible for a person to act in accordance with the ideal of mutual justifiability, then, if it is plausible for her not to attempt to influence others in accordance with those disputed moral reasons. It is only plausible that a person who has the disputed belief that abortion is tantamount to murder will act in accordance with the ideal of mutual justifiability, for example, if it is plausible that she will not attempt to influence other people to not have abortions.

If mutual justifiability is a moral reason, however, there is no reason to think that it will always outweigh other moral reasons, or that people will accept it to do so. So long as a person continues to believe that we have moral reasons which are opposed to the ideal of mutual justifiability, then, it is not plausible that she will act in accordance with that ideal. This is made clear by high stakes cases, such as that in which a person believes that abortion is tantamount to murder. The second criterion will only be met, then, if a person ceases to believe, or at least believes less strongly, in moral reasons which are opposed to the ideal of mutual justifiability.

A person's belief in such moral reasons will only be so diminished, however, if the significance of reasonable agreement is epistemic, rather than normative. That reasonable agreement *makes* reasons into moral reasons as to how we are to influence one another will not diminish a person's belief in other moral reasons, such as a belief that abortion is fundamentally immoral. If reasonable agreement is epistemically significant, however, then the fact that reasonable people disagree about a moral reason to influence one another amounts to evidence against that reason. Reasonable disagreement then undermines our belief in disputed moral reasons, so that it undermines our motivation to appeal to that belief when politically deliberating. It is then plausible that we would not attempt to influence others in accordance with that

reason, and hence plausible that we would act in accordance with the ideal of mutual justifiability.

A simpler way of giving this argument is to say that if our political reasons are a type of moral reason, then the claim that we should only appeal to those reasons which could be accepted by each reasonable person is in direct conflict with our other moral reasons. Thus we only have reason to act in accordance with a moral ideal which supports this claim, such as mutual justifiability or people being free and equal, if that moral ideal outweighs those moral reasons, or if our confidence in those moral reasons is reduced. Since it is not plausible that any such moral ideal would outweigh those moral reasons, and that people would accept it to do so, particularly in high stakes cases, the political liberal must require that our confidence in those moral reasons is reduced, and hence that reasonable agreement is of epistemic, rather than normative significance.

This argument is not sound, however, if our political reasons are not a type of moral reason, since the ideal of mutual justifiability then need not outweigh our other moral reasons. Since acting in accordance with the ideal of mutual justifiability requires us not to act in accordance with some of our moral reasons – those moral reasons which are morally disputed – it must be shown that those reasons are outweighed by *some* other moral reason, or reasons. We should not assume, however, that this moral reason must be a political ideal such as that of mutual justifiability. There may be moral reasons which play this role, in other words, which are related in some other sense to the ideal of mutual justifiability. That reasonable people dispute fundamental moral reasons might cause a person not to appeal to those reasons, then, without undermining a person's belief in those reasons when influencing others.

This section has discussed accounts of Political Liberalism on which our political reasons are a type of moral reason. The most plausible way for the political liberal to take this approach, I have suggested, is to appeal to the ideal of mutual justifiability,

or to that of each person being free and equal. By reconstructing an argument given by Leland and Wietmarschen, I have also argued that on this approach, reasonable agreement must be of epistemic, rather than normative significance – that it must *show* that those reasons which could be accepted by each reasonable person are our moral reasons as to how we are to influence one another. This helps to clarify such versions of Political Liberalism.

## II

I shall now argue that accounts of Political Liberalism according to which our political reasons are a type of moral reason are not plausible because they do not solve the problem of reasonable disagreement as clarified in the last chapter – because it is not the case that each reasonable person could accept that we have those moral reasons. This is to show that versions of Political Liberalism which are based on this claim do not meet either of the criteria identified in the last chapter. As well as showing that some prominent accounts of Political Liberalism are not correct, this motivates an account of Political Liberalism which is based on a different relation between our political and moral reasons, for which I argue in the following sections.

Since the Political Liberal's account of our political reasons is explicitly designed to solve the problem of reasonable disagreement, this argument might be somewhat surprising. As I noted in the last chapter, however, it is not clear how that problem should be understood. To say that such versions of Political Liberalism fail to solve the problem of reasonable disagreement, then, is simply to say that the proponents of those versions misunderstand that problem – that they fail to understand why reasonable disagreement is a problem. A proper understanding of what justifies Political Liberalism, and hence of the problem of reasonable disagreement, forces us to refine what we take Political Liberalism to be.

To reach this conclusion I must establish that our political reasons, when understood to be a type of moral reason, could not be accepted by each reasonable person to be

those reasons which could be accepted by each reasonable person. The argument is as follows. A person who accepts Politically Liberal reasons will not influence other people in accordance with what she believes to be our moral reasons but about which there is reasonable disagreement. The flip side of this point is that a person who believes she has such moral reasons will believe that she has moral reason not to accept Politically Liberal reasons. Thus the fact of reasonable disagreement establishes that there are reasonable people who believe that they have moral reason not to accept Political Liberalism.

This does not establish that such reasonable people will not accept Political Liberalism, however, as they may believe that those moral reasons are outweighed by moral reasons to accept Political Liberalism. If our political reasons are a type of moral reason, those moral reasons must be political ideals such as mutual justifiability, or a conception of the person as free and equal. There is no reason to think, however, that a reasonable person will believe that those moral reasons always outweigh her other moral reasons. In particular, there is no reason to think that she will believe that they outweigh what she believes to be very strong moral reasons, such as the belief that abortion is tantamount to murder. So we should expect there to be reasonable people who are unable to accept Political Liberalism.

If there are reasonable people who are unable to accept Political Liberalism, however, then the problem of reasonable disagreement is not solved. The problem of reasonable disagreement, I argued in the third section, has both an epistemic and a practical role: it undermines both the claim that we have certain moral reasons for action, and the claim that it is plausible for each person to act in accordance with those reasons under the right conditions. Political Liberalism fails to avoid these problems if there are reasonable people who cannot accept it. Thus accounts of Political Liberalism according to which our political reasons are a type of moral reason are not plausible.

We can defend and clarify this argument by considering three objections. The first is that the problem of reasonable disagreement could be solved despite there being reasonable people who are unable to accept Political Liberalism. If the fundamental idea of Political Liberalism is a conception of the person as free and equal for example, as Quong suggests, then it may further be claimed that the ideal of mutual justifiability does not apply to itself – that a person need not accept that our political reasons are those reasons which could be accepted by each reasonable person in order for that account to be justified (2010, p2). The problem of reasonable disagreement, on this objection, only applies to disagreement about our moral reasons, and not to accounts of our political reasons for action.

The problem with this objection is that it misunderstands the problem of reasonable disagreement. By considering the criteria which an account of our political reasons must meet in order to be plausible, I showed in the last chapter that this problem has both an epistemic and a practical role. If the conception of each person as being free and equal is a moral ideal, however, then it falls within the remit of this problem. People who believe in morally disputed reasons will not believe in the conception of a person as free and equal when understood as a moral ideal, since those ideas are in tension. Thus the claim to know that people are free and equal, as well as the claim that it is plausible that each person would act in accordance with this idea under the right conditions, are undermined.

It is worth adding that an account of Political Liberalism based on each person as being free and equal when understood as a moral ideal must rely on a particular understanding of that ideal. This makes it less plausible that each reasonable person could accept that moral ideal, especially given that it prevents them from appealing to what they believe to be their fundamental moral reasons. For each person to be free and equal, claims Quong, is for her to ‘not naturally [be] subject to anyone’s authority’, so that to treat a person as free and equal is to not ‘wield power over another unless [you] can justify the exercise of that power to the person over whom it is exercised’

(2010, p2). Why, though, should we expect people to accept that our fundamental moral reason as to how we are to influence one another is that of not being subject to anyone's authority?

The second objection to the argument I have given also claims that there being reasonable people who are unable to accept Political Liberalism is not a problem. The basis of this claim is that Political Liberalism is only addressed to those who already accept its fundamental ideals. Quong appears to take this approach in claiming that Political Liberalism is only addressed to those who already accept that people are free and equal (2010, p5). To show that Political Liberalism is justified, on this objection, we need only show that what it requires is accepted by those people who do accept Politically Liberal ideals.

The problem with this objection, however, is that it falls foul of the first horn of Frost's dilemma – it fails to provide an argument for Political Liberalism. Political Liberalism aims, I showed in the last chapter, to give an account of the political reasons for action of the members of a modern democratic society. Clearly there are members of modern democratic societies who reject Political Liberalism and its ideals, and given the fact of reasonable disagreement, will be tempted to do so. Political Liberalism is supposed to give us a way of living with those who currently reject liberal values. The problem of reasonable disagreement, in other words, in both its epistemic and practical role, applies to all of the members of modern democratic societies, and not only to those who already accept Politically Liberal ideals.

The third objection is that on a certain conception of a reasonable person, there is reason to think that a reasonable person will believe that moral reasons such as the ideal of mutual justifiability or the conception of a person as free and equal outweigh her other moral reasons. For example, Leland and Wietmarschen, we saw in the last section, argue that Political Liberalism requires citizens to be intellectually modest – to hold that the most intellectually competent people disagree about such moral

reasons. If a person is intellectually modest, then she will be less certain of her beliefs in our moral reasons as to how we are to influence one another, and thus more likely to accept acting in a way that goes against those purported reasons.

The problem with this objection is again that it misunderstands the problem of reasonable disagreement. More specifically, it is based on a conception of a reasonable person such that Political Liberalism would not be justified in virtue of solving the problem of reasonable disagreement. If solving that problem justifies Political Liberalism, I showed in the last chapter, a reasonable person must be a person who uses her reason to determine our moral reasons and then acts accordingly. On this conception, a reasonable person will only believe that a moral reason such as mutual justifiability outweighs her other moral reasons if she does reason it to do so. A reasonable person who reasons that we have strong moral reasons which Political Liberalism prevents us from appealing to, however, such as abortion being tantamount to murder, would not take those reasons to be outweighed by a moral reason such as that of mutual justifiability.

A different way of putting this point is that in order to meet the two criteria identified in the last chapter, we need to show that Political Liberalism is based on a conception of the reasonable person which we have reason to accept, and which it is plausible for each of us to act in accordance with. Why, though, should we accept that people should be reasonable as conceived of on this objection – what are those reasons, and why think that it is plausible that each person would act in accordance with them? Such a conception may well identify a *way* of not appealing to some of our beliefs about our moral reasons as to how we are to influence one another. But that is not an explanation of *why* a person should accept moral reasons which prevent her from appealing to those beliefs.

We can bring this point out by considering Leland and Wietmarschen's claim that a reasonable person must be intellectually modest. For a reasonable person to be

intellectually modest about a moral reason as to how we are to influence one another, I noted above, is for her to believe that the most intellectually competent people dispute whether we have that moral reason. This leads her to weaken her belief about that moral reason. Why should we think, though, that to be reasonable is for a person to be intellectually competent, and thus weaken such beliefs? Since a reasonable person has already weighed up epistemic evidence in determining her beliefs about our moral reasons, the claim cannot be that she has epistemic reason to be intellectually modest. Yet no moral reasons are identified as to why she should weaken those beliefs.

Even if those reasons can be identified, it is not clear why they would support the claim that a reasonable person must be intellectually modest, or any other conception of a reasonable person. If those reasons are identified, we can simply claim that a reasonable person can refrain from appealing to some of her moral beliefs in light of those reasons. There is no reason to think that the only way of doing so is by being intellectually modest, or by acting in accordance with any one conception of a reasonable person. Furthermore, even if that were the only way of acting in accordance with those moral reasons, it is not clear that such a claim would do any explanatory work – that it would tell us *why* people should not appeal to such moral beliefs.

To solve the problem of reasonable disagreement, we need to explain why reasonable people will not disagree about our political reasons for action. Such an explanation will tell us what it is for a person to be reasonable with respect to our political reasons for action. But this is not to say that we can give such an explanation by giving a definition of a reasonable person that fits the bill. The problem of reasonable disagreement, in other words, is a problem that applies to us as members of a modern democratic society. If a conception of a reasonable person is such that we do not think we have moral reason to be reasonable, or if it is not plausible for us to be so, then that problem is not solved.



Leland and Wietmarschen are careful to note that their aim is not to argue that citizens should be intellectually modest, but to argue that the political liberal requires them to be so (2012, p723). In particular, they are concerned to identify a conception of a reasonable person such that being reasonable would provide us with a plausible and stable rationale for not appealing to disputed moral reasons. I have argued that if Political Liberalism is so understood, it is not clearly justified. These arguments need not be reasons to doubt Political Liberalism, but to doubt that the Political Liberal requires citizens to be intellectually modest. Leland and Wietmarschen's argument goes wrong, I suggest, in assuming that our political reasons for action are a particular type of moral reason.

Thus the argument I have given still stands: in order to be plausible, Political Liberalism cannot claim that political reasons are a type of moral reason. To make this clear, we can say that those who take this position are not Political Liberals, but Moral Liberals. Moral Liberals hold that political reasons are a type of moral reason, and that fundamental ideals such as mutual justifiability and a conception of a person as free and equal are to be understood as moral ideals. Since such conceptions are appealing, it is tempting to maintain that they provide the basis of our political views. I have argued that this is a mistake, since it leads to a vision of a just society which given the fact of reasonable disagreement, it is not plausible that we could realise.

Political Liberals might be tempted to make this claim, I noted in the last section, in order to meet the first criterion identified in the last section – in order to show that in acting in accordance with our political reasons for action, we would act in accordance with the relevant moral reasons for action. What the Political Liberal needs, then, is some other account of the relation between our political and moral reasons such that this criterion is met. This relation, furthermore, must be such that the second criterion is also met – such that it is plausible that each person would act in accordance with our political reasons when so understood.

### III

The Political Liberal holds that our political reasons are those reasons which could be accepted by each reasonable person. For a person to be reasonable, I argued in the last chapter, is for her to use her reason to determine our moral reasons for action and to act in accordance with what she takes those reasons to be. The problem of reasonable disagreement, I further argued, is that even if each member of a modern democratic society is reasonable, they will not accept the same principle as to how we are to influence one another, and hence will fail to act in accordance with our moral reasons as to how we are to influence one another. Our challenge is to understand the Political Liberal's claim in such a way that it solves this problem.

We have ruled out the possibility that the Political Liberal understands our political reasons to simply be our moral reasons as to how we are to influence one another. This is to read the core claim of Political Liberalism as an identity claim that explains the nature of a type of moral reason – our moral reasons as to how we are to influence one another. We might instead read that claim, however, as setting out a process which each reasonable person is to follow. The problem of reasonable disagreement is that each member of a modern democratic society being reasonable is not sufficient to guarantee that we act in accordance with our moral reasons as to how we are to influence one another. By following the process of only appealing to reasons which can be accepted by each reasonable person, we can suggest, a reasonable person avoids the problem of reasonable disagreement, and thus does her bit to realise a just society.

To show that this is the best understanding of Political Liberalism, we must show that the problem of reasonable disagreement would be solved if each person followed this process – if each person only acted in accordance with those reasons which could be accepted by each reasonable person. We must show, then, that following this process meets both the epistemic and the practical role of the problem of reasonable

disagreement – that the two criteria identified in the last chapter are satisfied. This is to show that first, that if a person followed this process, we would know that she acted in accordance with our moral reasons as to how we are to influence one another, and secondly, that it is plausible that each person would follow this process, at least under certain conditions. Being reasonable would then be a plausible way of acting in accordance with our moral reasons as to how we are to influence one another.

Acting in accordance only with reasons that could be accepted by each reasonable person meets the first criterion as follows. A person who is reasonable, I showed in the last chapter, uses her reason to determine our moral reasons for action and acts accordingly. Now although such a capacity will be fallible, as I acknowledged in the last chapter, it will give us the correct result for at least some of our moral reasons for action. As I noted in the last chapter, if a person did not have such a capacity, then there would be no way in which she could act in accordance with our moral reasons for action. The moral reasons for action for which the exercise of this capacity gives the correct result, however, need not include our fundamental moral reasons for action.

Furthermore, we can assume that the moral reasons about which there is reasonable agreement will be sufficient to tell us how we are to influence one another's actions. It might be objected that even if each reasonable person is right about some of our non-fundamental moral reasons as to how we are to influence one another, there may be no set of non-fundamental moral reasons for action about which each reasonable person is right. The Political Liberal assumes that there are such reasons because if there are not, there are no reasons which it is plausible that each person would act on, so that there would be no plausible account of our political reasons for action to be given.

If, on the other hand, a purported reason is not a moral reason, then there will be at least one reasonable person who could not accept that reason. Hence the reasons

which could be accepted by each reasonable person can only include our actual moral reasons for action. Since we can assume that the exercise of that capacity will get the right result about our non-fundamental moral reasons in a significant number of cases, furthermore, in acting in accordance with reasons which can only be accepted by each reasonable person, we know that a person will act in accordance with many of our moral reasons for action. By following this process, in other words, the first criterion which an account of our political reasons for action must meet in order to be plausible will be satisfied.

That acting in accordance only with reasons that could be accepted by each reasonable person meets the second criterion follows from the conception of a reasonable person established in the previous chapter. If a reasonable person can accept a reason for action, then by being reasonable, a person can act in accordance with that reason for action. Furthermore, since we can assume that it is plausible that each person would be reasonable, at least under the right conditions, it is also plausible that each person would act in accordance with those reasons for action. If each reasonable person could accept a reason for action, then, it is plausible that each person would act in accordance with that reason. Thus it is plausible that each person would follow the process which the Political Liberal identifies. So the second criterion which an account of our political reasons for action must meet in order to be plausible is also met.

Understanding the Political Liberal's claim that our political reasons for action are those reasons which could be accepted by each reasonable person as setting out a process by which we can avoid the problem of reasonable disagreement, then, allows the Political Liberal to plausibly claim that her account of our political reasons is justified. The Political Liberal, we can say, deliberately designs her account so that it meets the two criteria which we have identified for a modern democratic society. It does so by solving the problem of reasonable disagreement, which threatens the claim that these criteria are met if each person exercises her capacity to be reasonable.

Given that there is reasonable disagreement about our fundamental moral reasons for action, the reasons about which there is reasonable agreement will not be our fundamental moral reasons as to how we are to influence one another. As I have argued, however, they will still be moral reasons, and will therefore be supported by those fundamental moral reasons, whatever they are. Furthermore, there are no moral reasons that are more fundamental which it is plausible that each person would act in accordance with, since by definition, those reasons would not be accepted by each reasonable person. Our political reasons for action, then, are the most fundamental moral reasons as to how we are to influence one another which it is plausible that each member of a modern democratic society would act in accordance with.

Political Liberalism, however, has a tragic cast in that it abandons the hope that we might influence one another in a way required by what we take to be, and may in fact be, our fundamental moral reasons for action. Some or even most reasonable people may hold that the reasons about which there is reasonable agreement fail to include some of the reasons which she takes to be supported by our fundamental moral reasons for action. She may hold, for example, that according to our fundamental moral reasons, abortion is tantamount to murder, even if this is disputed by some reasonable people, and hence not part of our political reasons for action. And indeed, some reasonable people may be right about some of the moral reasons which the political liberal discounts as being our political reasons for action.

The reason that Political Liberalism is nonetheless justified is simply that it is the best that we can do given the fact of reasonable disagreement. That Political Liberalism abandons the attempt to realise a fully moral society is one reason, I believe, that some people have found Politically Liberal claims so difficult to accept. Yet if we cannot reconcile ourselves to this political reality, then we cannot hope to realise a just society. Whilst a just society will not be fully moral, in that it will not fit with some of our most fundamental moral reasons, it will nonetheless be reasonably moral in fitting with many of our non-fundamental moral reasons.

We can think of the claim that our political reasons are those reasons which could be accepted by each reasonable person, I have argued in this section, as capturing a process that we members of modern democratic societies can follow in order to realise a just society. Our political reasons for action, then, are those reasons which each person acts on in following that process. Up to this point, we have simply assumed that the Political Liberal must identify our political reasons for action to show that her account is justified. That each person being reasonable by following this process meets the criteria for a successful account of our political reasons for action, however, forces us to ask why we need to identify those political reasons.

Without an account of our political reasons for action to determine whether or not a person, action, practice or institution is reasonable, we will always have to ask whether that action, practice or institution could be accepted by a reasonable person. Each time we act so as to influence those actions, practices and institutions so that they are reasonable, then, we will have to consider all of the moral reasons which a reasonable person could put forward. This is impractical. So if we do not identify our political reasons for action, it will not be plausible for us to influence one another so as to act in accordance with those reasons. Identifying those political reasons is the task of the next section.

#### IV

We are now in a position to identify our fundamental political reason for action. Our fundamental political reason for action is a reason which could be accepted by each reasonable person, and which acting in accordance with would best realise our most fundamental moral reasons as to how we are to influence one another. That fundamental political reason, I shall argue, is that each person exercises her capacity to be reasonable when influencing other people – that each person acts only on reasons as to how we are to influence one another which could be accepted by each reasonable person.

Since we have already argued that our political reasons are those reasons which could be accepted by each reasonable person – that each person should be reasonable – it might seem that this is not a significant conclusion. That each reasonable person could accept the political liberal’s account of our political reasons for action, however, turns out to be a crucial point. First, it shows that it is plausible that each person would act in accordance with the political liberal’s account of our political reasons for action under the right conditions – that this account is a solution to the practical role of the problem of reasonable disagreement. Secondly, it shows that each reasonable person can accept this account of political reasons for action, which provides epistemic support for the political liberal’s account – it shows that her account is a solution to the epistemic role of that problem.

We must be careful, however, to correctly understand this second reason – to understand the nature of the epistemic support provided. What initially establishes the claim that each person being reasonable meets the criteria for an account of our political reasons for action, I noted above, is that we must assume that each person is capable of being reasonable if we are able to meet those criteria. The claim that each reasonable person could accept that each person should be reasonable, then, is not independent evidence for that claim, since we have not established, after all, that people can in fact be reasonable. Rather, it provides what might be called an epistemic defense of that claim; it shows that this assumption is consistent, and hence that we have no reason to reject it that is internal to the theory.

Let us turn to the argument, then, for the claim that our fundamental political reason for action is that each person exercises her capacity to be reasonable, and in doing so, acts only in accordance with those reasons which could be accepted by each reasonable person. Now the person who exercises her capacity to be reasonable can accept that in general, each person should act in accordance with her moral reasons for action to the greatest extent possible. In particular, she can accept that each person should influence others in a way that is in accordance with our moral reasons to do so

to the greatest extent possible. A reasonable person could accept, then, that she has reasons to influence others so that they act in accordance with our moral reasons to influence others to the greatest extent possible. As I showed in the last section, this is to accept that she has reason to bring about the most moral society possible.

It is tempting to conclude, then, that our fundamental political reason for action simply *is* this reason – that our fundamental political reason is that we realise our fundamental moral reasons as to how we are to influence one another to the greatest extent possible. After all, each person could accept this reason. Our fundamental political reason for action, in other words, might be claimed to be that we bring about the most moral society possible. The problem with this claim, however, is that it overlooks the problem of reasonable disagreement, which the political liberal's account is explicitly designed to solve. Given this problem, I shall argue, it is not plausible that each person would act in accordance with this reason, even if she could accept it. If this is the case, then this reason cannot be our fundamental political reason for action.

The problem of reasonable disagreement, I have noted, is particularly acute because people struggle to accept political reasons for action which go against what they take to be our fundamental moral reasons for action. Being motivated to bring about the most moral society possible, then, would only be sufficient to motivate people to accept political reasons for action when they took accepting those reasons to be strictly necessary to do so. The consequences of appealing to a particular purported moral reason for action, however, is an empirical matter which will depend on various factors about a society and its members. Thus people will often be mistaken about which purported moral reasons for action they should not appeal to in order to avoid the problem of reasonable disagreement. Being motivated to bring about the most moral society possible, in other words, will not always cause people to act so as to do so.



