

Nagel's 'Paradox' of Equality and Partiality

The interface between moral and political philosophy is so fundamental to both subjects that it is difficult to see how any novel account of their mutual relation is possible. Yet this paper considers a set of arguments, developed by Thomas Nagel, that do seem to suggest a novel theoretical paradox focused precisely on how moral philosophy and political philosophy relate to one another. Nagel has argued that our best normative ethical view and our best normative political view cannot be integrated.¹ We have powerful reasons to support them both, but over time they come into inevitable conflict. The originality of his view lies in the claim that we do, indeed, face something like a paradox when we reflect on this issue. It is not original to be told, as libertarians have sometimes claimed, that from the perspective of our “natural” moral status, egalitarian liberalism imposed at the political level can be rejected as unduly burdensome. Nor it is original to be told that a prior commitment to such egalitarianism, at the level of the basic structure of society, may lead to a radical reconstruction of how people may be permitted, ethically, to behave at an individual level. The troubling part of Nagel's view is how he represents us as theoretically committed to *both* a position that Nagel calls “ethical pluralism”, and to liberal egalitarianism, in a way that seems superficially plausible to us. However, the combination leads, in his view, to a deep-seated incoherence within our own moral and political outlook. That is the central aspect of his view with which I will be concerned.

While this paper proceeds by examination of the arguments of one political philosopher, I intend the discussion to have wider implications and treat Nagel's work as representative of a tradition of theorising about equality with its basis in the work of Rawls. It has often been argued, particularly by political philosophers influenced by Isaiah Berlin, that Rawlsian egalitarianism is fatally flawed because of its inadequate conception

¹ Throughout this paper I will primarily be referring to Nagel's monograph study, *Equality and Partiality* (Oxford: Oxford University Press, 1991).

of the political, viewed as simply a set of moral ideas with a restricted scope of application.² This has been claimed to misrepresent the essentially agonistic nature of the political process, or to misrepresent the extent to which political principles involve evaluative trade-offs and losses. This paper offers some indirect support to these sceptics, not least because it will become apparent that the only way to escape Nagel's paradox is to view our commitment to political egalitarianism to be precisely that: a political, as opposed to a moral, commitment. My overall conclusion is that Nagel's paradox can be defused and his pessimism about a feasible political egalitarianism can be avoided. Indeed, the resources for a defensible egalitarianism are fully present in Nagel's own arguments and with some of his theoretical assumptions rejected, his "second best" solution to the problem of a feasible egalitarianism looks like the best solution that we have.

I

Nagel believes that we lack a coherent and viable political ideal. The reason for this, it emerges, lies in a division of standpoints within the individual and because of the macro-effect of combining different individual standpoints into a collective standpoint, compounded by the effect of time. According to Nagel's normative *ethical* theory, we are genuinely divided between the claims of the personal and the impersonal.³ If we accept

² Even in the "politicization" of justice that occurred in Rawls's later philosophy, he asserted that "such a conception is a moral conception worked out for a specific kind of subject, namely, for political, social and economic institutions", *Political Liberalism*, (New York: Columbia University Press 1993) p. 11. This passage is cited and criticized at page 5 of Bernard Williams's deeply interesting recent paper, 'From Freedom to Liberty: The Construction of a Political Value', *Philosophy and Public Affairs* 30, no. 1 (2001) pp. 3 – 26 to which I am indebted. The charge against Rawls has also been leveled by John Gray, at the service of Gray's (then) "agonistic" version of liberalism: see, for example, 'Agonistic Liberalism' in *Enlightenment's Wake*, (London; Routledge 1995).

³ The most complete statement of his ethical theory is chapters VIII through X of *The View from Nowhere*, (Oxford: Oxford University Press, 1986).

this ethical theory, which Nagel describes as a “pluralist” one (a description that I will question below) then a person can blamelessly attach value to their personal values and interests. He or she can do so provided that such values and interests are suitably constrained by another of his or her commitments, impartiality. The ethical legitimacy of the personal, for example, might allow you to spend time developing your own talents and interests, or to work harder than you have to in order to provide good things for those close to you, such as your family (extending the idea of the personal, quite naturally, to a decision with broadly political implications).