Our fundamental political reason for action, I noted above, is a reason which could be accepted by each reasonable person, and which acting in accordance with would best realise our most fundamental moral reasons as to how we are to influence one another. Our fundamental political reason for action, then, must rather be the best way of bringing about the most moral society possible – a reason which, when acted in accordance with, is such that we act in accordance with our relevant moral reasons for action to the greatest extent possible. We have already seen, however, that the reason which acting in accordance with would best realise our most fundamental moral reasons as to how we are to influence one another is that each person is reasonable, in that she acts in accordance only with those reasons which could be accepted by each reasonable person. If each person can accept this reason, then, it must be our fundamental political reason for action.

The key explanation of why each reasonable person can accept that we have reason to act only in accordance with those reasons which can be accepted by each reasonable person is simply that she can follow the reasoning set out in this chapter. Even though a reasonable person may well hold that this is not our fundamental reason as to how we are to influence one another, by the above reasoning, she can accept that it is the best way of realising our fundamental moral reasons as to how we are to influence one another, whatever those reasons turn out to be. Part of the point of providing this analysis, then, turns out to be that in giving these reasons, we help to make it more plausible that we could realise a just society.

As Leland and Wietmarschen's arguments make clear, what is perhaps hardest for a reasonable person to accept about the political liberal's account of our political reasons for action is that it rules out our appealing to some of what we take to be our actual moral reasons for action. In doing so, as I noted in the last section, it may also prevent us from influencing each other in a way that is in accordance with our actual moral reasons for action. It is particularly hard for a person not to appeal to a reason if she holds that the most intellectually competent people agree with her about those

reasons. Just as agreement between reasonable people about a purported moral reason for action is epistemic reason to think that we have such a reason, that person might object, agreement between the most intellectually competent people is also epistemic reason to think that we have such a reason.

The explanation of how each reasonable person can accept this account is that she can recognise what I have called the practical role of the problem of reasonable disagreement. She can recognise, that is, that if it is not plausible that people would accept what she takes to be our fundamental moral reasons for action, it is not plausible that we would act in accordance with those reasons. This remains the case even if those reasons are accepted by the most intellectually competent people.<sup>49</sup> The only way of making a person act in accordance with reasons which they do not accept, is by ensuring that she cannot effectively exercise her capacity to be reasonable. As I have argued, however, in a modern democratic society, this is simply not an option.

The Political Liberal holds that given the practical role of the problem of reasonable disagreement, we must assume that there is an account of our political reasons for action which it is plausible that each person would act in accordance with, and in so doing, act in accordance with at least some of our moral reasons as to how we are to influence one another. We then ask what those political reasons must be. Each reasonable person can accept the Political Liberal's account of our political reasons for action because in a modern democratic society, doing otherwise will lead to a state of affairs which is even further from satisfying our fundamental moral reasons for action, on any reasonable view of those reasons. Put simply, a person who holds that abortion is tantamount to murder can accept that abortion should nonetheless be legal on the grounds that its not being so will lead to backroom abortions.

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<sup>49</sup> Of course, a person might accept those reasons because they are accepted by the most intellectually competent people.

I have argued that our fundamental political reasons are those moral reasons which could be accepted by each reasonable person. Disagreement between citizens as to our fundamental moral reasons, I have suggested, would naturally lead them to act in accordance with different purported fundamental political reasons - to attempt to influence one another in different ways. Doing so would make society significantly unstable, and hence less moral than the society which I have identified according to any reasonable view of our moral reasons for action. It is necessary for citizens to act in accordance with fundamental political reasons which could be accepted as moral by each reasonable person in order to realise the most moral society that is possible given the fact of reasonable disagreement. It is possible and plausible for each citizen to act in accordance with those reasons, I have now shown, because they can accept that this is indeed the case.

Our fundamental political reason for action, then, is that each person exercises her capacity to be reasonable. Each member of a modern democratic society can act in accordance with that reason by exercising her capacity to be reasonable. Furthermore, whilst she cannot force other members of her society to be reasonable, she can act so that those members are better able and more likely to exercise that capacity. Following a term introduced in the first part of the thesis, we can say that each person has fundamental political reason to *promote* the exercise of each person's capacity to be reasonable, where this is to act so that she is better able and more likely to exercise that capacity.

A just person, I noted in the last chapter, is a person who acts in accordance with our political reasons for action. The Political Liberal holds, then, that a just person would both exercise her capacity to be reasonable and promote the capacity of each other member of her society. A just society, she holds, is a society in which each person is able and likely to exercise her capacity to be reasonable. Thus it follows that a just person helps to bring about and sustain such a society. One of main ways in which she does so, I have noted, is by supporting certain institutions and practices. To

develop this conception of justice, what is needed is an account of the political reasons for action or ideals that follow from this fundamental reason. I turn to this task in the next chapter.

## V

I argued in the last section that according to the Political Liberal, our fundamental political reason for action is that each member of a modern democratic society is reasonable. An equivalent claim, I will now show, is that our fundamental political reason for action is that we respond to each person's political status as free and equal. As I demonstrate in the following chapters, understanding what the Political Liberal claims to be our fundamental political reason as the claim that we should respond to each person's political status as free and equal helps to develop our conception of a just society. Furthermore, doing so provides further support for the claim that each reasonable person could accept the political liberal's account of our political reasons for action.

The conception of political status has the same shape as the conception of moral status developed in the first part of the thesis. Each person's political status holds in virtue of her having certain properties, and as a result of having those properties, certain things are of final political value. On the version of Political Liberalism for which I have argued, I shall show, that property is that each person has the capacity to be reasonable. In virtue of having that property, the exercise of each person's capacity to be reasonable is of final value. Furthermore, it is of final value that we promote the exercise of each person's capacity to be reasonable.

This conception of each person's political status captures the claims established in the previous section. I argued in that section that our fundamental political reason is that each person exercises her capacity to be reasonable. The exercise of a person's capacity to be reasonable is an event – it is an action by which a person determines and acts in

accordance with what she takes to be her moral reasons for action.<sup>50</sup> On the analysis of final value given in the third chapter, then, to say that the exercise of a person's capacity to be reasonable is of final value is simply to say that our reasons to realise that event are given by that event itself, and not only by events that are caused by the realisation of that event. This captures the claim that the exercise of a person's capacity to be reasonable is of fundamental value.

Now strictly speaking, promoting the exercise of each person's capacity to be reasonable is instrumental to the actual exercise of that capacity, which is what I argued in the last section to be of fundamental value. This is the same issue as that considered in the third chapter when considering the final value of events. We can adopt a similar approach to that there taken by saying that to promote the exercise of each person's capacity to be reasonable is of final value with respect to things other than the exercise of that capacity. Even though this is not a Kantian view, then, we can employ some of the same concepts as were there developed, and draw on similar distinctions as to what it is for certain type of things to be of final value.

We can capture this conception of political status by saying that each person has the political status of being free and equal. For each person to be free, we can say, is for the exercise of her capacity to be reasonable, and hence promoting the exercise of that capacity, to be of final value. For each person to be equal is for the exercise of each person's capacity to be reasonable, and hence promoting the exercise of that capacity, to be of equal value. For each person to have the political status of being free and equal, then, is for the exercise of each person's capacity to be reasonable, as well as our promoting the exercise of that capacity, to be of final and equal value. A just

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<sup>50</sup> Since the argument for the claim that our fundamental political reason is given by the exercise of each person's capacity to be reasonable is not Kantian, that exercise is not claimed to be a distinctive process by which events happen – the process of a person using her reason to cause events. Kantians can accept this view, nonetheless, as capturing our non-fundamental moral reasons for action.

society, in other words, is a society in which each person is treated as being free and equal when so understood.

It is worth noting that the claim fits with, and helps to clarify Rawls' claim that each person is free and equal. Each person is free, Rawls claimed, in two senses: first, that they 'view their persons as independent from and not identified with any particular conception of the good' (2001, p21), and second, that 'they regard themselves as self-authenticating sources of valid claims' (p23). People are equal, claimed Rawls, in that they have 'to the essential minimum degree the moral powers necessary to engage in social cooperation over a complete life and to take part in society as equal citizens' (p20). It is not obvious how we are to understand these claims. In particular, we need to understand what it is that is of value if people are free in the sense that Rawls suggests, and what value or fact about persons is equal, and how this determines how we should act.

The claim that each person has the political status of being free and equal makes sense of Rawls' position. For each person to have the political status of being free and equal, I have argued, is for the exercise of her capacity to be reasonable to be of final and equal value. Each person is independent from a particular conception of the good, then, in that it is her pursuit of the good, which is a way of exercising her capacity to be reasonable, that is of final value, and this is furthermore what makes her a *self*-authenticating source of valid claims. Each person is equal in having this capacity to be reasonable. Thus we have a clearer sense of what it is for people to be free and equal in the way that Rawls claims.

The next chapter looks at the idea of a just society in more detail. We can note here, though, that in such a society each person would be able to act in accordance with what she takes to be our moral reasons for action whenever doing so were consistent with the requirement to respond to each other person's political status as free and equal. In a just society, in other words, each person would be free to pursue what she

takes to be our moral reasons for action, as long as she did not undermine the exercise of each other person's capacity to be reasonable, and as long as she promoted the exercise of that capacity where required to do so.

This defines what we can call a personal as opposed to a political sphere. Whilst we are required to permit each other person, as long as she is reasonable, to act in a way that we take to be wrong, and may in fact be so, the protection of this personal sphere allows each of us to act in accordance with what we take to be our moral reasons for action where doing so meets that requirement. Each person has political requirements, we can say, as citizens, but these requirements allow that she is able to pursue what she takes to be her moral reasons whenever this is consistent with meeting these requirements. I bring out these points in more detail in the next two chapters.

Furthermore, Political Liberalism need not rule out all the ways of influencing other people which are required or permitted by what we take to be our fundamental moral reasons for action. Responding to each person's political status does not determine all of the ways in which we may influence one another. We may be able to attempt to persuade other people not to have abortions, for example, even if we are not allowed to protest outside of abortion clinics. Thus Political Liberalism allows for disagreement about our moral reasons as to how we are to influence one another. In solving the problem of reasonable disagreement, I have shown, it claims only that our fundamental political reasons for action are reasons to respond to each person's political status as free and equal.

Rather than appealing to particular moral reasons for action, then, the Political Liberal appeals to the political status of each person. One way of understanding the emergence of social contract theory is as moving from a justification of political obligation that appeals to the authority of God to a justification that appeals to the authority or status of each member of society. Political Liberalism generalises this thought in moving away from our moral reasons for action more generally to the

political status of each reasonable person, or to what each reasonable person can accept.

It is also intuitively plausible to claim that our fundamental political reason for action is given by each person having the political status of being free and equal. The idea of each person having that political status is part of our public political culture, and hence an idea that many members of modern democratic societies do accept. In many countries, including the United Kingdom, the monarch was taken to have a higher political status for many centuries, in that he or she was granted extensive political powers and rights as well as a far greater share of the income and wealth of society. That higher political status has taken many centuries to change.<sup>51</sup> Part of what characterises a democracy, we might say, is that citizens instead hold that each person has the political status of being free and equal.

The Political Liberal further holds that her account of our political reasons for action is inherently plausible because it is consistent. We are to ask, she holds, whether each reasonable person could accept purported political reasons for action at every level. This is to ask whether each reasonable person could accept this view of our political reasons for action, the political reasons for action that it results in, and the society which acting in accordance with those political reasons for action realises and sustains. A reasonable person can accept that political liberalism is inherently plausible, then, in part because she can accept that it gives a consistent account of our political reasons for action. Bringing out the implications of this view in the next few chapters helps to establish this point.

The Political Liberal holds, then, that the ideal of mutual justifiability and the conception of each person as being free and equal are fundamental political ideals, or reasons for action. She understands these political reasons, however, to be non-

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<sup>51</sup> Attempts to overthrow the king or queen, furthermore, have typically been attempts to replace him or her, rather than attempts to remove the monarchy itself.



fundamental moral reasons for action which it is plausible that each person would act in accordance with in the right conditions. Thus she understands the nature of these reasons very differently from what I have called Moral Liberals – from those who hold that our political reasons are simply our moral reasons as to how we are to influence one another. Moral and Political Liberals disagree about both the justification and content of these political ideals and the political reasons which they support.

So we have arrived at an answer to our initial question: what is Political Liberalism? Political Liberals, I have argued, hold that each person should exercise her capacity to be reasonable, and that in exercising this capacity, each person will act in accordance only with those reasons as to how we are to influence one another which could be accepted by each reasonable person. This is equivalent to claiming, I have shown, that each person should respond to each other person's political status as being free and equal. A just person would act in accordance with these reasons, and in doing so, would help to bring about and sustain a just society.

The Political Liberal arrives at and justifies these claims by assuming that there must be political reasons for action which it is plausible for each person to act in accordance with, at least under certain conditions, and which by acting in accordance with, would act in accordance with the relevant moral reasons for action. The Political Liberal's claim that each person should act only on reasons which could be accepted by each reasonable person, I have argued, and in doing so respond to each person's political status as being free and equal, satisfies these criteria. That this account is plausible and defensible, furthermore, is made clear by the fact that it could be accepted by each reasonable person. So understood, Political Liberalism provides us with a clear and compelling account of our political reasons for action.

## Chapter 7 – What is Distributive Justice?

How should we distribute the goods of a society amongst its members? Since Rawls' 1971 *A Theory of Justice* reignited the debate, there has been increasing disagreement about not only the correct answer to this question, but the way in which it should be answered. Some have focused on what the distribution of goods should be – on the currency of distribution, and on how much currency each person should receive.<sup>52</sup> Others have asked about the value or fundamental reason that justifies distributing goods in a certain way.<sup>53</sup> Yet others have expressed doubts as to the significance of these questions.<sup>54</sup> These are important issues. One would be forgiven, however, for thinking that in pursuing them, we have lost sight of the significance of the original question. What is distributive justice, we might wonder, and why does it matter?

This chapter answers that question, and in doing so, puts forward a particular account of distributive justice – of our fundamental distributive reasons. Distributive justice, I show, is a matter of the members of a society both producing and allocating goods in accordance with our political reasons for action. Our political reasons for action, I argued in the last two chapters, are those reasons identified by Political Liberalism – they are those reasons which could be accepted by each reasonable person, and which respond to each person's political status as free and equal. This shows, I argue, that our distributive reasons are not impartial, but reciprocal: they are reasons to benefit other people *because* other people benefit us, and not *in order* that those other people are benefited.

This chapter goes as follows. The first section clarifies the nature of distributive justice by identifying the problem which accounts of distributive justice attempt to solve.

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<sup>52</sup> See, for example, Arneson (1989, 1999), Cohen (2011), Dworkin (1981a, 1981b), Nozick (1974).

<sup>53</sup> See Cohen (2011), Frankfurt (1987, 1997), Otsuka and Voorhoeve (2009), Parfit (1997).

<sup>54</sup> See Hamlin and Stemplowska (2012), Sen (2009), Valentini (2009, 2012), Wolff (1998).

That problem, I show, is how the members of a society should produce and allocate goods. Since our distributive reasons are political reasons, I further show, they must be those reasons which are established by Political Liberalism – those distributive reasons which could be accepted by each reasonable person, or which respond to each person’s political status as free and equal. As well as arguing for a particular account of distributive justice, then, this chapter brings out the significance of the conclusions of the last two chapters.

Section two argues that existing accounts of distributive justice are not satisfactory since they could not be accepted by each reasonable person. I provide an overview of some of the main accounts that have emerged since Rawls’ *A Theory of Justice*, and argue that either these accounts fail to meet this criterion, or that they do not clearly do so. What underpins such accounts of distributive justice, I show in a third section, is the claim that our distributive reasons are impartial. When understood to be a substantial claim, I argue, it is not the case that this could be accepted by each reasonable person. Such accounts will not do, then, as they do not meet our criterion.

This motivates a positive account of distributive justice, given in the fourth section, on which our fundamental distributive reasons are not impartial, but reciprocal. The basis of this account is that a just person responds to each other person’s political status as free and equal. A just distributive process, on this account, is a process in which the members of a society reciprocate in furthering each other’s pursuit of the good – in which they benefit other people *because* other people benefit us, and not *in order* that those other people are benefited. The next chapter brings out an implication of this view by showing how it allows us to respond to G. A. Cohen’s critique of the difference principle (2008).

## I

I begin with the problem which accounts of distributive justice attempt to solve. The members of a society coordinate their actions with one another because it is rational

for them to do so. One reason that this is the case is that by coordinating their actions, people can produce goods which they have reason to have or to be able to use. There are other reasons, however, for people to coordinate their actions with one another, and more generally, to form a society. Thus a society does not merely consist of people coordinating their actions in order to produce goods. In asking questions about how we should distribute the goods produced by coordinated action, we begin by asking about the goods produced within a particular society.<sup>55</sup>

The goods which it is rational for the members of a society to produce by coordinating their actions include material things as well as services – they include people’s actions and the result of those actions, and more generally, the results of our coordinating our actions in a certain way. We need not assume that it is rational for a person to want exclusive ownership or use-rights over such things, nor that it is rational for her to want any particular goods, or to maximise the goods which she owns or is able to use. In setting out the problem of distributive justice, we assume only that there are some goods which the members of a society produce by coordinating their actions and which it is rational for at least some people to want.

The question that immediately arises, then, is how the members of a society should distribute the goods which they produce by coordinating their actions. Now to ask this question is to ask not only how we should allocate the goods which are produced by our coordinating our actions, but how we should coordinate our actions in order to produce those goods. Our problem arises, I have said, since it is rational for people to coordinate their actions, thereby producing goods which it is rational to want. The question, then, is how we should coordinate our actions, where doing so includes both our producing goods and our allocating those goods which are produced.

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<sup>55</sup> We do so because the members of a society share a particular public culture and institutions. This means both that they coordinate their actions in a certain way and to a particular extent and that they are able to do so. For reasons of space I do not go into more details here.

Distribution, in other words, includes the production as well as the allocation of goods.

Thus there would be no question of distributive justice if people did not coordinate their actions so as to produce certain goods – if people were not part of a society, or if they were part of a society in which people did not coordinate their actions so as to produce goods. This is not to say that such a situation does not give rise to moral questions. We can ask whether people have moral reasons to coordinate their actions with those of others, or to share or transfer some of the goods that they have produced solely through their own labour. These are not questions of distributive justice, however. Questions of distributive justice are practical questions, in that they have a practical basis – they arise only because we do coordinate our actions in order to produce certain goods.

To ask how we should distribute the goods of a society amongst its members is to ask what a just distributive process would be of distributing goods, where that process includes both the production and allocation of goods. One reason to think that a process is just is that it leads to just outcomes – to outcomes which are just for reasons independent of that process. There are other reasons, though – Rawls emphasised that his account of distributive justice is purely procedural, in that it identifies a procedure the outcomes of which are just in virtue of being outcomes of that procedure. Despite this, as I show below, many accounts of distributive justice, including those which purport to be in some sense Rawlsian, have focused on identifying just distributive outcomes.

To ask how the members of a society should distribute goods is to ask how each member of that society should act in coordinating her actions with others so as to produce and allocate goods. It is to ask, in other words, how people should treat one another when acting in ways that are relevant to the distribution of goods. At root, then, this is not a question about institutions, or about practices. Since institutions and

practices are not agents, they cannot themselves be the bearer of reasons. Nor can it be of final value that we have particular practices or institutions. Rather, institutions and practices are of instrumental value – they are a way, albeit a very significant way, in which people can coordinate their actions, and in doing so, distribute goods as they ought to do so.

For an account of how the members of a society should distribute goods to be justified, it must be the case that we have reasons to distribute goods in the way that the account suggests. We can call these reasons distributive reasons. A proponent of an account who does not identify distributive reasons cannot claim that her account is justified, since she gives us no reason to think that we should distribute the goods of a society in the way that she claims. To show that her account is justified, furthermore, she must not only identify distributive reasons, but show that we have those reasons – she must show that the claim that we have such distributive reasons is correct.

Distributive reasons are political reasons as to how we should distribute the goods of a society. Political reasons, I showed in the fifth chapter, are normative reasons as to how we are to influence one another. For the members of a society to produce and allocate goods which are to be used by other members is clearly for those members to influence one another. We produce goods by coordinating our actions with others, and in allocating those goods, influence those members who receive them. Our distributive reasons, then, are political reasons – they are those political reasons that we have as to how we are to distribute the goods of a society.

Whether an account of our distributive reasons is correct, then, will depend on when an account of our political reasons is correct more generally. The last two chapters argued that Political Liberalism, properly understood, gives us a plausible account of our political reasons. Political Liberals, I showed, hold that our political reasons are those reasons which are accepted by each reasonable person. The Political Liberal, then, holds that our distributive reasons are those reasons which could be accepted by

each person. By appealing to this criterion, we can determine whether accounts of our distributive reasons are plausible. What is needed is an account of our distributive reasons, and hence of a distributive process, that could be accepted by each reasonable person.

## II

To be justified, then, accounts of distributive justice must give an account of our distributive reasons – of our reasons as to how we are to distribute the goods of a society – that could be accepted by each reasonable person. Many prominent accounts of distributive justice, I shall now argue, are unsatisfactory because they have failed to show that they meet this criterion. The root of the problem is that such accounts have failed to properly understand the problem which accounts of distributive justice attempt to solve – they have failed to explicitly recognise this criterion. The best way to show this is to give an overview of the main approaches to distributive justice that have been taken since Rawls' *A Theory of Justice* (1971). Doing so paves the way for a positive account of the foundations of distributive justice which meets this criterion, given in the fourth section.

Rawls' main aim in *A Theory of Justice* was to develop and defend an alternative conception of justice than that offered by Utilitarianism or Intuitionism.<sup>56</sup> Whilst Utilitarianism has had many critics, Rawls noted, it at least provides us with a systematic account of justice which fits with many of our judgements about what is of moral and political significance (1971, p30–36). All of us can accept that each person's utility matters, and hence that principles and policies which improve people's utility are to be valued. Unlike Intuitionism, then, held Rawls, Utilitarianism ensures that we will not appeal to concerns or principles which are arbitrary or dogmatic – which are

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<sup>56</sup> See Bentham (1789), Mill (1861), Sidgwick (1907) and Cohen (2008, p. 3–6), Foot (1967), Kamm (1993, 1996, 2007), Otsuka (2008), Otsuka and Voorhoeve (2009), Thomson (1976, 2008), Unger (1996) respectively.

not clearly supported by reasons. Without an alternative systematic account of justice, Rawls concluded, Utilitarianism remains the most plausible approach.

Yet Rawls maintained that Utilitarianism faced deep and unresolvable problems. In particular, Rawls held that Utilitarianism could not provide a satisfactory account of the basic rights and liberties of citizens as free and equal persons. Rawls' most fundamental argument for this claim was that Utilitarianism fails to respect the separateness of persons – that it fails to treat each person as being separate (p19–24). It is not obvious, however, exactly how this objection should be understood. Since Utilitarianism does hold that the utility of each person matters, there is at least one sense in which it does treat each person as being separate. Although giving a good to a particular person, so as to increase total or average utility, in no way benefits the other members of society, the goods that those members receive are clearly taken into account.

We should understand the separateness of persons argument, I suggest, as follows. Rawls took it to be of fundamental importance that each reasonable person could accept the conception of justice to be realised in her society. The Utilitarian holds that reasons of justice are reasons of the good; that we have reason to maximise total or average utility because doing so maximises the good. If each person were required to maximise the good, however, then she would be required to act on a particular conception of the good – a Utilitarian conception of the good. If a reasonable person's conception of the good is not Utilitarian, however, she will then be required to act so as to realise a conception of the good that is not her own.<sup>57</sup> Such a person, then, cannot accept a Utilitarian conception of justice. To claim that she should live within and support a Utilitarian conception of justice, then, is to treat a reasonable person's being

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<sup>57</sup> Of course, few people will explicitly take themselves to have a non-Utilitarian conception of the good. Many people will take themselves to have moral reasons, however, which to act in accordance with would not be to maximise the good.



able to accept the conception of justice which is to be realised within her society as not being of fundamental importance.

The problem with this argument, however, and with Rawls' initial theory more generally, is that it appears to simply assume that it is of fundamental importance that each person could accept the conception of justice to be realised in her society. It is tempting to think that what is supposed to justify such a claim in *A Theory of Justice* is a Kantian view of our moral reasons for action. Whilst Rawls succeeded in meeting his initial aim of setting out an alternative conception of justice than that of Utilitarianism or Intuitionism, then, it is not clear that his own account ultimately avoids being dogmatic, or that each person could accept its foundations, and hence that it is justified. It is not clear, in other words, that it meets the criterion identified in the last section – that his account of distributive justice could be accepted by each reasonable person.

Rawls' 1993 *Political Liberalism* was in large part an attempt to rectify this problem. Rawls here made clear that in order to be justified, our political reasons must be such that they could be accepted by each reasonable person. This is to abandon the Kantian foundations of *A Theory of Justice*. This criterion, understood in the way that I have suggested, can be seen as the foundation of Rawls' later theory. Yet this fundamental shift in Rawls' approach to political philosophy has perhaps not always been fully appreciated, and even when it has been, it has perhaps not always been properly understood. This is in part due, I believe, to the complex method and nature of Rawls' argument.

Nozick's 1974 *Anarchy, State and Utopia* responded to Rawls' *A Theory of Justice* and provided an alternative account of our fundamental distributive reasons. Nozick begins his chapter on distributive justice by claiming that the phrase 'distributive justice' is not neutral, since it implies that 'some thing or mechanism uses some principle or criterion to give out a supply of things' (1974, p149). Thus it would be

better, Nozick claims, to speak of justice in holdings. To ask about distributive justice, on this view, is to ask what it would be just for each person to hold. Nozick goes on to make several criticisms of Rawls' theory, and to give his own theory of just holdings, which he calls the entitlement theory.

Even without examining these criticisms, however, we can note that Nozick misunderstands the problem to which accounts of distributive justice respond. Questions of distribution, I noted in the last section, are questions about the production as well as the allocation of goods, and hence do not assume that there is some 'supply of things' to be distributed by 'some principle or criterion' (p149). Furthermore, to begin by asking about what it would be just for each person to hold is to assume that an answer to the question of how we should distribute a society's goods must point to distributive outcomes. We cannot simply assume, however, that the function of a just distributive process is to realise just distributive outcomes. Nozick's approach to distributive justice, then, turns out to be less, rather than more neutral than that of Rawls.

Nozick made this assumption, I believe, in part because he failed to properly distinguish between distributive reasons and distributive principles. A distributive process, I showed in the last section, is a way of distributing the goods of a society amongst its members. To ask what a just distributive process would be, however, is not only to ask what a just distributive principle would be – about how we should act so to distribute the goods of a society – but also about the reasons for distributing those goods in a certain way. That acting in accordance with a distributive principle realises certain distributive outcomes does not show that we should think of distributive reasons as being reasons to realise certain distributive outcomes. Acting

in accordance with a distributive principle can rather be thought of as a way of acting in accordance with our distributive reasons.<sup>58</sup>

Nozick's focus on holdings leads him to a theory that aims to establish what each person should have or own. He begins with rights of ownership – on each person's right to acquire or transfer holdings by making certain choices (p178–182). Hence his account of justice is not an attempt to solve the problem of distributive justice set out in the last section – it does not begin with the thought that people do coordinate their actions in order to produce and allocate goods, as it is rational to do so, and ask how they should do so. Unsurprisingly, then, Nozick's account fails to meet the criterion there identified – there is no reason to think that it could be accepted by each reasonable person. Why should we accept that people have the right to exclusively own holdings in the way that Nozick's theory sets out? Why accept that a just way to treat other people is by respecting their rights of ownership?

Much subsequent political philosophy has been focused on what a just distribution of goods would be – on the currency of distribution, and on how much of that currency each person should receive. Debate about the currency of distribution has focused on whether we should measure a distribution in terms of resources, welfare, outcomes, opportunities, capabilities or by some other metric.<sup>59</sup> Debate about how much currency each person should have initially focused on giving the best version of a position now known as luck egalitarianism. Broadly speaking, luck egalitarians hold that inequalities in currency should result from people's different choices, but never from their different luck.<sup>60</sup> Subsequent debate has moved away from this position,

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<sup>58</sup> Contrary to what Nozick suggests, then, it is perfectly consistent to point to distributive reasons which are not given by distributive outcomes whilst giving a distributive principle, such as the difference principle, which is specified by the distributive outcomes that it realises.

<sup>59</sup> See Arneson (1989, 1990a, 1990b, 1990c, 1999), Cohen (2011), Dworkin (1981a, 1981b), Sen (1980).

<sup>60</sup> See Cohen (2011), Dworkin (1981a, 1981b), Hurley (2003), Otsuka (2002).

instead asking whether currency should be distributed equally, or to meet each person's needs, or so as to give priority to those with lower levels of currency.<sup>61</sup>

In starting with a question as to what a just distribution of goods would be, however, these debates have followed Nozick in assuming that questions of distributive justice are questions about distributive outcomes. Whilst luck egalitarians were exercised by Nozick's focus on the value of choice, seeking to accommodate this value into what they took to be broadly Rawlsian principles, Nozick's deeper impact has perhaps been methodological; it has been a focus on distributive principles, and hence on distributive outcomes. Focusing on distributive principles can certainly make it easier to exhibit many of the central virtues of analytical philosophy: clarity, simplicity, precision. Whilst Rawlsian ideas about justice have proved to be more appealing than Nozick's, it is tempting to conclude, it is Nozick's approach to political philosophy that has won the day.

The main point to make, however, is that as a clear understanding of the problem of distributive justice shows, we should not assume that questions of distributive justice are ultimately questions about distributive outcomes. Each of the positions mentioned fails to provide a clear solution to that problem, because it appeals to distributive reasons which could not clearly be accepted by each reasonable person. Why think that each reasonable person could accept that our most fundamental distributive reasons are that we equalise the effects of luck, but not choice, or that we respond to each person's needs, or give priority to those with a lower level of currency? Why think, then, that proponents of these accounts meet either of the criteria identified in the first section – that they show that we have the distributive reasons which they identify, or that it is plausible that each person could act in accordance with them?

Furthermore, there is a more general argument to be made for the claim that those who hold that our distributive reasons are reasons to realise distributive outcomes

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<sup>61</sup> See Cohen (2011), Frankfurt (1987, 1997), Otsuka and Voorhoeve (2009), Parfit (1997).

need to argue that each reasonable person could accept this claim. The first part of this thesis developed and defended the Moral Status View, a Kantian account of our moral reasons for action. According to this view, our moral reasons are not only reasons to realise outcomes or events, but to respond to the final value of each person using her reason to cause events. The distributive process by which the members of a society produce and allocate goods, we can note, will involve the use of people's reason to cause events.

At least some of our distributive reasons, then, on this moral position, are not reasons to realise distributive outcomes. Even if the Moral Status View is not accepted to be correct, that it is at least plausible shows that there are reasonable people who could not accept that our distributive reasons should be thought of as reasons to realise certain distributive outcomes. Accounts on which our distributive reasons are reasons to realise distributive outcomes, then, are not supported by what Political Liberalism claims to be our political reasons for action.

One reason that people assume that distributive reasons must be reasons to realise distributive outcomes, I have suggested, is that they are influenced by Nozick's approach to distributive justice. There are other explanations, however. Another reason I have mentioned is the complex nature of Rawls' own arguments. A further explanation would be that people are still attracted by positions that are broadly Intuitionist or Utilitarian. A focus on needs, for example, or on giving priority to those with lower levels of currency, can be seen as a more sophisticated version of Utilitarianism. Yet another explanation is that people have assumed that political questions are questions about institutions or practices, rather than about how people use those institutions or practices to treat each other in certain ways. It is then easy to conclude that what matters is distributive outcomes, since the role of an institution or practice is to realise distributive outcomes.

A still further explanation is that positions on which distributive reasons are not reasons to realise distributive outcomes are not entirely clear, or have been underdeveloped. This includes, I suggest, both Rawls' own position as well as those who have explicitly adopted Rawls' approach. At the turn of the 21st century, Anderson (1999), Wolff (1998) and Scheffler (2003) raised several problems for luck egalitarian positions. Anderson argued that luck egalitarianism leads to various unpalatable conclusions in a number of cases. Wolff argued that luck egalitarianism faces problems on attempting to implement its principles. Scheffler made the more general observation that luck egalitarians do not explicitly defend the foundations of their position, or what they claim to be our distributive reasons, and that there is little reason to think that these foundations fit with those of Rawls, as had often been suggested.

Whilst these criticisms were sympathetically received, the effect has not been a return to the foundations of Rawls' own theory, or, with one exception, which I discuss below, to methods of justification. Whilst luck egalitarianism is no longer a prominent position, many political philosophers, as I noted above, have continued to ask what a just distribution of goods would be, simply moving away from a distinction between luck and choice to the values of equality, sufficiency and priority. Whilst some political philosophers have focused on the foundations of Rawls' theory, furthermore, most typically on the nature of Political Liberalism, they do not tend to be thought of, perhaps even by themselves, as pursuing a project which is directly related to the concerns of distributive justice.<sup>62</sup>

The critics of luck egalitarianism, however, also made positive suggestions as to the direction in which political philosophy should turn. Anderson and Scheffler both suggested a return to the foundations of Rawls' own theory, and furthermore that we can understand those foundations by focusing on an ideal of equality as a moral, social

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<sup>62</sup> See Leland and Wietmarschen (2012).

or political ideal, and on the relations between citizens. Wolff, and subsequently others, instead suggested that we focus less on identifying fundamental distributive reasons, and more on identifying distributive reasons per se, and on the implications for political practice. This has led to many criticisms of so-called ideal theory.<sup>63</sup>

Neither of these approaches, however, have proved to be entirely satisfactory. We still lack a clear understanding of equality as a moral, social or political ideal, or of the idea that the concerns of equality are concerns about the relations between citizens. It is not entirely clear what a moral, social or political ideal is, and how equality being such an ideal is distinct from equality being a substantial political requirement. Nor is it clear why we should be concerned about the relations between citizens, or what it would be for them to stand in equal relations. It is not even obvious how we are to understand the concept of a citizen. Whilst these claims are attractive, then, more work remains to be done.

The source of such problems, I believe, is the lack of a clear account of the foundations of Rawls' theory – of how these ideals are justified. To connect this to the problem of distributive justice, as raised in the first section, it is not clear that each reasonable person could accept these ideals as being our distributive reasons, not least because it is not clear exactly how they are to be understood. I have argued that this criterion, properly understood, is the foundational claim of Political Liberalism. The problem with the positive views raised by Anderson and Scheffler and others, I am suggesting, then, is that it is not clear how they fit with a Politically Liberal account of our political reasons for action.

An approach which abandons the search for fundamental distributive reasons, on the other hand, is unsatisfactory in that it appears to be needlessly pessimistic. At its worst, proponents of this approach appear to abandon the search for distributive reasons entirely, and hence the requirement to show that the positions which they

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<sup>63</sup> See Hamlin and Stemplowska (2012), Sen (2009), Valentini (2009, 2012), Wolff (1998).

present are justified. A better approach would be to identify and argue for distributive reasons which are not fundamental. Although this is rarely made explicit, such an approach fits well with Political Liberalism, in that if the claim that we have a particular political reason is justified by the fact that it could be accepted by each reasonable person, then a distributive reason can be shown to be justified without being shown to be supported by more fundamental normative reasons.

Once we have identified this justificatory basis, however, there is no need to abandon the search for fundamental distributive reasons. Those fundamental distributive reasons will be the most fundamental moral reasons as to how we are to distribute goods which can be accepted by each reasonable person. There are at least two reasons to identify these fundamental distributive reasons. First, doing so will help to identify and establish less fundamental distributive reasons – it will give us a way of generating those reasons. Secondly, it may well be that people are more likely to accept our non-fundamental distributive reasons if they accept the fundamental distributive reasons behind them. Identifying our fundamental distributive reasons, then, helps to establish our less fundamental distributive reasons, and to make it plausible that people will act in accordance with them.

We are still in need, then, of a satisfactory account of our fundamental distributive reasons – of an account which could clearly be accepted by each reasonable person, and which therefore clearly solves the problem identified in the first section. Many accounts of our fundamental distributive reasons, I have argued, simply assume that they should be thought of as reasons to realise distributive outcomes. Accounts which do not make this assumption, such as Rawls' own theory, and those who have explicitly adopted his approach, remain unclear or underdeveloped. The root problem, however, I have suggested, is that it is not clear that any of these accounts of our fundamental distributive reasons could be accepted by each reasonable person.



I have argued that in neglecting the way in which accounts of distributive justice are to be justified – the problem to which those accounts aim to produce a solution – we have lost sight of why distributive justice matters. Having clarified the criterion which accounts of distributive justice must satisfy in order to be justified, I argued in the first section, we can see that the task is to identify an account of our fundamental distributive reasons which could be accepted by each reasonable person. We need, in other words, to move away from the question of what a just distribution of goods would be, and to refocus our attention on giving a clear, simple and precise account of our fundamental distributive reasons which clearly meets this criterion. This is the task of the next section.

### III

It is often supposed that reasons of justice, and moral reasons more generally, are in some sense impartial.<sup>64</sup> Although we encountered the idea of an impartial reason in the first part of the thesis, I did not there consider this claim directly, but rather focused on showing that the Moral Status View is distinct from Consequentialist accounts of our moral reasons. I argue in this section that this claim underpins the prominent view, discussed in the last section, that distributive reasons are reasons to realise certain distributive outcomes. I then argue that a just distributive process is not impartial. This helps to distinguish my view from accounts on which our distributive reasons are reasons to realise certain distributive outcomes. The next section argues that a just distributive process is instead reciprocal.

We can start to understand the concept of an impartial reason by distinguishing it from the concept of a partial reason. At first glance, we can say that a partial reason is a reason that we have in virtue of some particular property of a thing – of a person, for example. We might be thought to have partial reasons, for example, to treat friends

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<sup>64</sup> See Baier (1958, ch 8), Blum (1980, ch 3), Harsanyi (1982), Parfit (2011), Scheffler (1982, 1985), Smith (1759), Wolf (1992).

and members of our family in a distinctive way; a way determined by them having the particular property of being our friend or a member of our family. To make this more precise, we can say that a partial reason is a reason that holds in virtue of some property that only obtains for some tokens of a type of thing.

An impartial reason, on the other hand, is a reason that does not depend on a thing having any particular property or feature. To make this more precise, we can say that an impartial reason is a reason that does not hold in virtue of a property that only obtains for some tokens of a type of thing. The idea of a reason being impartial, then, is essentially negative. The properties of entities which do give us impartial reasons are shared by all those entities. We might be claimed, for example, to have impartial reasons in virtue of each person being a person, or having reason. To be impartial is to treat tokens of the same type as being morally identical – as giving us identical moral reasons for action.

Now it is not controversial to claim that each person has both partial and impartial reasons. It might be thought, however, that our strongest moral reasons, and more particularly our reasons of justice, are impartial reasons. This is not only to claim, it is important to note, that our impartial reasons outweigh or are stronger than our partial reasons, but that there are no other type of stronger moral reasons. Part of what underpins this claim, it seems, is that the concepts of partial and impartial reasons are thought to be exhaustive – that they exhaust the type of moral reasons that we have.

On the analysis of an impartial reason provided, however, the claim that our strongest moral reasons are impartial does not tell us a great deal about our moral reasons. On that analysis, to make this claim is to claim that our strongest moral reasons do not depend on properties that only obtain for some tokens of a type of thing – that tokens of the same type are morally identical. Without knowing what those types are, however, this claim is not substantial. An obvious suggestion is that persons are morally identical – that our strongest moral reasons do not depend on properties that

only hold for particular persons. On the analysis so far given, however, it could instead be claimed that the type of things that are morally identical are more fine-grained – that they include categories of persons such as friends, family members, strangers and so on, and that it is these types that give us identical moral reasons.

This point can be brought out by drawing a comparison with the value of equality. It is sometimes taken to be obvious that we should treat people equally, or as equals. Without a more substantive notion of equality, or of the sort of treatment that is in question, however, this claim is of very little significance. At best it establishes Aristotle's formal principle of equality, 'treat like cases as like' – that we should treat people who are the same in the same way.<sup>65</sup> Without an account of which cases are alike, and how we are to treat them, this principle tells us very little. The notion of impartiality tells us that tokens of the same type are alike, and hence by the principle of formal equality, should be treated alike. It does not tell us, however, what those types are, and hence does not tell us which tokens are alike, and are therefore to be treated in the same way.

There is a more substantive notion of impartiality, however, which does tell us how we are to treat each person, including the way in which we are to distribute the goods of a society. We sometimes say that partial reasons are personal, in the sense that they depend on some particular property of a person or our relation to them. Similarly, we sometimes say that impartial reasons are impersonal, in that they are not given by any particular property of a person, or our relation to them. This is to suggest a notion of impartiality on which the types of things which are morally identical are persons *per se*, rather than categories of persons such as friends and strangers. With respect to reasons of justice, the claim would be that our strongest reasons of justice do not depend on any personal or particular facts about people.

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<sup>65</sup> Aristotle (NE V.3. 1131a10–b15; Pol III.9.1280 a8–15, III. 12. 1282b18–23).

This more substantial notion of an impartial reason can be brought out by considering the idea of an impartial spectator. Our impartial reasons in a particular situation, it is often claimed, are the reasons that we would take ourselves to have were we to take up the standpoint of an impartial spectator. One way of taking up this standpoint is to imagine that everyone involved in a situation is a stranger.<sup>66</sup> By taking this standpoint, it is claimed, we can come to know what our impartial reasons actually are – we can come to know how we should treat the other people involved in that situation.

Now on closer inspection, this process of determining our impartial reasons ought to strike us as being somewhat mysterious. After all, it appears that we can understand the concept of an impartial reason without taking up the standpoint of an impartial spectator. Taking up the standpoint of the impartial spectator seems to merely be a way of re-asking the question of what our impartial reasons are in a particular society. Nonetheless, taking up that standpoint does appear to help us to make progress in determining those reasons. In taking the standpoint of the impartial spectator with respect to our distributive reasons, for example, we appear to at least get closer to the idea that a just distribution of the goods of a society must be roughly equal. What is it that happens, then, when we take up that standpoint?

What is often overlooked about the standpoint of the impartial spectator, I believe, is that it is the standpoint of a spectator. To take the standpoint of a spectator is to take the standpoint of a passive observer as opposed to an involved agent. As a spectator, or passive observer, our awareness of a situation is an awareness of events – of states of affairs and actions that happen, or are happening. The reasons that we arrive at, then, are reasons to realise certain events. This suggests that accounts of distributive justice on which distributive reasons are reasons to realise certain events rely

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<sup>66</sup> See Parfit (2011).

implicitly on the claim that a just distributive process is one in which each person acts in accordance with those reasons which would be accepted by an impartial spectator.

The problem with this view, however, is that it is not obvious why this should be thought to be a just distributive process – why reasons of justice should be thought to be those reasons which would be accepted by an impartial spectator. Proponents of this view exploit an ambiguity between a formal notion of impartiality, on which tokens of the same type are alike, and hence by the principle of formal equality, should be treated in the same way, and a substantive notion of impartiality, on which we should act on the reasons – in accordance with the types – that would be accepted by an impartial spectator. That our distributive reasons are impartial in the formal sense, however, is no reason to think that they are impartial in the substantial sense.

It is not obvious, then, that our moral or political reasons for action are exhausted by the concepts of partial and impartial reasons when understood in the substantial sense. Thus it is much less plausible than it first appears that our strongest moral reasons are impartial reasons, and hence that a just distributive process is one in which each person acts on the reasons that would be accepted by an impartial spectator. In fact, I shall now argue, our distributive reasons cannot be impartial reasons in the substantive sense, since that claim does not satisfy the criterion identified in the first section. The claim that our distributive reasons are those reasons which would be accepted by an impartial spectator, in other words, would not be accepted by each reasonable person.

To give this argument, I must first explain what it would be for our distributive reasons to be impartial reasons. Suppose that to identify our distributive reasons, we take the standpoint of the impartial spectator. We then think of each member of society, including ourselves, as being a stranger, in the sense that no particular property of any person, including that of being a particular person, gives us any distributive reason. As a spectator, furthermore, we will hold that those reasons are

reasons to realise events. Since each person is relevantly identical, each person will then give us a reason of an identical weight to realise some event.

The question, though, is what event it is that each person gives us reason to realise. The only plausible answer is the event of a person pursuing her conception of the good. A person's conception of the good will include non-moral as well as moral reasons; it will include both a rational plan of life, as well as what she takes to be morally good – what she takes her moral reasons to be. Each person wants the goods which are produced and distributed by a society because having those goods makes it possible for her to better act in accordance with those non-moral and moral reasons. If our distributive reasons are impartial reasons, then, at least in any substantial sense, they must be reasons to further each person's pursuit of her conception of the good, where these reasons are of equal weight for each person.

It is not the case, however, that each reasonable person could accept that we have such distributive reasons. This follows from the fact that reasonable people disagree about our fundamental moral reasons for action. If our distributive reasons are reasons to equally further each person's pursuit of her conception of the good, a reasonable person would have as much reason to act on a conception of the good with which she fundamentally disagrees as to pursue her own conception of the good. More specifically, she would have as much reason to act on reasons to which she is fundamentally opposed as on reasons which she takes to be our fundamental moral reasons for action. This is not something that a reasonable person could accept.

It might be objected that the events which give us impartial reasons for action do not include each person's pursuit of what she takes to be our moral reasons, but only our non-moral reasons. It can then be claimed that each reasonable person could accept that she has as much reason to further other people's pursuit of their non-moral goods as her own. The problem with this objection, however, is that each person does pursue what she takes to be moral reasons for action. The problem of distributive justice arises

in part because it is rational for each person to want the goods produced by a society in light of this. To be a particular person is not just to experience a certain level of welfare, or pursue certain non-moral goods, but to pursue what we take to be our moral reasons for action. To have a particular identity, we can say, is in part to have a particular moral identity.

This point is easy to overlook if it is assumed that in general, our moral reasons are those reasons which would be accepted by an impartial spectator, and that each reasonable person could accept this. Were this the case, then each reasonable person could accept that our distributive reasons are those reasons which could be accepted by an impartial spectator. As I showed in the first part of the thesis, however, the claim that our moral reasons for action are those reasons which would be accepted by an impartial spectator would not be accepted by Kantians, and in particular, by those who hold the Moral Status View. As a result, they could not be accepted by each reasonable person.

Clarifying the foundations of a theory of justice, then, leads us to conclude that our fundamental distributive reasons are not impartial reasons, when understood as those reasons which would be accepted by an impartial spectator. Contrary to what is often supposed, then, a just distributive process is not one in which each person is impartial. Taking the standpoint of the impartial spectator overlooks that each person exercises her own capacity to be reasonable. Whilst she is not to undermine the exercise of each other person's capacity to be reasonable, this is not to say that she has the same reasons regarding their exercise of that capacity as she does her own.

#### IV

A just distributive process, I shall now argue, is not impartial, but reciprocal. This follows from the claim, for which I argued above, that our fundamental distributive reasons are reasons to respond to each person's political status as free and equal. I shall also show that this claim fits well with Rawls' own method of justification. I

finish by considering some objections to this view, and showing how they can be met. The next chapter brings out an implication of this view by applying it to Cohen's critique of Rawls' difference principle.

Each member of a society, I noted in the first section, pursues a conception of the good – she acts so as to realise what she takes to be both her non-moral and moral reasons for action. To further that pursuit, she coordinates her actions with the actions of other members of her society in order to produce certain goods which are then allocated amongst those members, including herself. In doing so, she exercises her own capacity to be reasonable, since she acts so as to realise what she takes to be moral reasons. Political Liberals, I showed in the last chapter, hold that each person has a political status such that this exercise of the capacity to be reasonable is of final value.

In coordinating her actions with the other members of society, however, that person also causally interacts with those members, who are exercising their conception of the good in participating economically so as to realise what they take to be their moral reasons. Since those members also have the political status of being free and equal, the exercise of their capacity to be reasonable is also of final and equal value. Thus in causally interacting with those other members, she has reason not to undermine the exercise of their capacity to be reasonable. In coordinating our actions with each other in order to produce goods which are to be allocated amongst us, each of us must not undermine each other's exercise of our capacity to be reasonable, since the exercise of that capacity is of final value, and of equal value to our own.

Since exercising our capacity to be reasonable is of final value, it is of final value that in exercising that capacity, each of us participates in economic coordination. It is of final value, in other words, that each of us participates with other people *in order* to pursue our conception of the good, since this is a way of exercising our capacity to be reasonable. If we are not to undermine the exercise of the capacity to be reasonable of those that we causally interact with, though, then we must ensure that so interacting



is consistent with the exercise of that capacity. We must ensure, in other words, that so interacting does further their pursuit of the good. It is of final value, in other words, that each of us benefits each other member of our society *because* she benefits us.

Now if we were not pursuing our own conception of the good by coordinating our actions with those other people, then there would be no possibility of our undermining the exercise of their capacity to be reasonable – their pursuit of the good. We can only undermine the exercise of that capacity if we are causally interacting with it, and in a certain way. This explains why we do not owe duties of justice to those people who are not members of our society, in the sense that we do not coordinate our activity with them.<sup>67</sup> Of course as I argued in the last chapter, we also have reasons to promote the exercise of each person's capacity to be reasonable. Thus we have duties of charity to such people. These duties, however, are instrumental to the final value of each person actually exercising her capacity to be reasonable.

Thus a just person acts for two reasons: in order to further her own pursuit of her conception of the good, and because another person is involved in furthering her pursuit of that good. In furthering her own pursuit, a person acts in accordance with what she takes to be both her moral reasons. In acting because another person is involved in furthering her pursuit, she responds to that person's political status as free and equal. This allows, then, that each person is free to pursue her own conception of the good, whilst requiring her to respond to each other person's political status as free and equal. Since each reasonable person can accept that our fundamental distributive reasons are reasons to respond to each person's political status as free and equal, each reasonable person can accept that she has such requirements.

This is to accept that distributive reasons are not impartial, but reciprocal. Whilst each person pursues her own good, she should reciprocate when others are involved in

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<sup>67</sup> This is on the simplifying assumption that members of different societies do not interact economically.

that pursuit; she should further the pursuit of the good of those who further her own. To act reciprocally, then, is not to hold that each of us has as much reason to promote the pursuit of the good of each other person as our own, but rather to take the involvement of each other person in furthering our pursuit of the good to be normatively significant. A just distributive process, then, is not impartial, but reciprocal; it is a process in which the members of a society reciprocate in furthering each other's pursuit of the good, and in doing so, produce and allocate goods in a way that responds to each person's political status as free and equal.

So each member's political status as free and equal gives us what can be thought of as reciprocal reasons; reasons to further the pursuit of the good of each other member *because* they further our own pursuit. We can further clarify this account by appealing to Frances Kamm's distinction between acting *in order* to bring about an effect of an action and *because* of an effect of an action (2007, ch 4). Whereas a person who acts impartially acts in order to further another person's pursuit of her good, a person who acts reciprocally acts in order to further her own pursuit of the good but because another person is involved in furthering that pursuit. Both positions, we can note, are distinct from simply acting in order to further your own pursuit of the good – which is how, we might be tempted to think, people in our own societies currently behave.

Kamm illustrates her distinction between acting *in order* to bring about an effect of an action and *because* of an effect of an action with a hypothetical case (p95–6). Suppose I give a party in order for me and my friends to have fun, but foresee that I will not have fun if the party creates a big mess. Suppose I also foresee, however, that my friends will help clear up as the party goes, as they will feel indebted to me for the fun I am providing. I therefore give the party because an effect of my doing so is that my

friends will feel indebted to me and clear up, but do not give the party in order that they do so (2007, p95).<sup>68</sup>

To act reciprocally, I have said, is to act in order to further her own pursuit of the good, but because another person is involved in furthering that pursuit. With respect to distributive justice, the relevant act is participating in economic coordination in a certain way so as to produce goods which it is rational for each person to want. The effect that you act *in order* to bring about is that of furthering your own pursuit of the good, whereas the effect that you act *because of* is that of other members participating in economic coordination in a certain way.

Just as your cleaning up during the party is necessary for me to throw that party, then, your participation in economic coordination is necessary for my own. Focusing on this aspect brings out that each member of society acts in order to better pursue her own conception of the good. Just as I do not throw the party solely in order that I have fun, however, I do not participate in the way I do solely in order to better pursue my good, but also because in participating in that way, I further your pursuit of the good, and in so doing respond to its being of final value. Acting reciprocally is therefore distinct from acting impartially, on which I would economically coordinate my actions in a certain way in order that you could better pursue your conception of the good.

A just distributive process, then, is not impartial, but reciprocal. To be more precise: in acting reciprocally, a person would act impartially in a formal sense, in that she treats each person as having the identical political status of being free and equal. She would not, however, act impartially in a substantive sense – she does not then act in accordance with those reasons which would be accepted by an impartial spectator. Clarifying the nature of Political Liberalism, then, has led us to a clearer view of our distributive reasons. I bring out one implication of this view of our distributive

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<sup>68</sup> Kamm introduces this distinction when discussing the doctrine of triple effect. Whilst the doctrine of triple effect itself is based on our intentions, Kamm's distinction, as illustrated by this example, is not.

reasons in the next chapter, by showing how it allows us to respond to G. A. Cohen's critique of Rawls' difference principle (2008).

Before doing so, however, it is worth setting out a way in which this view of our distributive reasons fits with Rawls' theory of justice. Rawls' original position can be understood as an attempt to model that claim that a just distributive process is reciprocal in the sense outlined. The original position, it is often claimed, forces people to be impartial, in that it denies us any knowledge of our particular properties, such as gender, race, sexuality, natural talents, social class and so on.<sup>69</sup> Whilst the original position is impartial in what I have called a formal sense, however, it is not impartial in a substantial sense – it is not the case that entering the original position is another way of taking up the standpoint of the impartial spectator. Unlike the impartial spectator, those in the original position make a choice based on the interests of a self – on the knowledge that they have such interests.

Being unable to know our particular properties rather forces those in the original position to respond to each person's political status as free and equal, and in particular, to attribute final value to each other person's pursuit of the good. Each person knows that she pursues a conception of the good, and that in doing so, she involves other people who also pursue a conception of the good. Each person wants to guarantee that in being involved in furthering the pursuit of others, her own pursuit of the good is treated as being of final value. Since she does not know which person she is, or any particular facts about any person, she is therefore forced to choose principles that realise an ideal of reciprocity. It is not impartiality that the original position models, in other words, but reciprocity.

In giving an account of our fundamental distributive reasons, I have not been concerned to identify just distributive principles. As I have shown, we should be wary of the lure of distributive principles, and beginning with just actions and outcomes

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<sup>69</sup> See Rawls (1971, ch3, 1991, p22–29, 2001, p14–18)

more generally, since it leads us to make certain assumptions about our distributive reasons. Nonetheless, I will finish by considering some of the more obvious objections on which a just distributive process could not be reciprocal. These are objections to the apparent implications of such a view. My response is of the same form in each case; I simply deny that the position for which I have argued has the alleged implication.

The first objection is that the claim that justice requires us to act reciprocally leads to an undemanding theory of justice, on which a just society would contain significant inequalities. I see no reason why this should be the case, however. The next chapter shows how this account of our distributive reasons supports Rawls' difference principle, on which inequalities are just only if they are to the greatest benefit of the worst off. Acting on these distributive reasons, then, is likely to give rise to a society which is substantially more equal than our own. Each member of a society is substantially involved in the production of goods, and will therefore owe and be owed substantial requirements on a theory of justice on which people are to act reciprocally.

A further objection is that in producing goods, a member of society does not coordinate her action with each other member of society, or at least not in the same way, or to the same extent. If this were the case, then the members of a society would not end up owing one another the same obligations. In coordinating our actions so as to produce the goods which it is rational for us to want, however, each member of society will end up causally interacting with each other member of society, even if they do not do so directly. Furthermore, each member of society can be supposed to directly and significantly causally interact with at least some of the other members of a society. As I have said, then, each member owes and is owed significant obligations to other members of her society.

Thus to simplify matters, we can suppose that each member owes and is owed obligations to each other member of society, or to society itself. Making this supposition will lead us to the same distributive principle. In this sense, we use the

concept of society to simplify and help make sense of the complex web of relations that each person stands in to a large number of other people. We suppose, then, that each member of society causally interacts with each other member of her society in order to produce the goods which it is rational to want, and hence that she must act in accordance with reasons given by each other member's pursuit of her conception of the good.

It might further be objected, however, that some members of society produce fewer goods than others, and that if a just distributive process is reciprocal, these members of society will be owed fewer goods. Without discussing the distributive principles that a reciprocal distributive process would support, however, we can note that there is no reason to think that each person will be allocated as many goods as they produce. A just person responds to another person's involvement in her pursuit of her conception of the good, and not directly to the amount which that involvement furthers her pursuit. Those who produce very little may still be owed substantial requirements of justice on this picture, since they are still involved in our pursuit of the good.

Finally, it might be objected that if a just distributive process is reciprocal, people could choose to only become involved with those who would most further their pursuit of the good, leading to a hierarchy of societies within a society, the members of which received very different amounts of good. That each person has the political status of being free and equal, however, means that it would often be wrong to deliberately coordinate our actions only with those people that would most benefit our own pursuit of our conception of the good. To avoid causal interactions with particular members of society is a way of failing to respond to the normative significance of their pursuit of the good – it is to socially exclude those members. A proponent of this view need not hold that it applies only to existing members of society, furthermore; they might also hold that it would be wrong to refuse to involve those who wanted to be part of our society – to place limits on immigration.

I believe, then, that the most obvious objections to the account of distributive justice for which I have argued can be met. To be justified, I have argued, accounts of distributive justice must identify distributive reasons which could be accepted by each reasonable person. Existing accounts of distributive justice, I then argued, have not clearly met this criterion, in large part because they have not understood the problem which accounts of distributive justice attempt to solve. Having clarified the nature of Political Liberalism, I have argued, we can see that our distributive reasons are reasons to respond to each person's political status as free and equal – to the exercise of the capacity to be reasonable being of final and equal value.

On this account of distributive justice, a just distributive process is reciprocal, in that a just person furthers the pursuit of the good of other people because those other people further her own pursuit. We can contrast this view with that on which a just distributive process is impartial, in that each person acts in accordance with reasons which would be accepted by an impartial spectator. This view of our distributive reasons cannot be correct, I argued, since it could not be accepted by each reasonable person. Another way of putting this point is that the fundamental question of distributive justice is not what would be accepted by an impartial spectator, but what could be accepted by each reasonable person. The correct account of distributive justice, I conclude, is one on which the members of a society reciprocate in furthering each other's pursuit of the good.

## Chapter 8 — Cohen's Critique of the Difference Principle

The difference principle holds that inequalities in income and wealth are just only if they are to the greatest benefit of the worst off.<sup>70</sup> One way that inequalities could be to the greatest benefit of the worst off, Rawls suggested, is if they were the result of special incentives for the more talented – for those with greater than normal natural talents (1971, 2001). G. A. Cohen, in an attempt to rescue equality, argued that special incentives are never to the greatest benefit of the worst off, and hence not just, since the more talented could choose to benefit the worst off more without those special incentives (2008). According to Cohen, then, the difference principle does not justify inequalities based on special incentives.

This chapter argues that Rawlsians can meet Cohen's critique by showing that the difference principle does not apply to inequalities resulting from a person's choices as to which of her talents to use to participate economically. This follows from the account of our distributive reasons established in the previous chapter, on which a just person reciprocates by furthering the pursuit of the good of other people *because* those other people further her own pursuit. Not only does this show that Cohen's argument can be met, but it brings out a specific implication of the account of Political Liberalism for which I have argued in this second part of the thesis. The final chapter of this second part, then, helps to bring out the significance of our conclusions.

Section one sets out Cohen's critique and shows that it is sound only if the difference principle applies to inequalities resulting from how we choose to use our talents. Section two argues that Rawls would deny this claim. The third section shows that Cohen's arguments for that claim are not convincing. Section four notes that with the exception of the basic structure objection, Rawlsian responses to Cohen's critique have not disputed that claim. It also argues that these responses do not succeed. Section five

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<sup>70</sup> Including cases where the greatest benefit to the worst off is zero (but not negative).



argues that Cohen's critique can be met by appealing to the account of our distributive reasons for which I argued in the previous chapter.

## I

The difference principle holds that inequalities in expectations of income and wealth are just only if they are to the greatest benefit of the worst off.<sup>71</sup> One way that inequalities in expectations of income and wealth could be to the greatest benefit of the worst off, Rawls suggested, is if they were the result of special incentives – incentives offered only to the more talented, whose natural talents are such that in their society they can benefit the worst off more than is normal.<sup>72</sup> Although Rawls' argument for the difference principle did not assume that special incentives would ever be to the greatest benefit of the worst off, he did appear to accept that further claim, and hence that on that principle, inequalities in expectations of income and wealth that were not insignificant would be just.

Cohen's critique of Rawls aimed to rescue equality from the difference principle, and more broadly, to show that justice requires that 'people's material prospects are roughly equal' (2008, p2).<sup>73</sup> In particular, Cohen aimed to show that, contrary to Rawls, inequalities based on special incentives could not be just.<sup>74</sup> More specifically, Cohen aimed to show that special incentive inequalities could not be just *according to Rawls'*

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<sup>71</sup> Rawls' theory gives lexical priority to two further principles: the liberty principle and the principle of fair equality of opportunity. I do not discuss these principles here.

<sup>72</sup> Since the difference principle governs inequalities in expectations, it does not apply to inequalities resulting from incentives that are offered to everyone.

<sup>73</sup> Roughly, I believe, because Cohen held that what distributive justice distributes – the currency of justice – is not limited to resources. Some inequalities of resources, on this view, would not be inequalities from the point of view of justice.

<sup>74</sup> Rawls held that inequalities in expectations other than those resulting from special incentives would also benefit the worst off. Cohen focused on those based on special incentives for political reasons and because some of those inequalities are not inequalities on Cohen's preferred metric of advantage.

*own theory*.<sup>75</sup> Far from challenging Rawls' fundamental ideas, then, which have proved to many so persuasive, Cohen aimed to use those ideas to argue against special incentives – to give an internal critique of the difference principle.

Cohen took his critique to show that through a failure to focus on distributive outcomes, Rawls misrepresented the egalitarian character of the difference principle and hence his own theory of justice. Yet Cohen's critique also has implications for the nature of justice. Rawls had reasons, after all, for claiming that special incentive inequalities could be just. Understanding Cohen's critique and how Rawlsians should respond to it helps to understand these reasons and to bring out Rawls' and Cohen's different views of justice. This helps to make plausible the view of distributive justice for which I argued in the last chapter.

Cohen's argument can be illustrated by a hypothetical case. Suppose that your talents are such that you could be a doctor or a gardener, and that being a doctor benefits the worst off more than is normal. Suppose that you would rather be a gardener, but would be a doctor if given £50,000 more than the normal £50,000 salary. If being a doctor rather than a gardener benefits the worst off by more than £50,000, your accepting that special incentive appears to be to the greatest benefit of the worst off. In such cases, held Rawls, it is just for you, a more talented person, to accept a special incentive of £50,000, thus resulting in an inequality of £50,000.<sup>76</sup>

Cohen argued that accepting a special incentive of £50,000 only appears to be to the greatest benefit of the worst off because you *choose* not to be a doctor without that special incentive. Since choosing to be a doctor without that special incentive would benefit the worst off even more, as it would release £50,000 from which the worst off would benefit, accepting that special incentive is in fact not to the greatest benefit of

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<sup>75</sup> Cohen also gave a more general argument against special incentives based not on commitments of Rawls' theory, but on the value of community, which I do not consider here.

<sup>76</sup> Cohen gives a form of this example at p184.

the worst off. According to the difference principle, Cohen concluded, and hence Rawls' theory, special incentive inequalities are not just.

Cohen's argument can be formulated as follows:

(A) Special incentive inequalities are only to the greatest benefit of the worst off if the more talented person could not choose to use her talents to benefit the worst off more without receiving special incentives.

(B) A more talented person could choose to use her talents to benefit the worst off more without receiving special incentives.

Therefore

(C) Special incentive inequalities are not to the greatest benefit of the worst off.

(D) According to the difference principle, inequalities that result from how a person chooses to use her talents are just only if they are to the greatest benefit of the worst off.

Therefore

(E) According to the difference principle, special incentive inequalities are not just.

(F) There are no other decisive reasons of justice such that special incentive inequalities are just.

Therefore

(G) According to Rawls' theory, special incentives inequalities are not just.

Cohen's conclusion (G) directly contradicts Rawls' claim that special incentive inequalities could be just.

The doctor-gardener case shows that (A) is true. Cohen argued for (B) by rejecting the claim that those who could further benefit the worst off – the ‘more talented’ – need special incentives to do so. The amount of extra primary goods needed by a more talented person to make it *possible* for her to benefit the worst off more, Cohen argued, is insignificant – enough, for example, for her to buy high quality pre-prepared food. She must, therefore, be claimed to need significant extra primary goods to *motivate* her to further benefit the worst off. She only needs that motivation, however, Cohen continued, because she is habituated to the promise of such goods or has the normative belief that she is entitled to them. In Rawls’ more egalitarian society people would not be so habituated and would not be caused to have this belief. Thus in a just society, those who do not benefit the worst off more without special incentives choose not to do so (p48–54).

Cohen conceded, in response to an objection from Scheffler, that establishing the truth of this claim would require empirical investigation into the possibility of an egalitarian ethos, on which the more talented benefit the worst off more without special incentives (p51–53). If such an ethos were not possible, then special incentive inequalities would not be the result of our choices as to how we use our talents. Yet it is at least plausible that we could realise such an ethos in a just society, at least to some extent. Cohen’s argument would only be irrelevant if special incentive inequalities were never the result of our choices. Furthermore, it might well be that the only or best way of investigating whether such an ethos is possible is to attempt to bring it about. Thus for the sake of the argument, I shall simply accept that (B) is true.

(C) follows from (A) and (B). If (E) is also true, then if there are no other decisive reasons of justice on which special incentive inequalities are just, as (F) claims, then (G) follows: according to Rawls’ theory, special incentive inequalities are not just. Although Cohen gave no positive argument for (F), he responded to several objections

which claimed to identify such reasons of justice. I argue in the fourth section that Cohen is right to claim that these objections are not successful.

That special incentive inequalities are not just according to the difference principle, however, as (E) claims, only follows from (C) if (D) is true – if the difference principle holds that it is necessary that inequalities that result from how a person chooses to use her talents are to the greatest benefit of the worst off. If the difference principle does not apply to inequalities arising from how people choose to use their talents, then they will not be unjust as a result of not being to the greatest benefit of the worst off.

There is at least one reading of the difference principle, however, on which (D) is false. On what I shall call the conditional reading of the difference principle, inequalities are just only if they are to the greatest benefit of the worst off *given each person's choice as to which of her talents she uses to participate economically*. The difference principle does not then apply to all of our choices as to how to use our talents, but only to our choices as to how to use the talents which we choose to participate economically. On the conditional reading of the difference principle, therefore, (D) is false.

That Cohen's argument is then not sound can be illustrated with the doctor-gardener case. When not offered special incentives, our doctor-gardener will choose to participate economically by using her talents to be a gardener, and not those to be a doctor, since we are supposing that she would get more out of working as a gardener. When offered a special incentive of £50,000 to be a doctor, however, our doctor-gardener may choose to use her doctoring talents, since using her doctoring talents for this extra income and wealth will benefit her more than using her gardening talents. Once she has chosen to use those talents, however, she will do so in a way that is to the greatest benefit of the worst off. Thus she will be a doctor at £100,000, as long as that advances her conception of the good more than being a gardener at £50,000, rather than being a doctor at £120,000.

On the conditional reading, (E) is also false: special incentive inequalities resulting are not unjust, since they *are* to the greatest benefit of the worst off *given each person's choice as to which of her talents she uses to participate economically*. Working as a doctor for an additional £50,000 is to the greatest benefit of the worst off given a choice to be a gardener if offered no special incentives.

Cohen is sometimes taken to further claim that the difference principle requires that the more talented use their talents to the greatest benefit of the worst off. Whilst it is true that Cohen sometimes appears to make that stronger claim, all that follows from Cohen's argument as here presented is that it is not permissible for the more talented to accept special incentives – that we may not choose to be a doctor for £100,000. Since Cohen need not claim that *equalities* are not just unless they are to the greatest benefit of the worst off, he could claim that it is permissible to choose an occupation that is not to the greatest benefit of the worst off – to choose to be a gardener at £50,000. That an egalitarian ethos is possible need not show that such an ethos is required, but only that special incentive inequalities are not just on the difference principle.

It might be objected that for Cohen's argument to be plausible, he must hold that the more talented are required to use their talents to the greatest benefit of the worst off, on the grounds that if a person is permitted to be a gardener at £50,000, it is irrational not to permit her to be a doctor at £100,000 if that is to the greater benefit of the worst off. In particular, it might appear irrational for the worst off not to offer special incentives to the more talented. That argument, however, assumes that it is irrational not to maximise the position of the worst off, and hence that the difference principle is in some sense a maximising principle. Since that claim is not obviously true, and is furthermore not obviously a claim that Rawls himself would endorse, it is better to take Cohen's conclusion to be the more modest claim that on Rawls' theory, special incentive inequalities are not just.

## II

Rawls' claim that special incentive inequalities could be just is an example of a more general and fundamental claim that he made about the topic or scope of social justice:

Many different kinds of things are said to be just and unjust: not only laws, institutions, and social systems, but also particular actions of many kinds, including decisions, judgments, and imputations. We also call the attitudes and dispositions of persons, and persons themselves, just and unjust. Our topic, however, is that of social justice. For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation (1971, p6).

Social justice, for Rawls, concerns the distribution, primarily by the major institutions, of fundamental rights and duties, as well as the benefits produced by social cooperation. Inequalities that are the result of a person's choices as to which of her talents to use to participate economically, however, are not the result of a distribution of rights, duties, or the advantages of social cooperation. This suggests that Rawls held that special incentive inequalities could be just because social justice does not apply to such choices: it rather takes them as fixed, or given.

Rawls would therefore respond to Cohen's argument by denying (D): by claiming that the difference principle does not require the more talented to choose not to accept special incentives. For Rawlsians, then, the significance of Cohen's critique is that it challenges them to identify and defend Rawls' reasons for taking our choices as which of talents we use to participate to lie outside the scope of social justice – for supporting the conditional reading of the difference principle. Meeting this challenge does not require a general account of the limits of the scope of social justice, but only an explanation of why our choices as to how we use our talents are outside of that scope – of why the conditional reading of the difference principle is correct.

Since the statement of the difference principle contains no such condition, it might appear that (D) is obviously true. Similarly, the statement of the difference principle

might appear to suggest that the principle is maximising – that it requires that we act so as to maximise the position of the worst off, at least when we benefit ourselves, and hence requires that we choose to use our talents to their greatest benefit.<sup>77</sup> That Rawls takes the difference principle to be limited in scope, however, shows that *as stated*, Rawls' principles of justice are not to apply to inequalities resulting from which of our talents we choose to participate economically. If Rawls is correct about the scope of justice, then even if the difference principle requires that we maximise the position of the worst off, it does not require that we do so by choosing to use our talents in a particular way. A statement of the difference principle which made this limited scope explicit would be conditional on how we choose to use our talents.

There is a precedent for the claim that there are conditions on the difference principle which Rawls' statement of the principle does not make explicit. Rawls held that whereas inequalities that are not to the greatest benefit of the worst off are unjust, equalities that are not to the greatest benefit of the worst off are not unjust, but rather not best. This suggests that the difference principle does not require that we bring about inequalities that are to greatest benefit of the worst off, but claims that it is permissible to bring about inequalities only if they are to the greatest benefit of the worst off. In particular, it suggests that it is permissible to accept special incentives only if they are to the greatest benefit of the worst off. This limit can be made explicit by saying that the act of offering a special incentive is just only if it would be to the greatest benefit of the worst off *when compared with how well off they would be without that special incentive*.

Since I have not argued that justice is limited in scope in the way that Rawls suggests, this is not a response to Cohen's critique. If Cohen's arguments for (D), considered below, were successful, they would show that the difference principle should be

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<sup>77</sup> As I noted above, we need not take Cohen to be arguing for this stronger claim. Nonetheless, if that stronger claim were true, the weaker claim would follow.



modified to apply to inequalities that result from which of our talents we choose to use to participate economically – that contrary to Rawls, the conditional reading of the difference principle is incorrect. That Rawls claims that the difference principle is limited in scope shows that first, Rawls would respond to Cohen’s critique by denying (D), and second, that the statement of the difference principle does not support (D) – it does not support the unconditional reading of the difference principle.

### III

Cohen gave four arguments for (D), each of which I now consider. Cohen’s first argument is that Rawls’ ideal of dignity shows that justice requires people to choose use their talents in a way that is to the greatest benefit of the worst off. Following Joshua Cohen (1989), an advocate of the difference principle, Cohen suggests that a person’s dignity suffers if she knows that she ‘could do better if those who are better off were prepared to forgo some of their advantages’ (2008, p77). This understanding of dignity, an ideal which Rawls takes to be important, supports, according to Cohen, the claim that the difference principle applies to inequalities resulting from how we choose to use our talents, since a person who is worse off because of the choices of the more talented would know that she could be better off if they chose differently.

Cohen’s second argument is that Rawls’ ideal of fraternity shows that it is not just to accept special incentives. The ideal of fraternity, according to Rawls, is that members ‘do not wish to gain unless they can do so in ways that further the interests of the rest’ (1971, p90). This idea, claims Cohen, supports the claim that justice applies to inequalities resulting from how we choose to use out talents, since a person who accepts special incentives gains in ways that do not further the interests of the rest (2008, pp76 – 80). If an ethos of fraternity existed, people would not accept special incentives.

Rawls can meet these two arguments, however, by claiming that the ideals of dignity and fraternity, like the difference principle, do not apply to people’s choices as to

which of their talents to use to participate economically. In particular, Rawls can claim that dignity and fraternity are political ideals which hold between members of society as citizens, rather than as persons, and are not, therefore, based on people's choices as to which of their talents to use to participate economically. A person's dignity suffers, Rawls can then hold, if she knows that she could do better if those who are better off were prepared to forgo some of their advantages *given each person's choice as to which of her talents she uses to participate economically*. The ideal of fraternity holds, he can similarly maintain, if members do not wish to gain unless they can do so in ways that further the interests of the rest *given each person's choice as to which of her talents she uses to participate economically*. So understood, these ideals do not support the claim that the difference principle applies to our choices as to how we use our talents. I say more about these ideals holding between citizens in the final section.

Cohen's third argument for (D) is that 'the strict interpretation of the difference principle is mandatory if we suppose that the people in the society in which it is applied are themselves attached to the idea of justice that the principle articulates and are motivated by it in their daily lives' (p69). On considering the doctor case set out above, how, Cohen asks 'can I say... that justice forbids inequalities that are detrimental to the badly off and be resolved to act justly in my own life, unless, should I indeed go for this particular job, I offer myself at £50,000 and thereby release £50,000 for beneficial use?' (p70).<sup>78</sup> Accepting the difference principle as a principle of justice, Cohen claims, is to accept 'the idea of justice that the principle articulates', and this idea is that 'justice forbids inequalities that are detrimental to the badly off'. Since this idea of justice applies to our choices as much as to institutions, Cohen concludes, the

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<sup>78</sup> Note that Cohen claims not that we are required to go for this job at £50,000, but that if we do go for this job, it must be for £50,000. This is evidence for the claim that Cohen's argument is not that we are required to choose to use our talents to the greatest benefit of the worst off, but that we are required not to choose to use our talents in exchange for special incentives.

difference principle cannot be conditional on a person's choices as to which of her talents she uses to participate economically.

Cohen's fourth argument for (D) is based on Rawls' theory being that of a well-ordered society – one where citizens act from a sense of justice. Having quoted several lines of Rawls, Cohen says: 'such statements seem to me to imply that the economic motivation of Rawlsian citizens is influenced by the difference principle' (p75). Cohen then emphasises that, according to Rawls, citizens are to act from principles of justice in their daily lives, so that their choices must be subject to such principles. To be motivated by the difference principle in our daily lives, Cohen holds, is to act from a sense of justice on which it is not permissible to accept special incentives.

Two arguments can be discerned here: an argument from justification and an argument from motivation. According to the argument from justification, the difference principle is justified because inequalities that are not to the greatest benefit of the worst off are not just. That justification would apply to inequalities that result from our choices of which of our talents to use to participate, so that if such inequalities are not to the greatest benefit of the worst off, they are not permissible. I believe that this argument is suggested by Cohen's third argument, which appeals not only to people's motivation in acting in accordance with the difference principle, but to how people act in certain cases, and to the fact that just people *accept* the idea that justice forbids inequalities which are not to the greatest benefit of the worst off.<sup>79</sup>

Many people, such as those who hold that what matters to justice is meeting people's needs, as well as many prioritarrians and egalitarians, accept, I believe, that the difference principle is justified because inequalities that are not to the greatest benefit of the worst off are not just. Whilst Rawlsians who holds such views are vulnerable to Cohen's critique, it is notable that Cohen provides no argument for this key premise

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<sup>79</sup> It is worth noting that some of Cohen's other arguments against Rawls, which I do not consider here, consider different justifications of the difference principle.

of the argument from justification. In offering an internal criticism of Rawls, however, Cohen must argue that Rawls' theory commits him to this key premise. Even if Cohen's critique were recast as an external criticism, it would still have to be argued that the difference principle is justified for this reason. As I noted in the second section, the statement of the difference principle does not support that claim. Thus as it stands, Cohen's argument from justification fails to establish (D).

The argument from motivation is suggested by Cohen's fourth argument. That argument has two steps. First, a person should always be motivated by the difference principle, including when choosing which of her talents to use to participate economically – by a sense of justice of that principle. The difference principle therefore applies to our choice of which talents we use to participate. Second, being so motivated leads her not to act so as to realise inequalities that are not to the greatest benefit of the worst off. The difference principle therefore applies to inequalities resulting from such choices – it requires that we do not make choices that result in such inequalities.

In emphasising the first premise of this argument, Cohen anticipates a defense of the conditional reading of the difference principle on which justice requires persons to be motivated by the difference principle in performing some acts, such as paying their taxes, but not in others, and in particular, not when choosing which of talents to use in economic participation. Since, Cohen claims, Rawls holds that persons are *always* required to act from that principle – to be motivated by that principle, or act from a sense of its justice – such a defense cannot succeed.

In anticipating this defense, however, Cohen simply assumes the truth of the second premise – that to be motivated by a sense of the justice of the difference principle leads us not to act so as to realise inequalities that are not to the greatest benefit of the worst off. Whilst Rawls holds that our sense of justice leads us to support just institutions, however, it does not follow that it leads us not to perform acts that are not to the

greatest benefit of the worst off. That further claim is only plausible if our sense of justice is a sense that it is just to not act in a way that is not to the greatest benefit of the worst off.

The argument from motivation is therefore problematic for two reasons. First, it depends upon the key premise of the argument from justification, since it assumes that what is just is not to act in a way that is not to the greatest benefit of the worst off.<sup>80</sup> Thus if the argument from justification is sound, the argument from motivation is not necessary, and if the argument from justification is not sound, nor is the argument from motivation. Second, our sense of justice, insofar as Rawls holds that we are always to be motivated by it, need not be a sense of what is just.<sup>81</sup> Rawls' reason for holding that we are always to be motivated by a sense of justice is that the political conception of justice that those principles are to realise is then feasible or stable. This reason is satisfied, however, if we are motivated to act in accordance with just principles – by a sense that *acting justly matters*.

Cohen's arguments for (D), then, on which the difference principle is not conditional on which of our talents we choose to use to participate, do not succeed. Cohen's best argument for (D), to which I return in the final section, is the argument for justification. Whilst I have not shown that Cohen's critique could not be continued – that a different argument, or a modified version of one of the four arguments considered, could not be sound – this is in itself a significant conclusion, and supports the suggestion made in the last section that Rawlsians should respond to Cohen's critique by arguing that (D) is false.

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<sup>80</sup> The argument must assume, I believe, that our sense of justice of the difference principle is correct – that it really is just not to act in a way that is not to the greatest benefit of the worst off. To hold that this is not the case would be to undermine the importance, asserted by the first premise of the argument from motivation, of acting on this sense of justice.

<sup>81</sup> Whilst a sense of justice plays other roles in Rawls' theory, this is the role to which Cohen's argument appeals.

#### IV

I shall now assess some prominent Rawlsian responses to Cohen's critique. Doing so motivates and locates the response that I outline below. Rather than consider Cohen's arguments for (D), given above, these responses claim that Cohen overlooked features of Rawls' theory that rule out it being impermissible to use our talents to the greatest benefit of the worst off. Such features, these responses claim, show that (G) is false either because (D) or (F) is false. I argue in this section that these responses are problematic.

Most responses to Cohen accept that inequalities that result from how the more talented choose to use their talents are just only if they are to the greatest benefit of the worst off, as (D) claims, but argue that (F) is false: that there are other decisive reasons of justice on which special incentive inequalities are just. I argued in the second section that Rawls' reasons for holding that special incentive inequalities can be just would lead him to deny (D). Thus these responses do not make the best sense of Rawls' theory. Nonetheless, it is worth considering whether such responses could succeed in refuting (F) and therefore (G).

One prominent response to Cohen appeals to people's prerogatives to accept special incentives. David Estlund argues that 'there is a wide variety of *non-tainting but potentially inegalitarian motives* available to citizens in a society well-ordered by Rawls' principles of justice', including motives to further the interests of family and friends as well as motives to perform moral acts (1998, p101, his emphasis). Acting on these motives, Estlund claims, is consistent with the ideal of fraternity. Furthermore, Estlund claims, Cohen accepts that each person has a prerogative to act to her own benefit, and hence that it is sometimes just for a person to act on an ethos that is not strictly egalitarian. Cohen must therefore also allow that each person has prerogatives to accept special incentives that are based on these non-tainting motives, and hence

that it is permissible for her to act on a non-egalitarian ethos that produces a significant amount of inequality.

That we have such prerogatives, however, does not explain why Rawls held that it can be just to accept special incentives. Estlund appears to read Cohen as arguing that special incentive inequalities are not just because our motive in accepting those incentives is morally problematic. As I have presented it, however, Cohen's argument is rather that accepting special incentives is not just because it is not to the greatest benefit of the worst off.<sup>82</sup> Whilst Cohen does claim that choosing to accept special incentives is selfish, his argument against incentive inequalities need not be based on that claim.<sup>83</sup>

If Estlund's argument is rather that a non-egalitarian ethos is permissible because acting on that ethos is consistent with Rawls' ideal of fraternity, he must claim that our reasons of justice are not, fundamentally, reasons to act in accordance with the difference principle, but reasons to act on an ideal of fraternity, for which the difference principles states a necessary condition. Yet even though Rawls took the difference principle to capture an ideal of fraternity, it is not clear that he held it to be just *because* it realised that ideal. It seems more plausible that Rawls held that acting in accordance with the difference principle, and hence realising an ideal of fraternity, is the way in which we act on reasons of justice. Furthermore, as I suggested in the last section, Rawls may only have been appealing to the ideal of fraternity insofar as it holds between citizens.

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<sup>82</sup> Cohen's argument from motivation, which I considered in the last section, does not appeal to it being selfish or otherwise morally problematic to be motivated by special incentives, but on what it is to be motivated by the difference principle.

<sup>83</sup> Alan Thomas appears to so understand Cohen's critique when he argues that our choices as to how we use our talents *are* motivated by justice, since they 'presuppose' justice, by which he means that we 'elect to live in a Rawlsian society which implements justice as fairness by institutional design' (2011).

In addition, an appeal to prerogatives commits one to the claim that people also have prerogatives not to support the basic structure. Yet in deriving his theory, Rawls assumes that each person fully supports the basic structure – he assumes the full compliance of citizens with the requirements of justice. Estlund appears to respond to this criticism when he states that the major institutions of the basic structure are to be designed with such prerogatives in mind (p112). Since the basic structure only exists to the extent that people support those major institutions, however, it cannot be designed to avoid the effects of this support being curtailed. Prerogatives, then, are not reasons of justice, or at least not fundamental reasons of justice, and hence are not the reason that Rawls accepted that it is sometimes just to accept special incentives.<sup>84</sup>

Other responses to Cohen have suggested that there are other decisive reasons of justice on which special incentives inequalities are just – on which (F) is false. Again, these responses appear to me not to make best sense of Rawls' reasons for denying (G). Setting this point aside, considering the doctor-gardener case shows that such responses are problematic. In that case, recall, a person can choose to be a gardener at £50,000, a doctor at £50,000, or a doctor at £100,000, where being a doctor at £100,000 benefits the worst off more than being a gardener at £50,000, but being a doctor at £50,000 is to the greatest benefit of the worst off. Her own conception of the good, we can suppose, would be advanced most by being a doctor at £100,000, then a gardener at £50,000, and finally a doctor at £50,000. Since the inequalities that we are debating are to be justified by special incentives, and not by special burdens, to make things simpler we can assume that she would have an equal or smaller burden than others on all three choices.<sup>85</sup>

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<sup>84</sup> Rawls took prerogatives to not be fundamental to justice, I believe, because they are not a claim to the benefits and burdens of social cooperation, but a claim to not meet such claims.

<sup>85</sup> The claim cannot, therefore, be that being required to be a doctor at £50,000 rather than £100,000 would be too demanding.



Given that our doctor-gardener would work as a doctor for £100,000 if she acted according to her own conception of the good, what reasons of justice could undermine the claim, which we are supposing to be true according to the difference principle, that if she chooses to be a doctor, rather than a gardener, it must be for £50,000 rather than £100,000? Our doctor-gardener being a doctor at £50,000 rather than £100,000 differs only in that first, she receives less money, and second, that she is then motivated by justice rather than by her conception of the good. That she receives less money, however, can hardly be the basis of a claim of justice, since we are assuming that to be a doctor is to take on an equal or smaller burden than that of others, and that to receive £50,000 is to receive an equal or larger benefit than others. Since supporting just institutions will also lead many people to receive less money, the objection furthermore misfires, since even if it were plausible, it would not only apply to how we choose to use our talents.

The objection to Cohen, then, must instead be that in being a doctor for £50,000 rather than £100,000, a person would be motivated by justice rather than by her conception of the good. Yet what is problematic about being motivated by justice to do a job for less money? It is not as if being motivated by justice not to accept special incentives means you can never act on a motive to pursue your own conception of the good. Furthermore, when supporting just institutions, as Rawls requires, we will often act on a motive of justice rather than that of our conception of the good. It is hard to see, then, why our motives for acting should be so significant in the case of accepting special incentives. So considering the doctor-gardener case shows that it is doubtful that (F) is false – that there are reasons of justice such that it must be permissible for a person to be a doctor at £100,000 rather than £50,000.

The only response to Cohen which denies (D) is the basic structure objection. I noted above that we can understand Rawls' denial of (D) as the claim that principles of justice do not apply to inequalities resulting from our choices as to how to use our talents. The basic structure objection offers as a reason for that claim the more general

claim that principles of justice apply only to the basic structure of society – to its major institutions.<sup>86</sup> Our choices as to how we use our talents are outside the scope of the difference principle, on this objection, because they are not part of the basic structure, to which the scope of the difference principle is limited. Social justice, in other words, requires only actions that support the basic structure, which do not include how we choose to use our talents.<sup>87</sup> Rather than consider Cohen's arguments for (D), this objection claims that (D) cannot be true.

The form of Cohen's response to the basic structure objection is that its proponent must give a reason that the scope of social justice is limited to the basic structure.<sup>88</sup> Since requirements of justice are not owed to the basic structure, I would add, but by one person to another, there is no obvious reason to think that they are only to be met via institutions. The basic structure, ultimately, is not the object of requirements of justice, but a tool for meeting those requirements. Whilst the basic structure may be the primary, because the most effective way of meeting the requirements of social

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<sup>86</sup> This response is so prominent that Cohen's response to it has sometimes taken to be his initial critique of Rawls. Although debate about the basic structure and the scope of social justice is significant in its own right, it is worth stressing that in this context, it is in the first instance an objection to Cohen's critique of the difference principle.

<sup>87</sup> This claim has also been argued for on the basis that Rawls' view of justice is purely procedural. Pure procedural justice, it has been claimed, excludes the justice of agents, and hence of individual actions (see Wiggins, 2006). This is to conflate, however, a distinction between procedures and outcomes with a distinction between institutional and individual action. Prima facie, individual action can be part of the procedure by which just outcomes are determined. To deny this is a form of the basic structure objection.

<sup>88</sup> What justifies the claim that justice applies only to the basic structure, argued Cohen, is that 'the basic structure is the primary subject of justice because its effects are so profound and present from the start.' (1971, p.6.) Cohen notes that an ethos of choosing to benefit the worst off without special incentives, despite not being coercive, would have profound effects, present from the start, on the distribution of primary goods. Cohen thus concluded that either that ethos is part of the basic structure, or Rawls cannot justify the claim that justice only applies to the basic structure. This argument relies on a claim to which Rawls is not clearly committed: that the requirements of justice are to realise certain effects. Nonetheless, as I argue, Cohen is correct that one cannot simply stipulate that those requirements can only be met by the basic structure.

justice, it need not be the only way.<sup>89</sup> An ethos, if possible, could also meet those requirements, and may furthermore be necessary to do so.

The form of Cohen's response to the basic structure objection is therefore correct: it is not satisfactory to simply stipulate that the scope of social justice is limited to the basic structure. This does not show that a reason cannot be given for that claim, but only that proponents of the basic structure objection must do more to clarify the relationship between the basic structure and the scope of social justice.<sup>90</sup> We need to identify Rawls' reason for claiming that (D) is false, and not just to assert that it is false on his theory.

Responses to Cohen have tended to grant that (D) is true – that the difference principle is not conditional on how we choose to use our talents. These responses, I have argued, do not succeed. I argued in the last two sections that Rawls would deny (D), and that Cohen's arguments for (D) are not convincing. The basic structure objection fails to identify Rawls' reasons for claiming that (D) is false. Thus whether or not (D) is true remains unclear. The conclusions of the last three sections suggest that Rawlsians should respond to Cohen's critique by giving reasons that (D) is false.

## V

Since Cohen fails to establish that on Rawls' theory, (D) is true, he fails to show that his critique is sound as an internal criticism. To show that Cohen's critique is not sound as an internal criticism, however, requires showing that on Rawls' theory, a

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<sup>89</sup> Scheffler emphasises that according to Rawls, it is not feasible for us to meet the requirements of justice by individual action alone – without the basic structure. Realising background justice requires just institutions (2006). That does not show however, as Scheffler is surely aware, that an ethos is not also needed to meet these requirements. In fact Scheffler doubts that such an ethos is necessary, but for a different reason – he thinks the results of that ethos could be realised by the basic structure alone. Since, as Scheffler is surely aware, that reason does not undermine an argument against special incentives, I shall not consider it here.

<sup>90</sup> Whilst I am sceptical that such an approach can succeed, it has been attempted – see, for example, Julius (2003).

premise of Cohen's argument is false. I argued in the second section that Rawls would claim that (D) is false. As I showed in the last section, however, Rawlsians have failed to identify Rawls' reasons for claiming that (D) is false. In this section I argue that (D) is false on the account of our distributive reasons for which I argued in the last chapter, which is plausibly that of Rawls. This shows that Cohen's critique fails as both an internal and an external critique of the difference principle.

I noted at the outset that Cohen took the upshot of his critique to be that Rawls misrepresented the egalitarian nature of the difference principle and hence his theory of justice by failing to focus on distributive outcomes. Underlying Cohen's critique, I suggest, is a view on which reasons of justice are given by states of affairs in which people's good is realised – by states of affairs which are good in a reason-giving sense. On this view, to act in accordance with the difference principle is to act on reasons of justice given by states of affairs, and given its statement, by certain distributive outcomes. In particular, given the statement of the difference principle, reasons of justice must then be reasons not to realise inequalities that are not to the greatest benefit of the worst off. Such inequalities, on this view of justice, are not just.

Attributing this view of justice to Cohen explains why he took (D) to be true. In particular, that view of justice establishes the premise assumed in Cohen's argument from justification – that the difference principle is justified because inequalities that are not to the greatest benefit of the worst off are not just. If reasons of justice are reasons to realise states of affairs in which people's good is realised, then (D) is true since our choices as to which talents we use to participate economically will be one way in which we bring such states of affairs about. There is textual evidence, furthermore, to support the claim that Cohen took reasons of justice to be reasons given by states of affairs, such as Cohen's claim that we should be concerned by the worst off being badly off (2008, p75). As discussed in the previous chapter, that assumption may be the result of assuming that distributive reasons are impartial in a substantial sense.

If Cohen's critique does rely on this view of justice, then in claiming that Rawls neglects the significance of distributive outcomes, Cohen assumes what he sets out to prove. Furthermore, since Rawls claims that distributive outcomes are not of fundamental significance, Cohen's critique would then not be an internal criticism. Yet it is impossible to prove that followers of Cohen could not offer other arguments for (D), even if the burden is on them to find them. To prove that Cohen's critique is not sound as an internal criticism, then, we need to show that (D) is false on a view of justice which it is plausible to attribute to Rawls. To show it is false as an external criticism we must show that this view of justice is correct.

I argued in the last chapter that our distributive reasons are rather reasons to respond to each person's political status as free and equal. Our distributive reasons, I showed, are then not impartial, but reciprocal: you are to benefit each other person not in order that she is benefited, but *because* she benefits you. This allows, however, that you also benefit other people in order that you are benefited. In a just society, I showed, you would benefit each other person for two reasons: in order that you are benefited, and because she benefits you. In a just society, then, you are free to pursue your own conception of the good, and in particular, to benefit each other person in order that you are benefited, as long as in doing so you respond to each other person's political status as free and equal.

Now one way in which you pursue your own conception of the good is by using your talents to further that conception of the good. One way of doing so is to use those talents to participate economically, since participating economically produces income and wealth which will further your pursuit. In a just society, then, you are free to use your talents to participate economically, thus benefiting yourself, as long as in doing so you respond to each other person's political status as free and equal. Prior to participating economically, however, you have no requirements to use your talents to benefit other people, since you do not causally interact with those people in the

relevant way. It is only once you have participated economically, and because you have done so, that you have a requirement to benefit those with whom you participate.

What this means, then, is that there is no requirement that you choose to use any particular talent in deciding to participate economically. The choice of which talent to use to participate economically, in other words, is made at a point when you have no requirements, at least of distributive justice, to the other members of your society. This is not to say, of course, that there is in reality some point outside economic participation from which you choose to participate. The point to which I refer is entirely hypothetical. What that hypothetical point illustrates is that in choosing which talents to use to participate, you have no requirement to benefit others, since that requirement only arises at the point at which you are causally interacting with those people – as the point at which you use your talents to participate. Hence there are no requirements of distributive justice as to which of our talents we are to use to participate economically.

A different way of putting this point is that since a person is free, in that the exercise of her pursuit of her conception of the good is of final value, it is for her to decide how to pursue that conception of the good, and hence to decide which of her talents she is to use to realise her conception of the good through economic participation. Since using her talents to participate economically is a way of pursuing her conception of the good, her choice as to which talents she so uses is of final value. So choosing meets the condition of responding to each other person's political status as free and equal, since it does not undermine any other person's pursuit of their conception of the good. Thus on Rawls' view of justice, justice does not require that a person participates economically by using any particular talents. We can capture these claims by saying that each person has the right to determine which of her talents she uses in participating economically.

Now since she is pursuing her conception of the good, each person will participate economically by using those of her talents which she reasons will best advance her conception of the good. Using certain talents rather than others may advance her conception of the good directly – she may, as in our example, get more out of being a gardener than being a doctor. There are, furthermore, costs to a person using her talents in participating economically, in that doing so reduces other resources that she might have, such as her time. Even if a person is wrong about whether or not she should use a talent to participate economically, however, her choice as to which talents she so uses is of final value, as long as it is reasonable.

So when offered special incentives, from the perspective of justice, our choices as to which talents we use to participate are taken to be fixed, or given, and those choices may well be to use talents that are not to the greatest benefit of the worst off. This view of justice, then, supports the conditional reading of the difference principle, on which inequalities are to be to the greatest benefit of the worst off *given each person's choice as to which of her talents she uses to participate economically*. As demonstrated at the end of the first section, on this reading of the difference principle, (D) is false, and it is permissible for our doctor-gardener to be a doctor at £100,000. Furthermore, we should expect some people to choose to use their talents in a way that is not to the greatest benefit of the worst off, and thus to realise an unequal society.

Since it is plausible that this is Rawls' view of justice, then as an internal criticism, Cohen's critique is not sound. I have also argued, however, that this is the correct view of our distributive reasons. Since distributive reasons are political reasons, I argued, and given that in light of the fact of reasonable disagreement, our political reasons are those reasons which could be accepted by each reasonable person, our distributive reasons must be not impartial, but reciprocal. If this argument is sound, then it also establishes that Cohen's critique is not sound as an external criticism. Considering the nature of Political Liberalism, then, has led us to a substantive and particular conclusion.

This response to Cohen adds flesh to the distinction I drew in the last chapter between acting as a person and acting as a citizen. As a person, each of us pursues our conception of the good, which we do in part by the use of our natural talents. As a citizen, each of us is to meet the requirements of justice, which are based on a normative conception of the person – on the pursuit of each person being of final and equal value. To choose which of our talents to use to participate economically, I have suggested, is to pursue our conception of the good, and is thus to act as a person, and not as a citizen. As a person, we might say, we are free to pursue our own conception of the good – to act as we choose – as long as we meet our requirements as a citizen.

So understanding the response I have suggested helps to understand several aspects of Cohen's critique. First, that the difference principle requires that we act as citizens, rather than as persons, explains the suggestion I made in the third section that Rawls can meet Cohen's arguments from dignity and fraternity by claiming that these ideals hold not between persons, but between citizens. Secondly, so understanding the response allows for a direct comparison with the basic structure objection. The basic structure objection claims that the difference principle only applies to a certain type of action – to those actions that support the basic structure. The response I have offered rather claims that the difference principle only applies to us as citizens, and not as persons, and thus with the exception of meeting an initial requirement to benefit others by a minimum amount, does not apply to our choices as to which talents we use to participate economically.

Thirdly, the distinction between persons and citizens is helpful in considering luck egalitarianism. Rawls held that claims of justice should not be made on the basis of facts about persons that are morally arbitrary, and in particular, not on the basis of persons' particular talents. Luck egalitarians such as Cohen drew from this point the conclusion that claims of justice are to be based on that which is not arbitrary; a person's choices. On the response I am suggesting, however, we can instead see Rawls' position as a response to an objection to ruling out facts about a person's



natural talents when determining the claims of justice. The relevant distinction for Rawls, we might say, is not between luck and choice, but between persons and citizens.

It might be objected that Cohen's claim that the personal is political rules out the response that I have suggested. This objection might be thought to undermine the distinction I have suggested between acting as a person and as a citizen, in claiming that to act as a person is to act politically. One way of understanding the slogan that the personal is political is as emphasising that the choices that each person makes both influence and are influenced by the choices of other people. This fits with Cohen's claim that we can see each person's choices as part of an ethos, as well as his claim that not only the basic structure but also our choices can determine distributive outcomes. Thus the objection might appear to show that a person's choices as to which talent to use to participate economically are always a means of meeting the requirements of justice in that they are part of an ethos on which each person acts.

That our choices influence the choices of other people does not by itself show, however, that those choices are political. That my choice to listen to jazz causes other people to choose to listen to jazz does not show that my choice is political. Some further criterion is therefore needed as to which of our choices fall within the scope of justice. Cohen assumes, I have suggested, that our choices as to how to use our talents are political because they affect the realisation of other people's good. If reasons of justice are rather given by people's political status, however, as I have suggested, then political choices are rather those that determine whether we respond to the final and equal value of each person's pursuit of her conception of the good. On this view of justice, that a choice affects the realisation of another person's good does not show that it is political. Thus the claim that the personal is political by itself does not undermine the response that I have outlined.

In fact there is a different sense in which the personal *is* political on the view of justice which I have attributed to Rawls. Carol Hanisch's 1970 essay 'The Personal is Political' defended women's consciousness-raising groups as a useful part of the political women's movement. Consciousness-raising, according to Hanisch, was a form of political action through which women could come to realise the reality of their situation. Now to respond to the final and equal value of each person's pursuit of the good, as I have suggested justice requires, may require raising consciousness about and hence gaining a better understanding of particular people's ability to pursue their conception of the good. Thus on Rawls' view of justice, the personal is political in that to know what justice requires we must understand the personal experiences of victims of injustice.

Cohen came to understand his critique of Rawls as developing a conviction held by Marx:

The big background issue in my disagreement with Rawls and the Rawlsians is the nonliberal socialist/anarchist conviction that Karl Marx expressed so powerfully in his essay "On the Jewish Question," when he said that "human emancipation" would be "complete" only when the actual individual man... has recognized and organized his own powers as *social* powers so that social force is no longer separated from him as a *political* power"; thus, only when he "has taken back into himself the abstract citizen" so that freedom and equality are expressed "in his everyday life, his individual work, and his individual relationships." (2008, p1).

Following Marx, then, Cohen might argue that the distinction that I have suggested between person and citizen reflects and reinforces a conception on which persons are fundamentally separate; on which other persons are to each of us but a threat and a means to our own advantage.

I am sceptical about such a response for two reasons. First, Marx's desire for us to take back into ourselves the abstract citizen was based on his view of persons as non-

alienated. A non-alienated person, held Marx, rather than acting justly, pursues the good of others just as she pursues her own good – not as a requirement of justice, but simply in virtue of being a person (1844). In making claims about what justice requires, Cohen’s critique appears to resolve the distinction between person and citizen in the wrong direction: rather than taking back into herself the abstract citizen, so that she pursues the good of others solely in virtue of being a person, justice requires each person not to choose to use her talents in pursuit of her own conception of the good, and in this sense, to become an abstract citizen entirely.

Secondly, Rawls’ remarks concerning the fact of reasonable pluralism do at least suggest a response to Marx’s critique. We cannot pursue the good of others just as we pursue our own good, claimed Rawls, because the operation of reason in a modern democratic culture will lead to conceptions of the good that are fundamentally different. Nonetheless, we need not view each other as a threat and a means to our own advantage, since can still see ourselves as cooperating as citizens. Furthermore, that our conceptions of the good are fundamentally different does not show that they are egoistic – that they do not often or even typically include the good of others.

I have argued that whilst Rawlsians have failed to show that Cohen’s critique is not sound, Cohen’s own arguments, specifically for the claim that the difference principle applies to inequalities resulting from our choices as to which talents we are to use to participate economically, do not succeed. Cohen’s best argument for that claim assumes that the difference principle is justified because inequalities that are not to the greatest benefit of the worst off are not just. That claim in turn assumes, I have suggested, a view of justice on which reasons of justice are reasons to realise states of affairs that promotes each person’s pursuit of the good. Whilst many people may accept this view of justice, it is not obviously that of Rawls.

The previous three chapters argued for an alternative view of justice, on which our distributive reasons are reciprocal – reasons to further each other person’s pursuit of

the good because she furthers our own. On this view, I have shown in this chapter, the difference principle is conditional on which of our talents we choose to use to participate economically. That this is plausibly Rawls' view of justice shows that Cohen's critique is not sound as an internal criticism. That this is furthermore the most plausible view of our distributive reasons shows that Cohen's argument also fails to be sound as an external critique. If I am right that this is the best Rawlsian response to Cohen, then as internal critique, Cohen's argument amounts to a challenge to Rawlsians to defend such a view of our fundamental reasons of justice. By considering the nature of Political Liberalism, I hope to have met this challenge.

## Part 3 — An Application

## Chapter 9 — The Sex Trade

There is something disturbing about the sale of certain goods and services, such as sex and organs. Yet what, if anything, is wrong with such trades? The sale of sexual services, in particular, is often thought to possess features which at the very least, are morally problematic, including rape, physical and psychological harm, objectification, exploitation and gender discrimination.<sup>91</sup> Whether or not this shows that sexual services should not be traded, however, is a matter of substantial debate. Whilst some hold that the sex trade can be reformed so that it does not possess the features which would make it wrong, others hold that such wrongs will be avoided only if that trade ceases entirely. Who is right, and how are we to decide?

This final chapter answers that question, and in doing so, brings together the Moral Status View and the account of Political Liberalism developed and defended in the first two parts of this thesis. By showing how these views apply to a particular case about which there is substantial debate, I further clarify how each view should be understood, as well as the relation between those views, and give further reason to think that both views are plausible. Since the question of what, if anything, is wrong with the sex trade is of independent interest, we can also see this final chapter as establishing the significance of the views thus far defended.

Empirical studies suggest that the experiences of those who sell sex vary not only according to a country's laws and policies, but also to the way in which those laws

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<sup>91</sup> In one study, 50% of sex workers interviewed that were working outdoors in the UK had experienced violence in the past 6 months, with 22% experiencing vaginal rape and 5% anal rape (Church et al., 2001). Another 'found high rates of mental disorders among female sex workers' (Rossler et al., 2010, p. 1). Another found that 79 per cent of those interviewed had physical and mental health problems (Bindel et al., 2012). A recent article on the regulation of sex work in Europe notes 'a regulatory context where prostitution has unanimously been identified as a form of sexual exploitation' (Hubbard et al., 2008, p. 145). I discuss accounts of objectification and gender discrimination below.

and policies are enacted, the spaces in which sex is sold, and the situation of those selling it, including their route into doing so and their gender.<sup>92</sup> Furthermore, since those who sell sex often face multiple disadvantages, the exact causal role of their selling sex with respect to these experiences often remains unclear.<sup>93</sup> So there is reason to be wary in approaching the sex trade as a distinctive and unified phenomenon. This raises a question as to whether the analysis which I provide below really is of independent interest, rather than merely illustrating the views set out in the first two parts of the thesis.

Of course illustrating those views and the way in which they fit together would still be a worthwhile achievement. But it is worth emphasising that the fact that something distinctive - sex - is being treated in a distinctive way - as something that is bought and sold - means that it is at least worth asking how we should act with respect to its sale. Furthermore, whilst pursuing this question, we must adopt some approach to the regulation of the sex trade and as to whether we ourselves become involved in it. To arrive at such an approach, we may have to make some assumptions, even if evidence later turns out to suggest that these assumptions are wrong. What may well be true is that having determined such an approach, we will need to further refine this

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<sup>92</sup> Whilst selling sex is effectively illegal in the UK, in the Netherlands it is legal under certain conditions, whereas in Sweden it is illegal to procure sex, but not to sell it. Hubbard, Matthews and Scoular (2008) suggests that these different approaches nonetheless have similar effects in forcing the sale of sex beyond 'the gaze of 'respectable' society (and the protection of the state and the law)', partly as a result of how these laws are implemented (2008, p. 149). Various studies show significant differences in the features of sex sold indoors and outdoors, or off- or on-street, with one study showing that those who sell sex outdoors 'were younger, involved in prostitution at an earlier age, reported more illegal drug use, and experienced significantly more violence from their clients than those working indoors' (Church et al., 2001, p. 524). There also appear to be significant differences in features of sex sold by citizens, migrants and those who are trafficked. One study suggests migrants from Eastern Europe and the former Soviet Union are 'younger, saw more clients, and were less likely to use contraception', but are significantly more likely to enter into sex work in order to fund studies or to save money (Platt et al, 2011, p. 377). Sex workers who have been trafficked, on the other hand, appear much more likely to have experienced sexual or physical violence (Zimmermann et al., 2006).

<sup>93</sup> See Balfour and Allen (2014) for a review of the relationship between sex work and social exclusion.

question, and to consider or conduct further empirical research before reaching any firm conclusions.

According to the Moral Status View, I show, what I shall call classic cases of the sale of sex are essentially and therefore necessarily wrong, since they fail to respond to the moral status of the seller of sex. More specifically, they fail to respond to the final value of her using her reason to cause events. According to the account of Political Liberalism which I have developed, on the other hand, whether or not the sex trade is wrong depends on whether or not it responds to each person's political status as free and equal. Whether this is the case will depend, I argue, on empirical facts about institutions as well as human behaviour. So although I hold that classic cases of the sex trade are necessarily wrong, I allow that the evidence may be such that we should nonetheless take a liberal approach to regulating that trade.

The structure of this chapter is as follows. The first section clarifies the question as to what, if anything, is wrong with the sex trade, and also clarifies how that question might be answered. In asking what is wrong with the sex trade, I argue, our concern is to assess the morality of the sex trade as a practice, and hence to assess normal cases of that practice. Whether or not the sex trade is necessarily wrong, then, will depend not only on whether the morally problematic features of normal cases of that trade are wrong, but whether those features are essential, necessary, or contingent.

The second section considers three accounts according to which the sex trade is necessarily wrong, so that sexual services should not be for sale. I argue that each of these accounts is problematic. Considering these accounts helps to bring out the distinctions given in the first section, and to explain the context of my view. Sections three and four argue that according to the Moral Status View defended in the first part of this thesis, normal cases of the sale of sexual services are essentially wrong. Thus the sex trade would not exist in a fully moral society. Section three sets out a feature



which is intrinsic to normal cases of the sale of sex. Section four shows that according to the Moral Status View, that feature makes the sale of sexual services wrong.

The fifth section shows that according to the account of Political Liberalism developed in the second part of this thesis, whether or not normal cases of the sex trade are wrong depends on empirical evidence about institutions and human behaviour. This allows, then, for the possibility of a liberal approach to regulating the sex trade. The sixth section shows that even if this turns out to be the case, it is not inconsistent to still maintain that the sale of sexual services is necessarily wrong, as the Moral Status View implies, and hence to attempt to influence others not to participate in this trade. Considering our moral and political reasons with respect to the sex trade, then, helps to show that the Moral Status View and Political Liberalism are consistent positions.

## I

Debate about the morality of the sex trade has revolved around a number of related questions. Some have focused on whether the sex trade should be legal or illegal, or whether it should be decriminalised.<sup>94</sup> Others have asked whether those who buy and those who sell sex are responsible or blameworthy for doing so.<sup>95</sup> Still others have focused on the wider sexual practices of a society, of which the sex trade is a part, and on the relation between the sex trade and issues of gender.<sup>96</sup> Yet others have begun by asking about the morality of market trades *per se*.<sup>97</sup> We can enter this debate, then, from a number of perspectives, and with a range of different interests.

In asking what, if anything, is wrong with the sex trade, our focus is rather on whether or not we should buy or sell sexual services. This is to ask whether the sex trade would exist in a moral or a just society. Disagreement about the answer to this question is

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<sup>94</sup> The Mirror (2015), The Independent (2013), Slate Magazine (2014)

<sup>95</sup> Haaretz (2015), The Telegraph (2015), The Guardian (2014).

<sup>96</sup> Kempadoo (2001), LeMoncheck (1997), Nagle (1997).

<sup>97</sup> Sandel (2012), Satz(2010).

most prominent in debates between liberal and radical feminists, and between those who sell or have sold sexual services, or work with those who do.<sup>98</sup> Within this particular debate, we can characterise liberal feminists as holding that it is possible to have a moral or just society in which sexual services are for sale. We can characterise radical feminists, on the other hand, as holding that in a moral or just society, sexual services would not be for sale.<sup>99</sup>

Our question is clearly related to the questions mentioned above. Yet an answer to the question of what, if anything, is wrong with the sex trade will not by itself determine the correct answer to those questions. An answer as to whether or not sexual services should be sold will not by itself determine whether or not such sales should be legal, or whether particular people are responsible or blameworthy for participating in those sales. The reverse is also true: answering these questions will not give us a complete answer to our question. Explaining how the sex trade fits within wider sexual practices, or giving an account of the morality of the market, will not tell us everything we need to know about whether sexual services should be traded.

In asking what, if anything, is wrong with trading sexual services, we are asking about our moral and political reasons for action. Of course it may turn out that those reasons support the claim that the relevant features of trading sex have to do with gender relations, or market exploitation, or some other feature. We begin, though, by attempting to set aside our preconceptions as to which features of the sex trade are morally problematic. Our aim is to establish what, if anything, is wrong with trading sexual services on the most plausible accounts of our moral and political reasons. The accounts of those reasons defended in the first two parts of this thesis allow us to meet this aim.

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<sup>98</sup> Pateman (1988), MacKinnon (2011), Congdon (2014), De Marneffe (2010), Jadehawk (2015).

<sup>99</sup> I do not mean to claim that this is a general characterisation of either liberal or radical feminism. Whilst the debate typically falls along these lines, it is the positions described that I am here interested in.

As I noted at the outset, there is clearly *something* disturbing about the sale of sex. Furthermore, the empirical research which I cited make clear that some cases in which sex is sold do possess features which are morally wrong, such as rape, or physical harm. Yet it is far from clear that all cases of the sale of sex possess features that are morally wrong. It might be thought that some of these features are not necessary to the sex trade, or at least to all instances of that trade, or that on reflection, some of those features are not morally wrong. The question of what, if anything, is wrong with the sex trade, then, does not admit of an easy answer. This section clarifies this question and considers how it might be answered.

We can begin by considering our subject matter. In asking what is wrong with the sex trade, I shall suggest, we should ask about *practices* of selling sex. The question we have identified is what, if anything, is wrong with trades of sexual services. As it stands, however, this is a question about every trade of sexual services. As the evidence we considered in the introduction shows, though, we should not assume that every trade of any good shares any single feature. Thus there is no reason to expect to draw the same moral conclusions about all trades of sexual services – that we will conclude either that all trades of sexual services are wrong, or that none are. What is needed, then, is a more specific question.

Focusing on practices of selling sex is a way of making our question more specific. A practice can be understood as consisting of actions that fall within certain norms. Focusing on practices rather than individual cases has at least three advantages. First, each practice will only consist of a subset of the cases in which we are interested - in our case, a subset of cases of selling sex. Secondly, cases falling under a certain practice are likely to share common or essential features. Taking in tandem, these points show that focusing on practices allows us to gain knowledge of and make judgements about a number of cases at once, rather than on a case by case basis. Thirdly, referring to the norms which govern those practices makes it easier to see how these cases can be

avoided, or modified. In particular, it can help to show us how to alter those norms, and hence those practices, by changing or creating certain institutions.

Thus in asking whether we should trade sexual services, we can begin by asking whether we should support the practice, or the practices of buying and selling sexual services. In the case of trading sex, the most relevant norms will be those of the market, as well as the psychological and sociological norms which govern sexual acts. Those norms and hence those practices will be realised not only by individual behaviour and cultural beliefs, but also by various institutions. It is worth emphasising, however, that there may well be several relevant norms here, and hence several practices of selling sex. Cases in which sexual services are sold on the street, for example, are likely to differ in important ways from those in which sex is sold as a form of sexual therapy, perhaps to educate people in the possibility of an intimate sexual experience.

Clearly some practices will be more prevalent than others. In considering the implications of the Moral Status View below, my aim will be to consider only one practice of the sale of sexual services, which I will refer to as consisting of classic cases. Reaching a conclusion about a single practice remains a significant result. As I shall also show, in considering the implications of Political Liberalism, our conclusions can be broader, since the acts with which that position is concerned make the approach which it warrants more obvious. Whilst a fuller treatment of the subject would identify and consider the various practices of selling sex, these views will be well illustrated, and a significant conclusion reached, if we can do so for a recognisable and reasonably common practice of the sale of sexual services.

It is also worth noting that there are various way of gaining knowledge about practices generally, including those of selling sex. First, we can obtain empirical evidence about instances of the trade of that good. Secondly, we can consider the norms which govern that practice - in our case, we can consider market and psychological and sociological norms and how they should be extrapolated to the sale of sexual services. Thirdly, we

can make intuitive judgements, drawing on our own experiences and attitudes, about those norms and the practices which they govern. Whilst it would be preferable for our claims to be fully supported by empirical evidence, our need to take some approach, as discussed in the introduction of this chapter, may require us to rely on less rigorous methods whilst that evidence is considered and obtained.

Having identified the subject matter of our question as to what, if anything, is wrong the sex trade, we can next consider how that question should be answered. What makes a trade of sexual services wrong, I noted above, are the features of that trade. To establish that cases in a particular practice of the sex trade are necessarily wrong, then, it must be established both that first, such cases necessarily have certain features, and second, that those features are such that those trades are wrong. If such cases are not necessarily wrong, on the other hand, then it must either be the case that the features of such trades which would make them wrong are contingent, or that whilst such features are necessary, they do not make those trades wrong.

On one view, a feature of a practice is not necessary if we can imagine an instance of that practice without that feature. That we can imagine an instance of a practice without that feature, however, does not show that such a case is possible. A better view, then, would be that a feature of a practice is not necessary if an instance of that practice without that feature is possible. What must be established to show that a feature is not necessary to a practice is that it is possible to have a case falling under that practice which lacks that feature. Features of normal trades of sexual services could be claimed to be necessary to its sale either on the basis that they are intrinsic to that trade, so that such trades are essentially wrong, or that the trade of sex necessarily leads them to obtain.

So there are various ways to argue that cases in a particular practice of the sex trade are not necessarily wrong – that such trades are wrong only in certain situations, so that the sex trade insofar as this practice is concerned would not be wrong if properly

reformed. One way is to show that it is possible to have a case falling under that practice which lacks the relevant wrong making feature. For example, it can be denied that cases of certain practices of sold sex necessarily involve or causes rape and violence, since there appear to be a number of cases and practices which lack this feature. Whilst empirical evidence would be required to establish this point, it seems at least possible that such cases would fall under norms realised by institutions as well as our behaviour.

A second way to show that cases in a particular practice of the sex trade are not necessarily wrong is to deny that the features of these cases are indeed wrong. For example, it can be denied that there is such a wrong as objectification. The claim might be that the burden lies on those who claim that a feature is wrong to establish that this is indeed the case, and that positive accounts of that wrong are problematic. How plausible that claim is will depend upon the wrong in question. It would not be plausible to claim that there is a burden of proof to establish that rape is wrong. It would be more plausible to say that there is a burden of proof to establish the wrong of objectification.

A third way to show that cases in a particular practice of the sex trade are not necessarily wrong is to show that there are reasons to permit the sale of sex. For example, it can be claimed that if a person genuinely chooses to sell sex, that is some reason to permit her to do so. A related charge is that it would be paternalistic to not permit people to sell sex in certain circumstances. Those who make such claims, however, owe us an explanation of the significance of a person having chosen a particular act, and of the proper understanding and force of the charge of paternalism. As argued in the second part of my thesis, it should not simply be assumed that Liberals are committed to such claims, since they need not, and as I have argued, should not base their view on a moral ideal such as freedom of choice.

A proponent of the view that cases in a particular practice of the sex trade are not necessarily wrong, so that that practice of the sex trade would not be wrong if reformed, can use different combinations of these strategies to argue for her position. She could argue, for example, that features of the sale of sex which are wrong, such as violence and rape, are not necessary, and that although there are reasons not to objectify people, and objectification is a necessary feature of the sale of sex, this reason is not decisive if a person genuinely chooses to sell sex. Whereas the first two strategies amount to a challenge to those who support the abolition of the sex trade to produce an argument for that position, the third strategy attempts to give some reason to instead reform that trade.

A proponent of the view that cases in a particular practice of the sex trade are necessarily wrong must meet this challenge; she must show that those trades necessarily have features which are in fact wrong. If it is true that the features of those trades which are obviously wrong, such as rape and violence, are not necessary to those trades, then she will owe us an account on which some less obvious feature is both necessary and makes such trades wrong, such as that of objectification. In doing so, she must avoid pointing to features which hold for trades which fall under that practice and which are not plausibly wrong, or at least not in the same way as the sale of sexual services. She must also refute what are claimed to be decisive reasons to permit the trade of sex.

## II

Let us now turn to consider three prominent arguments for the claim that the sale of sex is necessarily wrong, and hence should be abolished. This chapter does not consider what are claimed to be decisive reasons to permit the trade of sex. Our aim is to bring out the implications of the Moral Status View and our account of Political Liberalism, and neither view, as I show below, supports the claim that we have such reasons. The Moral Status View, however, does identify reasons on which normal

trades of sex are necessarily wrong. Considering positive reasons for the abolition of the sex trade is in itself a substantial task.

The first view I consider is that of Elizabeth Anderson (1995, ch7). Anderson argues that prostitution is wrong because it devalues or degrades sexual acts and the prostitute: 'prostitution is the classic example of how commodification debases a gift value and its giver' and 'commodified sex is degraded and degrading to the prostitute' (p154). Whilst Anderson is primarily concerned to give an account of commodification, in doing so she argues that the sale of sex is intrinsically and hence necessarily wrong. Anderson goes on to say that there is a case for the state prohibiting the sale of sex, since doing so would increase freedom and autonomy.

Anderson's argument for the claim that the sale of sex is intrinsically wrong is based on a theory of value pluralism, on which 'goods differ in kind if they are properly valued in different ways that are expressed by norms governing different social relations.' (p143). She also refers to goods being 'rationally valued in different ways' (p141). The way we value a good, she claims, depends on the norms governing social relations under which it falls when so valued. We value that good 'properly' or 'rationally' when we value it under the proper or rational norms for doing so. To not value a good properly or rationally is to devalue or degrade that good.

Thus for Anderson, the key question is whether 'market norms do a better job of embodying the ways we properly value a particular good than norms of other spheres?' (p143). Since for the sale of sex, Anderson takes the answer to be no, she holds that valuing sex under market norms devalues or degrades sexual acts. Anderson further holds that acts are only of extrinsic value, so that to devalue or degrade an act is to devalue or degrade the relevant person, here the seller of sex. On Anderson's understanding of freedom and autonomy, these are arguments for the claim that the sex trade should be abolished.



Now it is difficult to see exactly how Anderson's account is to be understood. In particular, we need to understand the sense in which a good is devalued or degraded if it is not valued under its proper norms, and why this is morally or politically problematic. A good being devalued for Anderson appears to mean that people cannot use that good to express valuations of each other, which reduces a person's autonomy. Failing to properly value sex in trades of sexual services, the claim might be, reduces our capacity to value sex with other people, since we cannot express valuations that pertain to intimacy and commitment. For a good to be degraded, on the other hand, appears to be for that good to value another person in a way that is wrong.

On reflection, however, these arguments are not persuasive. It is difficult to see why we should accept that the sale of sex devalues sex and hence reduces our autonomy. It is at least plausible to think that sex could have a different value in different cases. Sex could express intimacy and commitment in some cases and something very different in other cases. Furthermore, it is not clear whose capacity to value sex with other people is reduced by the sale of sex. Additionally, it is not clear why we should understand autonomy as the ability to express valuations of each other. Anderson also tells us little about degradation – about why valuing another person in a certain way would be wrong. Thus Anderson's general theory of value, whilst rich and intriguing, does not give us a clear account of why the sale of sexual services is necessarily wrong.

Let us instead examine Anderson's specific claims regarding the sale of sexual services. These claims are made in the following paragraph:

From a pluralist standpoint, prostitution is the classic example of how commodification debases a gift value and its giver. The specifically human good of sexual acts exchanged as gifts is founded upon a mutual recognition of the partners as sexually attracted to each other and as affirming an intimate relationship in their mutual offering of themselves to each other. This is a shared good. The couple rejoices in their union, which can be realized only when each partner reciprocates the other's gift in kind, offering her own sexuality in the same spirit in which she

received the other's – as a genuine offering of the self. The commodification of sexual 'services' destroys the kind of reciprocity required to realize human sexuality as a shared good. Each party values the other only instrumentally, not intrinsically. But the nature of the good exchanged implies a particular degradation of the prostitute. The customer's cash payment is impersonal and fully alienable. In paying the prostitute he yields no power over his person to her. The prostitute sells her own sexuality, which is necessarily embodied in her person. In appropriating her sexuality for his own use, the customer expresses a (de)valuation of women as rightfully male sexual property, as objects to be used for men's own sexual purposes, which need not respond to the woman's own personal needs (p172).

Anderson's positive view of sex when valued under the norms of intimacy and commitment is alluring but hard to pin down - how are we to understand talk of 'mutual offerings', 'rejoices in union' and 'genuine offering of the self'? Furthermore, many sexual acts that are not prostitution, such as casual sex, would surely fail to meet this standard, yet are surely not degrading in the sense which Anderson takes the sale of sex to be.

The negative view of sex here presented does help to give some content to the idea of the seller of sex being degraded. That each party values the other instrumentally, rather than intrinsically, however, may again be argued to hold in the case of casual sex. That the man treats the woman as rightfully male sexual property furthermore seems to be a claim regarding equality, rather than degradation per se. Thus this claim would arguably be satisfied by reforming the sale of sex so that it is sold to as many women as men. That the purchaser of sex yields no power over his person is furthermore just as true in other market transactions where no sex is involved. What is different in cases of the sale of sex must therefore be that 'the prostitute sells her own sexuality, which is necessarily embodied in her person.'

To sell a function that one can perform however, is not problematic in other cases – one can sell one's function to waitress for example, without being degraded. The key idea then must be that sexuality is 'embodied in her person'. It is not clear what this means however. The word 'embodied' makes it tempting to conclude that what is

different is that the seller of sex uses her bodily parts. Yet this is also true of other jobs, such as being a masseuse. Even if one draws attention to the use of sexual organs, it is not clear that this is problematic in other cases – such as posing for life drawings. Gang members occasionally conceal weapons inside sexual organs but do not seem to be degraded in doing so, at least to the same extent that prostitutes are. The focus then, must be on the word ‘person’ – the sale of sex must be different because sexuality is a part of or intimately related to the person, where this refers to more than physical parts.

Thus the only plausible ideas in this passage are that the seller of sex is used instrumentally, rather than intrinsically, and that sexuality is somehow part of person. Since these ideas are not developed in any detail, however, Anderson’s argument that the sale of sexual services is intrinsically and hence necessarily wrong remains elusive. Hence Anderson fails to establish either that the features which she discusses are intrinsic to the sale of sexual services or that these features are wrong. As I have noted, her account also risks over- generation – it risks implying that trades of other goods are wrong in the same way as the trade of sexual services, where such claims are implausible. At best, then, Anderson’s account offers us some ideas about how we might argue that the sex trade is necessarily wrong, and hence should be abolished.

Debra Satz instead argues that the sale of sex is necessarily wrong because it perpetuates a negative image of gender inequality, which goes against the values of equality and status (2010, ch6). Satz argues that the sale of sex has the effect of a ‘negative image of women as sexual servants of men, [which] reinforces women's inferior status in society’ (p149). Unlike Elizabeth Anderson, then, Satz’s argument that the sale of sex is necessarily wrong does not appeal to the intrinsic features of the sale of sex, but to its necessary effects. I suggest below that Satz’s argument goes wrong in large part because she overlooks the implications of this different strategy.

Satz argues that the sale of sex differs from other trades in which women serve men, such as nursing or fashion modelling, which might be claimed to have the same effects, in three ways. First, since many people believe the sale of sex to be objectionable, its existence 'will disproportionately fuel negative images of women'. As a result 'stigma surrounds the practice, shapes it, and is reinforced by it.' Secondly, 'prostitution represents women as objects for male use'. Satz appears to take this to mean that 'prostitutes are far more likely to be victims of violence than other professions; they are also far more likely to be raped than other women'. Thirdly, there is a third party harm consisting of 'the effects that prostitution may have on other women's sexual autonomy' (all p149). As Satz acknowledges, this claim is based on Scott Anderson's argument, which I consider in more detail below (2002).

Satz argues that the sale of sex 'is an injustice that operates in large part through beliefs and attitudes that might someday be changed' (p150). Strictly speaking, then, Satz's argument only establishes that the sale of sex is contingently wrong. Given that Satz's book is called 'Why Some Things Should Not Be for Sale', however, she must hold that such beliefs and attitudes could not be changed very easily – hence the claim that they might someday be changed. Hence it is not implausible to read Satz's account in the first instance as an argument that the sale of sex is necessarily wrong.

What are these attitudes and beliefs? The three distinguishing features of the sale of sex suggest these beliefs and attitudes are those towards women: specifically, those resulting in the stigmatization, violence and rape of women who sell sex, and those which lead to negative effects on women's sexual autonomy. Clearly we do have reason to avoid stigmatization, violence, rape, and reducing women's autonomy. The question for Satz's account is why we should take these to be necessary effects of the sale of sex. Why does the sale of sex necessarily lead to these attitudes, and why do those attitudes necessarily lead to these wrong effects?

There are several reasons for thinking that the sale of sex need not lead to these attitudes, and that these attitudes need not lead to the sale of sex. Such attitudes might be changed by running campaigns to reduce that stigma and to reinforce that violence and rape of those who sell sex is wrong. Although Satz concedes that such attitudes might someday be changed, it is not clear why she thinks they cannot be changed in the near future. Even if such attitudes cannot be avoided, we might avoid some effects of those attitudes such as violence and rape by regulating the sale of sex so that sex workers were properly protected – by introducing a system of monitoring and rapid response, for example. Although such attitudes are likely to lead to stigmatization, Satz does not make it clear exactly what stigmatization is, or what exactly is wrong with it. The problem for Satz is not that these reasons are conclusive, but that she does not rule them out – she does not establish that the sale of sex necessarily leads to the negative effects that she identifies, even in the near future.

What remains in Satz's argument, then, is the idea that prostitution opposes women's sexual autonomy, as argued by Scott Anderson. This argument does not so clearly rest on our attitudes or beliefs towards women, and is therefore less vulnerable to some of the objections I have raised above. Scott Anderson argues that 'if we take seriously the claim that sex is not especially different from other ways one can use one's body to make a living, then many more changes than just normalising prostitution would be warranted' (p761). These changes are such that women may be required to perform sexual acts as part of other jobs. This in turn reduces women's sexual autonomy, which Anderson argues is particularly problematic for the poor and powerless but also for society more generally.

Even if Anderson is right that such changes would reduce sexual autonomy however, it is not clear that allowing the sale of sexual services per se requires allowing sexual services to be part of other jobs. In fact if Anderson is right, we have good reason not to allow sexual services to be part of other jobs, since doing so would undermine women's sexual autonomy. Anderson gives us little reason, then, to think the sale of

sex makes such negative effects necessary. Given that sexual services are not currently part of jobs other than those in which sex is sold, there is little evidence to suggest that such regulations cannot be enforced.

Thus Satz and Scott Anderson's explanations of what is wrong with the sale of sex are not convincing. Both argue that the sale of sex is necessarily wrong because the sale of sex necessarily leads to certain effects which are wrong. Both arguments are unconvincing because they fail to establish that the sale of sex does necessarily lead to these effects. Satz and Scott Anderson go wrong, I believe, in failing to emphasise the distinction I made in the last section between the sale of sex being necessarily wrong in virtue of its intrinsic features and in virtue of its necessary effects. An argument that the sale of sex is necessarily wrong in virtue of its necessary effects will only be plausible if it draws on empirical evidence. Without such evidence, such arguments are bound to be unconvincing.

### III

The first part of my thesis defended the Moral Status View, according to which our fundamental moral reasons are reasons to respond to each person's moral status. In the next two sections, I argue that what I call the classic practice of the sex trade is intrinsically and hence necessarily wrong because it fails to respond to the moral status of the person selling sex. I conclude that we have decisive moral reasons not to engage in that classic practice of trading sexual services – to abolish the sex trade insofar as it consists of that classic practice. In the final section I consider our political reasons regarding the sex trade, as established by the account of Political Liberalism defended in the second part of my thesis, and show how these moral and political reasons are compatible.

In virtue of having the capacity for practical reason, I argued in part one, each person has the moral status such that the use of her reason to cause events and those events which promote that use of her reason are of final value. Classic cases of the sale of sex,

I shall argue, are morally wrong because they fail to respond to the final value of the seller of sex using her reason to cause events. A more intuitive way of putting this point is that the classic practice of the sex trade fails to respect the autonomy of the person selling sex. The Moral Status View shows how this intuition is supported by a substantial moral position, and hence establishes that we do indeed have moral reason to abolish the classic practice of the sex trade.

Our question is what, if anything, is wrong with practices of the sex trade – with cases falling under that practice. To establish that trades of sexual services falling under a particular practice are necessarily wrong, I showed in the first section, it must be established both that first, such trades necessarily have certain features, and second, that those features are such that those trades are wrong. My argument has two parts, which correspond to these two tasks. First, I identify a set of features which are intrinsic to the sale of sex in what I call classic cases. This is the task of this section. In the next section I argue that these features make such cases of the sale of sex morally wrong - that in acting on these ends, both parties fail to respond to the final value of the seller of sex using her reason to cause events.

I will begin by setting out the intrinsic features of what I shall call classic trades of sexual services. I shall then explain why it makes sense to think of cases with these features as falling under a certain practice, as well as what is meant in calling this the classic practice of trading sexual services. My account of the features which are intrinsic to what I call classic trades of sexual services is based on the ends of the buyer and seller of those services. A person's ends are the events which she acts so as to realise. On the account I am giving, the concept of an end should be understood counterfactually, rather than intentionally: a person's ends tell us not how she intends to act, but rather how she would act were she in different situations. A person has a particular end, we can say, if setting her other ends aside, she would act so as to realise that end. Whether or not a person would act to realise a particular end in a particular situation, however, will depend on her other ends.

Now in the cases of the sex trade in which we are interested, the ends of the buyer, B, and the seller, S, are as follows. S has the end of having money, or strictly speaking, some other end or ends which having money will better allow her to realise. S does not, however, have the end of sexual pleasure, or any other end which the sale of sex directly fulfils. B, on the other hand, has the end e1 of sexual pleasure – of a certain biological process which occurs within his body.<sup>100</sup> These ends are defined independently of one another. This is a first approximation of our ends in the cases in which we are interested.

One account of what is wrong with these cases, then, might be that the buyer treats the seller as a means to his end of sexual pleasure. This cannot be correct, however, since it over-generates – since it does not make the sale of sex a distinctive wrong. Three cases in particular would then, implausibly, be wrong and for the same reasons as these cases of the sale of sex. First, the seller of sex treats the buyer as a means to her end of having money. Secondly, a waitress does not typically have the end of serving diners, but is paid to do so. She is therefore treated as a means, yet waitressing is surely not wrong, or wrong for the same reasons as the sale of sex. Thirdly, in some cases of casual sex, each person may have the separate end of sexual pleasure for themselves, and therefore treat the other as a means. Yet casual sex is not wrong, or at least, not for the same reasons as selling sex.

One way to show that there is a distinct wrong in certain cases of the sex trade would be to focus on the content of those ends, or on what is involved in meeting them. It is at least not obvious, however, how an end of sexual pleasure is morally distinct from other ends, such as having a pleasurable dining experience, nor how the seller of sex's use of intimate body parts makes a moral difference. Other jobs require the use of bodily parts, even intimate ones, so there is no obvious reason to think the actions of

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<sup>100</sup> I use 'his' to refer to the buyer of sex and 'hers' to refer to the seller of sex because in the majority of cases, the buyer of sex is male and the seller of sex is female. This fact should not be obscured.



the seller of sex are morally distinct. She does not give a part of herself away, but simply uses physical parts of herself to perform a service.

I suggest that we instead consider cases in which the buyer of sex has an additional end to his end of sexual pleasure, in virtue of the way in which he values the act of sex with persons. In these cases, the buyer of sex has the additional end e2 that a person causes him sexual pleasure. That end would not be satisfied by a person performing the same sexual act with a very advanced robot or a hologram, even though it satisfied the end e1 of sexual pleasure. Nor would it be sufficient for a robot to cause a person with that end sexual pleasure whilst a person is involved in some other way. Of course, there may be cases in which a person would value such acts as a form of masturbation, or by imagining that he is having sex with a real person. These are not the cases in which we are interested in, however.

Having set out the features of the cases in which we are interested, I must now argue that such cases do indeed obtain. The first point to note is that there is empirical evidence to support this claim. There is significant empirical evidence to support the claim that many women who sell sex do so primarily for money.<sup>101</sup> Whilst there is much less empirical evidence for the motivations of those buying sex, in part because of the difficulties in obtaining this information, studies which have been done offer some support for the claim that such cases obtain. This is particularly the case for the claim that men often buy sex to meet the end of sexual pleasure.<sup>102</sup> But there is also

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<sup>101</sup> One study found that 97.9% of sex workers viewed the money provided by sex work as a positive aspect, with significant numbers citing goals which having money helped them to achieve, such as supporting family financially (26.4%), paying debts (24.4%) and buying drugs (22.3%) and financing a professional occupation (8.3%) (Rossler et al., 2010). Another found that 74% of sex workers working indoors gave the main reason for selling sex as being paying for household expenses and children (Church et al., 2001). A further study found that only 9% of women had any positive feelings at all during acts of prostitution, with women commonly reporting feeling sad, detached, angry or anxious (Kramer, 2003).

<sup>102</sup> In one study, 32% of men cited immediate sexual pleasure as their primary reason for buying sex, with others citing reasons clearly connected to sexual pleasure: 21% wanted

some empirical evidence, albeit of a more limited nature, to suggest that men buying sex often want to have sex with an actual person.<sup>103</sup>

This is enough to suggest that cases with the features which I have identified are of interest. As I noted above, however, it would also be useful to be able to view such cases as falling under certain norms. Since the features identified refer to the ends of the buyer and seller of sex, it is plausible to see such cases as falling under certain market and psychological norms, as well as norms relating to gender. Whilst I noted above that a person's ends are to be understood counterfactually, they are still clearly related to her psychology - to her intentions, attitudes and so on. That sexual services are being traded makes it plausible that in certain cases the seller does so for money and the buyer for sexual pleasure. The attitudes that we have towards sex, as well as our practices regarding gender, further suggest that in a significant number of cases, those who buy sex want to have sex with an actual person.

Further support for the claim that sexual services are traded with these ends can be found by asking what our ends would be were we to buy or sell sexual services. Considering our intuitions about such cases, I believe, suggests that it is at least

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variety or were seeking particular physical characteristics or stereotypes, 20% claimed to be unable to get what they wanted sexually or emotionally in their current relationship, 15% cited convenience and 8% the thrill of breaking a taboo (Farley et al. 2009). Another broke men's reasons for buying sex into five main areas: 'the capacity to purchase specific sexual acts, the wide number of different women one could contact, the capacity to contact women with specific physical characteristics, the fact that contact with a prostitute was very limited and, finally, the feeling that commercial sexual encounters involved an added element of thrill' (McKeganey, 1994, p. 191).

<sup>103</sup> There is some evidence to support the claims that men buying sex wanted to be *served* by a woman, or have power over her, which is consistent with this view: in one study, one male client 'describe[d] the female prostitute in terms of serving his desires', with the study concluding that many men appeared to enjoy the idea of being able to get a woman to 'do anything' (McKeganey, 1994, p. 295 and 299). It is also striking that a different study found that 40% of male clients ascribed a positive feeling to sex workers during sessions, which appears unlikely to be true, and furthermore that some men 'paradoxically seem to seek an emotional connection during prostitution encounters in order to achieve sexual satisfaction' (Farley et al., 2009, p. 22).

plausible that were we to sell sex, we would do so for money, and were we to buy it, we would do so in order to receive sexual pleasure from an actual person. Whilst we can also imagine that we would get pleasure whilst selling sex, or that we buy sex for some other reason than sexual pleasure, or that we would get as much pleasure from having sex with a robot that is in many respects identical to a person, we need not think that these cases tell us anything about the sale of sex in the type of cases which I have identified.

Whilst the points that I have made here are not conclusive, they at least help us to begin to formulate an approach to the sex trade. The claim is not that this is the only practice of trading sex, but rather that it is significant in including a significant number of cases. I shall refer to this as the classic practice of the sex trade because these types of cases seem to me to be the most prominent, and thus the correct place to start in beginning to formulate an approach. Using this name is not intended to disguise that this might turn out not to be the case. At the very least, though, the points here considered bring out how the argument which I am offering would need to be developed in order to more fully justify the approach identified by the Moral Status View.

That the buyer has the additional end of a person meeting his end of sexual pleasure distinguishes the sale of sex from the three cases given above. In two of these cases, the relevant party does not act on the end of another person satisfying her ends. The seller of sex does not act on the end of the buyer giving her money, but rather on the end of having money. The diner does not act on the end of the waitress serving him, but rather on the end of having food served to him. In both cases, the buyer of sex and waitress play the function of satisfying an independently defined end, and are valued for this, but there is no end that they play that function. In the casual sex case, on the other hand, both parties, rather than one party, have the end that the other person meets their ends of sexual pleasure.

My claim, then, is that in certain trades of sexual services, the buyer of sex, B, has two relevant ends, e1 and e2. The end e1 is that of sexual pleasure, whereas the end e2 is that a person meets her end e1 of sexual pleasure. The seller of sex, S, on the other hand, has the end of having money. What makes such trades morally wrong, I argue in the next section, is this structure of ends, and in particular, acting on the end e2. Before moving to this argument, however, I shall further clarify this structure of ends by considering further cases. Doing so both shows that this account does not over-generate and helps to bring out the morally significant features of these ends.

First, consider a case where a person's end e1 is not defined independently of the other person. Suppose, for example, that I have an end e1 to see the performance of a disillusioned violinist, who plays only for money. Clearly it is not wrong to pay the disillusioned violinist to perform, or at least not for the same reasons as trading sexual services. Classic cases of the sale of sex are distinguished from such cases by the buyer's end of sexual pleasure being defined independently of the seller of sex.<sup>104</sup>

Whilst there may be cases in which this is not true – where, for example, the buyer has the end of the seller of sex having money – such cases are distinct from classic cases. We might also note that meeting such ends would not require the purchase and performance of a sexual service. Furthermore, the sale of sex is governed by the norms of the market. Following Elizabeth Anderson, we might think that one such norm is that in buying a good, you obtain an impersonal good from which the seller is excluded. In paying for a haircut, your end is typically not that the hairdresser has money, or gets pleasure from cutting hair.

Next, consider a case where a person wills that she meets the other person's end e2 as an end, or has her own end e2 that the other person meets her end e1. I may will as an

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<sup>104</sup> If A's end e1 is not defined independently of person B, it may also be incoherent to think that A has a further end e2 that person B satisfies e1. To distinguish the cases, however, it is enough to note that in central cases of prostitution, A's end e1 is defined independently of person B.

end that I meet my lover's end of having me give her sexual pleasure. Or, I may willingly meet a random person's end e2 of giving her sexual pleasure at the same time that she meets my end of her giving me sexual pleasure. Neither case is plausibly wrong, or for the same reasons as the sale of sex. Classic cases of the sale of sex are distinguished from such cases by the seller of sex not having either an end of satisfying the buyer's sexual pleasure, or an end that the buyer satisfies another of her independently defined ends. The seller of sex may be proud of meeting the buyer's ends of sexual pleasure well or skillfully, but will not normally have the independent end of satisfying his sexual pleasure.

We can also consider a case in which the parties have the same ends as in normal cases of the sale of sex, but there is no act that significantly affects person B in realising A's ends. Suppose I am on the tube and fantasise about some fellow passenger to gratify my sexual pleasure. This is not the same wrong as the sale of sex, because that act does not significantly affect my fellow passenger in realising my end. It is only the idea of sex, or the content of my fantasy, that meets my pleasure, and this idea has no or little effect on the other person. In classic cases of the sale of sex, however, the seller is clearly affected in meeting the ends of the buyer.

Another case to distinguish is that in which your end e2 is that a particular person, as opposed to a person per se, meets your end e1. Suppose that you are at a bar and have the end of having a beer. You may have the additional end of being served by one bar person rather than another. Acting to realise these ends, however, could not be wrong for the same reasons as selling sex. In classic cases of selling sex, the buyer's end e2 is that a person, rather than a non-person satisfies his end of sexual pleasure. What is wrong with the sale of sex is not that the buyer chooses one seller of sex over another.

A further type of case to be distinguished is that in which a person acts so that e1 is satisfied by another person in order to meet a further end e2, but e2 is not the end that a person satisfies e1. A lonely person might have the end e1 of having his health seen

to, and a separate end e2 of having human company. To realise both ends, he may prefer to see a human doctor rather than a robot doctor. This does not show that he has the end that a person satisfies his health ends, however, but rather that he goes about meeting his end of human company by having a person meet his separate end of good health. He would be just as happy, I believe, to have his health seen to by a robot doctor and have some other interaction with a person that sufficed to meet his end e2 of human company.

The classic cases that I have identified are those in which the buyer acts on an end e1 which is defined independently of the seller, and an additional end e2 that e1 is satisfied by a person. It might be objected that there are cases in which both parties act on these ends, but which are not morally problematic. One such case would be that in which a person in a bar has an end e1 of having a beer, and a further end e2 of it being poured by a person, rather than a machine. My response is that these cases only appear not to be morally problematic in the same way as what I have called classic cases because they are naturally read as having a different set of ends to those which I have identified. Even if these cases do correspond to some cases of sales of sex, then, they are not analogous with the classic cases in which we are interested when considering the Moral Status View.

The case of the beer buyer only appears to be unproblematic, then, because it is natural to understand the buyer's ends in ways other than those which I have here identified. Since the person is in a bar, it is natural to think that her end e1 of having a beer is not independent from her desire to have it poured by a person, since her actual end may well be not just to have a beer physically available to drink, but to have a beer *in a bar* with all that this typically entails. It would also be natural to assume that the buyer of beer has a separate end e2 of having an interaction with a person, which a person's pouring of beer is a means of meeting, rather than itself being an end. If a person did simply have the end of having a beer physically available to drink, without the end of having an interaction with another person (imagine a misanthropist drinking alone in

her room) and then acts on the further end of that beer being brought to her by a person, rather than a machine, then it becomes plausible that there is something morally problematic about her action.

Distinguishing these different types of cases allows for a more precise account of the punter and prostitute's ends in classic cases of prostitution. The buyer, B, acts on two ends: an end e1, defined independently of the seller S, and an additional end e2, that a person meets that end e1. The seller is affected by that act, but does not have the end of satisfying e2, nor have an end that the buyer meets her own independently defined ends. I believe that other cases that do have this structure of ends are wrong in the same way as the sale of sex, and that the sale of sex is a paradigm case of such a wrong. The burden is on those who disagree to show that this is not the case.

#### IV

Acting on these ends is wrong, I now argue, because it fails to respond to the moral status of the person selling sex – because it fails to treat the use of her reason to cause events as being of final value. I also argue that trades of sexual services, including non-classic trades, could be wrong because they support this practice – because they make it more likely that sex will be sold in a way that fails to respond to each person's moral status. Furthermore, I note that it is possible that such trades make it more likely that people will fail to respond to other people's moral status more generally, and particularly to the moral status of women. This points us towards a more general conclusion: according to the Moral Status View defended in the first part of this thesis, it is wrong to trade sexual services, particularly in classic cases.

A person's ends, I have said, are the events which she acts so as to realise. In classic trades of sexual services, I argued in the last section, the buyer of sex has an end e2 that a person causes the realisation of his end of sexual pleasure. Now given the ends of each party, in acting so as to realise that end, the events which the seller of sex causes are no longer determined by her own ends, but by the ends of the buyer of sex.

The buyer of sex acts so as to realise an end on which the seller of sex no longer acts so as to realise some of her own ends – those of not having sexual intercourse with him. In acting so as to realise that event, both parties ignore these ends of the seller of sex. The end of not having sexual intercourse is simply replaced by the end of having money.

This would not be the case if the buyer lacked the additional end that his sexual pleasure is caused by a person. A buyer of table service in a restaurant, who typically lacks this additional end, does not act so as to realise an end on which the waitress does not act so as to realise some of her own ends, but simply acts so as to realise a pleasurable dining experience. One way of bringing out the difference between these cases is to say that the fact that the waitress will receive money makes it the case that waitressing meets her end of having money. That the seller of sex will receive money for sexual services does not mean only that performing sexual services meets her end of having money, however, but also renders ineffective her end to not have sexual intercourse with the buyer.

The end of the waitress not to be a waitress is not so rendered ineffective, however, because the person paying for table service would normally be just as happy to be served by an equally efficient robot – at least, we can suppose this to be the case in order to illustrate our claim. What this shows is that she does not act so as to realise an event on which a person does not act so as to realise her own ends. In particular, she does not treat that person as an instrument to meet her own ends. The buyer of sex, however, who in classic cases would only be satisfied by a real person performing sexual services, does treat the seller of sex as an instrument to his ends.

We can make these points more concrete by showing how classic trades of sexual services are wrong on the Moral Status View developed in the first part of the thesis. To treat the use of a person's reason as being of final value, I argued in the chapter three, is to act as if we do not have reasons given by events caused solely by her



involvement. The reasons that the buyer and the seller are involved in the trade, however, *are* given by events caused solely by the involvement of a person. This is made clear by the fact that in classic cases, the buyer would not pay for sex if that person were not in fact a person. It is only a causal chain of which a person is part that leads to an effect which gives those parties reasons to perform the trade. Thus the use of reason of the seller of sex is not treated as being of final value.

To return to our restaurant case, the buyer of table service is not paying for the seller to cause events, but is rather paying for those events themselves – she is buying the direct provisioning of food to her table, which is the effect of the actions of the waitress. The use of the reason of the waitress is treated as being of final value, because that event is not caused solely by the involvement of a person. A causal chain in which a person was not part, such as a causal chain involving a robot replacement, would also lead to the events which give each person reasons to become involved. In this case, then, the use of the reason of the waitress is treated as being of final value.

According to the Moral Status View, then, classic trades of sex are morally wrong, since they fail to respond to moral status of the seller of sex – they fail to respond to the final value of her using her reason to cause events. The Moral Status View, I noted in part 1, gives us a specific way of understanding the Kantian ideals of autonomy, and respect for persons. A more intuitive way of putting these points, then, is that classic trades of sex disrespect the seller, or fail to respond to her autonomy. In paying for the seller of sex to ignore her ends to not have sexual intercourse with the buyer, the seller of sex is not treated as an autonomous being, but as a being with a will that can be directed by another person for his own use.

This explanation makes sense of each of the features which I claimed in the last section to be intrinsic to classic cases of the sale of sex. The buyer's end  $e_1$  must be defined independently of the seller, since if it is not he is not buying the seller's ability to cause certain effects, but is rather buying effects in which the seller is involved. The Moral

Status View does not rule out our appealing to such reasons, or at least not in this way, since they are not caused by the involvement of the seller of sex. The seller cannot have the end of satisfying the buyer's end that she causes him sexual pleasure, since if she does then she causes that sexual pleasure as a result of the actions of her own will. The Moral Status View does not rule out so acting, since her desire to please him is then not given by an event caused by her involvement.

Nor can the seller have the end that that the buyer meets her independently defined ends, since if she does, in causing the buyer sexual pleasure she is also causing him to meet those ends, and is thus treating her causing those ends as being of final value. The Moral Status View permits us so to act, since each then acts on reasons given by events caused by their own involvement. Finally, the seller must be affected by the act in question or there will be no sense in which she does cause the sexual pleasure of the buyer. The Moral Status View does not prevent such acts since the actual person is then not involved in causing events.

It is worth noting that one way to understand this wrong is as the wrong of objectification. We value objects as instruments which we can use to cause certain effects. In acting on an end that a person causes an end which the buyer has that is independent of that person, such as sexual pleasure, he treats that person as if she were an object. Now obviously in doing so he is aware that she is not an object. Furthermore, it is not the buyer's end that the seller is in fact an object. On the contrary, the buyer has the end that a *person* meets his ends of sexual pleasure. On this analysis, then, objectification is the wrong of treating a person in a way that she is not – as an object, rather than as a person. To pay to realise the end of a person causing us sexual pleasure is to pay to use a person as an object to cause what is of value for you, rather than of value for her.

We can note two further ways in which trades of sexual services can be wrong on the Moral Status View. First, the sale of sex supports the practice of buying and selling

sexual services. By buying and selling sexual services people can both normalise such transactions and help to make them possible. Part of the money that is paid for a particular transaction may well go towards supporting an institution that promotes and makes possible future sales of sexual services. This may well be the case, furthermore, for trades of sexual services that are not classic – that do not have the features identified in the last section. Thus the moral status of people who sell sex other than those who are selling it in this instance may be morally relevant. Determining the effects of particular instances of buying and selling sexual services, of course, requires empirical evidence.

The practice of buying and selling sexual services may also have an impact on other practices within society. It is possible that such trade normalises and encourages practices which fail to respond to people's moral status in different ways. It is plausible, for example, that the sale of sex partly normalises and supports a wider failure to respond to the moral status of women. Again, to determine whether and to what extent this is true we would need to look at empirical evidence. Yet without doing so, it is at least plausible to think that being willing not to respond to a particular person's moral status is likely to lead people to also be willing not to respond to the moral status of others, at least in certain ways.

It is important to stress that this account of what is morally wrong with classic trades of sex has no immediate implications regarding blame and responsibility for such trades. We need not think that the person selling sex is blameworthy for doing so. Nor need we think that the person selling sex is responsible for doing so, particularly when she does so as one of the least bad of several bad options, such as not having enough money to eat. It would be perfectly consistent with this account, furthermore, to hold that the buyer of sex is more blameworthy than the seller for the trade, and in many cases that he is also more responsible.

It is also important to stress that I have made no attempt to spell out what actions are required on this account of the wrongness of the sale of sex. It is consistent with such an account to hold that we should often attempt to reduce the harms involved with the sale of sex, rather than prevent its occurrence, even though this occurrence necessarily fails to respond to the moral status of the person selling sex. Furthermore, as I argue in the next section, this account is consistent with a Liberal view on which the sale of sex should not be illegal. Nonetheless, as I shall show, such moral reasons for action are important when asking how we should be motivated, and when deciding whether we should buy or sell sex ourselves, or whether to encourage or discourage others to do so.

## V

The previous two sections gave an account of our moral reasons regarding the sex trade by bringing out the implications of the Moral Status View. This section sets out our political reasons regarding the sex trade according to the account of Political Liberalism developed in the second part of this thesis. This account is based on the ideal there defended on which each member of a society has the political status of being free and equal. I start by considering features of the sex trade which would be wrong according to Political Liberalism, and then consider whether such features are necessary. Whether or not the sex trade is politically wrong – whether it should be reformed or abolished – depends, I show, on empirical evidence about human behaviour and institutions.

According to Political Liberalism, I showed in part two, our fundamental political reason for action is to respond to each person's political status as free and equal. In assessing whether certain goods and services should be for sale, then, we should ask how the sale of those goods responds to each person's political status. To respond to each person's political status as free and equal, I argued in chapter 6, is to treat the exercise of each person's capacity to be reasonable as being of equal and final value.

Our question, then, is whether the sex trade does so treat each member of a modern democratic society.

We can start by noting that Political Liberalism does not claim that classic trades with the structure of ends identified in the third section are such that those trades are wrong. Whilst I do hold the Moral Status View, the claim that our fundamental moral reasons for action are reasons to respond to each person's moral status would not be accepted by each reasonable person. Nor would acting on these ends in itself undermine the effective exercise of our capacity to be reasonable. The seller of sex may reason that she does have reason to sell her sexual services, and act accordingly, and there is no reason to think that doing so in itself undermines her capacity to be reasonable. Political Liberalism, then, does not share the account of the sex trade given by the Moral Status View. I say more about these points in the final section.

We can next consider how the sex trade might fail to treat the exercise of each person's capacity to be reasonable as being of final value. First, and most obviously, a case or practice of the trade of sexual services could in itself be of disvalue according to any reasonable conception of the good. If that were the case, then that case or practice would prevent the exercise of a person's capacity to be reasonable from being effective. Thus it would fail to treat that capacity as being of final value. To be reasonable, we saw, is for a person to use her reason to determine which events she has moral reason to cause, and to act accordingly. As I noted, then, it is not immediately obvious which conceptions of the good are reasonable. However, certain features, such as rape and physical and psychological harm, are clearly of disvalue on any reasonable conception of the good.<sup>105</sup>

Secondly, the trade of sexual services could undermine a person's ability to exercise her capacity to be reasonable because of the effects of that sale, rather than because of features of the sale itself. There are two ways in which this might happen. First, the

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<sup>105</sup> See footnote 91 for citations of this.

ability of the seller of sex to reason about which events are morally good, or about our political reasons, could be damaged. One way in which this might happen is by undermining the self-respect of the seller of sex.<sup>106</sup> Another way is by her situation being such that she is unable to have the time and energy to so exercise her reason.

A second way in which effects of trades of sexual services could undermine the seller of sex's ability to exercise her capacity to be reasonable is by damaging her capacity to act in accordance with what she takes her reasons to be. Again, this might be the result of undermining her self-respect – she may struggle, for example, to take her own pursuit of the good seriously. Alternatively, the stigma of selling sexual services could lead other people to treat a person in a way in which made it very hard for her to pursue her conception of the good.<sup>107</sup> A person involved in the practice of selling sex, for example, may not be taken seriously by various social institutions, such as the police, and may be unable to contact them without risking the profit she makes from selling sex.<sup>108</sup>

We can next consider how the trade of sexual services might accord with the final value of the effective exercise of each person's capacity to be reasonable. It might initially appear that the final value of this capacity gives each person the right to sell any goods or services which she genuinely chooses to sell. On reflection, however, this is not the case. Where a good or service is sold solely in order to provide a person with money, as I suggested earlier is typical in cases of selling sex, to not permit its sale would only have the effect of restricting the ways in which a person can make

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<sup>106</sup> One study found 50.3% of sex workers to have a one year prevalence of mental health disorders, with 24.4% of the total sample suffering from major depression (Rossler, 2010).

<sup>107</sup> The same study found that 61.7% of sex workers felt excluded from society, and 58.5% by their circle of acquaintances (Rossler, 2010). Another found that 'many of the men felt that at various time during prostitution, women had no rights at all' (Farlet et al., 2009, p. 25).

<sup>108</sup> One study reported that 'projects working with this group have observed that migrant women can be reluctant to report incidences of violence to the police' (Platt et al., 2011), whilst another reported sex workers in Serbia to actually be the frequent victims of physical and sexual violence perpetrated by the police (Rhodes et al., 2008).

money.<sup>109</sup> As long as a person has access to a range of different ways of making money, then, there is no reason to think that it matters that she can do so by selling any particular good or service.<sup>110</sup>

Thus the ideal of political status does not support ideals of economic rights or economic freedom. If that is the only way in which a person can make money, of course, then it may be that protecting her political status does require permitting her to sell goods or services that would not otherwise be permitted. In asking about our political reasons for action, however, we can assume that a society is possible in which each person has a range of ways of making money. We can assume, then, that citizens are not forced to turn to selling sex in order for the exercise of their capacity to be reasonable to be effective.

It might instead be claimed that being able to buy sexual services promotes the effective exercise of the capacity to be reasonable of the buyer. Buying sexual services is obviously one way of having sex, and of experiencing sexual pleasure which is caused by another person. It is not clear, however, how much weight this reason should be given. Whilst having sex may be part of most reasonable conceptions of the good, it is not typically the case that buyers of sex are unable to obtain sex in other ways.<sup>111</sup> Furthermore, it is not clear that paying for sex does always advance a person's conception of the good, at least not significantly. On most people's conception of the good, after all, the act of bought sex is surely of less value than the act of sex that is freely given.

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<sup>109</sup> Of course there may be cases where a person has the end of making money by selling sexual services. I do not believe that these are normal cases, however.

<sup>110</sup> It is worth noting, however, that in current societies, sex workers do cite inability to get other work as a reason for sex work. In one study, 28.5% of sex workers claimed this to be a reason to do the job (Rossler, 2010). As I note below, we can assume that this would not be the case in a just society.

<sup>111</sup> Farley et al., 2009, found that over half of men interviewed were in long term relationships. The reasons that many of the men gave for paying for sex also suggest that a significant number of them were able to obtain sex in other ways.

There may be cases, however, where being able to buy sexual services would significantly advance a person's conception of the good. For people who are unable to obtain sex in other ways, and especially for those who struggle or are unable to perform sexual acts by themselves, being able to buy sexual services may make a significant difference. In most cases, though, it seems like being able to buy sexual services will not be significant in ensuring that the exercise of a person's capacity to be reasonable is effective. And even if it is, it is not clear that such trades of sexual services would count as normal.

It appears, then, that there are more reasons to think that the sale of sexual services undermines each person's political status as free and equal than to think that it promotes it. I have not shown, however, that trades of sexual services, or practices of that trade, will necessarily have the features which I have suggested, on which a trade of sexual services would be wrong. I have not shown, for example, that a loss of self-respect on the part of the seller of sex is a necessary feature of any practice the sex trade. All that has been established so far are the different ways in which the Political Liberal's requirement to respond to the political status of each person as free and equal could make the trade of sexual services wrong.

Whether these trades are a necessary feature of practices of sexual services will be an empirical matter. In particular, whether or not such features of sexual services are necessary will depend in part on facts about human behaviour – about, for example, whether trading sex is likely, from a sociological and psychological point of view, to lead to our stigmatising those who sell sexual services. It will also depend, however, on the institutions which we use to regulate that behaviour. Different ways of regulating the sale of sex might be more or less successful in protecting and promoting each person's political status as free and equal. Some of these effects will be more obvious than others: a society having a law on which it is legal to sell sex may be seen



by some, even if wrongly, as the state condoning its sale, and may thus lead to a lack of concern about morally problematic features.<sup>112</sup>

According to the account of Political Liberalism developed in the second part of my thesis, then, our political reasons regarding the sex trade will depend in large part on political realities that are grounded in empirical facts – facts about human psychology, sociology and institutions. On the one hand, it may be impossible to prevent people from wanting to buy and sell sex, even in a society that is much less unjust than our own. On the other hand, it may not be possible to introduce institutions that avoid some of the negative consequences of the sale of sex, including rape and violence. Political Liberalism does not give us a determinate answer as to whether the sex trade should be reformed or abolished, then, but rather takes the answer to this question to depend on empirical evidence.

## VI

This final section brings together the Moral Status View and Political Liberalism by bringing together these accounts of our moral and political reasons regarding the sex trade. According to the Moral Status View, I have argued, the classic practice of trading sexual services is intrinsically and therefore necessarily wrong, since it fails to respect the moral status of the seller of sex. Our fundamental moral reasons, then, point towards the abolition of the sex trade, or at least, to this practice of the sex trade. According to Political Liberalism, what is wrong with the sex trade, and what should be done about it, depends on empirical evidence about human behaviour and

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<sup>112</sup> This was cited as a major concern of the UK Home Office in recent legislation on the sex trade: ‘Finally, and perhaps most importantly, the creation of a managed area – even as a short-term arrangement – could give the impression that communities condone, or at least are forced to accept, street prostitution and the exploitation of women’ (Home Office, 2006, p. 11). A recent article on sex work claims that more generally, ‘The state needs to be seen to act, to reaffirm the boundaries of the social body through acts which distinguish between that which is socially acceptable and that which can never be accommodated within the civilised state’ (Hubbard et al., 2008, p. 149.).

institutions. Our fundamental political reasons, then, may well require us to support laws and institutions which permit the practice of selling sex. These views, I shall show, are perfectly consistent.

What justifies Political Liberalism, I argued in the second part of this thesis, is that it solves the problem of reasonable disagreement when understood to have both an epistemic and practical role. That each reasonable person can accept a reason as to how we are to influence one another shows that first, we have good evidence for the claim that these are moral reasons, and secondly, that it is plausible that each of us would act in accordance with those reasons under the right conditions. The most fundamental moral reason as to how we are to influence one another which each reasonable person could accept, I showed, and hence our fundamental political reason, is that we should respond to each person's political status as free and equal.

A proponent of the Moral Status View, then, such as myself, can accept that our fundamental political reason is reason to respond to each person's political as opposed to her moral status. Although I have given arguments for the Moral Status View, I do not expect that each reasonable person will accept those arguments. As things stand, then, I think that there is good evidence to instead accept that our moral reasons to influence one another are reasons to respond to each person's political status. I respect the reasoning of those who would disagree with me, and thus hold that when asking how we should influence one another, we should defer to a view of our reasons which could be accepted by each reasonable person.

Furthermore, whilst I think it is plausible that we could realise a society in which each person responded to each person's political status as free and equal, that I accept that some reasonable people could not accept the Moral Status View leads me to think that we could not realise a society in which each person responded to each person's moral status. In attempting to realise such a society, I would be doomed to failure, or else have to resort to undemocratic tactics. To make this attempt, furthermore, would

make it less likely that each person would respond to each person's political status as free and equal, and would thus cause people to respond to each person's moral status to a lesser extent than is possible. Political Liberalism has a tragic cast, as I have noted, in that it holds that it is impossible for us to realise a fully moral society.

Depending on the empirical evidence, I showed in the last section, Political Liberalism may well require laws and institutions which permit the practice of the sex trade, since this may make it most likely that each person will respond to each person's political status as free and equal. Our political reasons, then, may well be such that we are to support laws and institutions which are liberal in this sense. Given the political reality of the fact of reasonable disagreement, acting in accordance with these reasons may be the best way of realising the Moral Status View to the greatest extent possible. Thus the Moral Status View may require us to support liberal laws and institutions, even though it also gives us reasons to abolish the sex trade.

Nonetheless, those of us who accept the Moral Status View will act differently than those who do not, and in particular, than those who hold that there is nothing wrong with trading sexual services. We can act as if to realise a fully moral society, in which each person responded to each other person's moral status, precisely when doing so is consistent with our realising a just society – a society that realises the laws and institutions required if each person is to respond to each person's political status. Most obviously, with respect to the sex trade, we can refrain from participating in the classic practice of buying and selling sexual services, and hence ensure that we ourselves do not fail to respond to any person's moral status.

Political Liberalism, furthermore, is likely to permit certain ways of acting so as to influence others to not participate in the sex trade. It allows, that is, that our political reasons as to how to influence people may return no verdict for some ways of influencing one another – that it may not require us either to influence or not to influence one another in those ways. In such cases, we are free to act in accordance

with what we take to be our moral reasons for action. The empirical evidence is likely to be such that we do have some significant political reasons regarding the sex trade, and hence should support certain major institutions, as this will be the most effective way of realising such reasons. As long as we support those major institutions, though, it is likely to be permissible to influence each other in other ways. Thus the Moral Status View does have substantial implications as to how we are to act.

This conclusion fits well, I believe, with our judgements as to how we members of modern democratic societies should act. To see this, we can return to the distinction between persons and citizens which I drew in the seventh chapter. As citizens, we hold that we have a duty to support just institutions, and not to act in a way that would destabilise society – that would undermine the possibility of our influencing one another, or of living together in the same society. As persons, or individuals, we hold that we are free to pursue our own conception of the good, including what we take to be our moral reasons, and that we are free to attempt to influence others to act in accordance with these reasons, as long as this does not conflict with our duty as citizens. It makes sense to hold, then, that we can support liberal laws and institutions which regulate the sex trade whilst working in other ways to reduce that extent to which it is practiced.

We have arrived, then, at an answer to our question as to what, if anything, is wrong with trading sexual services. According to the Moral Status View, I have shown, classic trades of sexual services are wrong because they fail to respond to the moral status of the seller of sex. More specifically, they fail to respond to the final value of her using her reason to cause events. According to Political Liberalism, trades of sexual services are wrong if they fail to respond to each person's political status as free and equal, but whether or not they do so will depend on empirical evidence. Each member of a modern democratic society, then, has a duty to support the major institutions which ensure that we respond to the political status of each member. Each person also has a duty, nonetheless, not to participate in the sex trade, or at least in

classic practices of it, and to influence others to do so is consistent with supporting those institutions.

So with respect to the sex trade, it is both plausible and consistent to hold that our moral and political reasons are captured respectively by the Moral Status View and Political Liberalism. I began this thesis with a question: What are our fundamental moral and political reasons for action? I also claimed that our interest in this question is not merely speculative, but also practical, in that in being responsive to our moral reasons, we aim to act in accordance with them. Parts one and two of this thesis answered that question by developing and defending the Moral Status View and a version of Political Liberalism. This third and final part has shown how we can apply these views in the case of the sex trade, and has thereby demonstrated one way in which that practical interest might be satisfied.

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