Suppose that while putting in extra effort at work to take your family on a more expensive holiday than usual, you discover that the single parent family who live next door cannot afford to replace their washing machine. They are struggling to make ends meet on a low income. You might reflect that this state of affairs is a shame, but it is not your fault: provided, that is, that you believe that you live in a just society. You pay your taxes and know that a guaranteed level of free or subsidised welfare is available to support that family. Suppose you do live in a welfare state society. Can you nevertheless continue to work hard for yourself and your family, knowing that others are not doing so well, with a clear conscience? After all, you are contributing to a “safety net” of social provision. Nagel thinks that your conscience ought not to be clear and that this view is complacent. Morality demands that we pursue the goal of equality more thoroughly. This commitment ought to be built into the fundamental structure of society and with this demanding and substantive egalitarianism constitutionally secured, we would then be free to pursue our own lives in the light of the kind of pluralist ethical outlook that we take to be the normative ethical truth. Many conscientious citizens of contemporary welfare state societies might identify with this set of aspirations. But Nagel's diagnosis is that *this is precisely the situation that we cannot be in.*

He believes that even if we do full justice to the demands of equality, we will need more than minimal provision for others in order to lead our own ethical lives with a clear conscience. Even worse, if we go beyond this minimum and we do meet the demands of

impartial equality, and try to pursue our own lives, we encounter a serious difficulty. We find that the operation of the personal, while ethically legitimate at an individual level, has effects at the level of a whole society, and through time, that frustrates our very desire for impartial equality. The best way of balancing our commitments turns out to be self-frustrating or self-stultifying: that is the central message of *Equality and Partiality*. The argument of this deeply interesting sceptical essay on liberal equality is built up in stages, beginning with its basis in moral philosophy.

II

Nagel's argument, in more detail, runs as follows. He unashamedly places a description of the internally complex and conflict-ridden nature of persons at the basis of his liberalism. People are fundamentally ethically divided between the demands of the "personal" and the "impersonal" where the latter comes to represent, within the individual, the claims of the social. The argument developed from this starting point proceeds through different stages of reflection (in keeping with its Hegelian methodology). It begins from our "pre-reflective condition" (on the understanding that "pre-reflective" does not mean "unthinking" or "uncritical"). This is one's particular, involved, standpoint of engagement in ethical life with personal reasons and values. The process of reflection from this point begins with the familiar Nagelian thought that we occupy a pre-reflective standpoint, a point of view on the world, but that we can to a certain degree abstract from our *particularity* in ethics. The move to an impersonal standpoint comes from thinking of the world in abstraction from its being shaped by your point of view. You can think of all moral agents, without thinking of one of those agents as, in fact, "centred" on *you*. For reasons that are important for subsequent analysis of the argument, it is necessary to note

that Nagel believes that we have, in this situation, an awareness of both agent-relative reasons and agent-relative values.⁴

The next stage of reflection arises naturally from our impulse to take up an objective view of our evaluative commitments. We make an objectifying move from our pre-reflective condition to a more impersonal standpoint. We move from the personal, the particular and the agent-relative to a more impersonal, general (or universal) standpoint. What happens in that transition is that we *add* to the stock of agent-relative values and reasons a new set of agent-neutral values and reasons. At this level we seek a social choice function that proceeds in the light of two truths discerned at the impersonal level: that everyone is of equal value and that all *intrinsic* values are *agent-neutral*. At this point we adopt a substantial egalitarianism. We collect together (without fusing or aggregating) everyone's "individual desires, interests, projects, attachments, allegiances and plans of life" and recognize that they have impersonal value.⁵ They matter to individuals, but they do so in virtue of mattering *per se*. But this mattering *per se* is further characterised as giving "others besides yourself...reason to take them into account".⁶ This is primarily a first personal exercise, but you are forced to generalise its results. Taking this collection of individual desires and values as a whole, *from that impersonal perspective* one attempts to find a metric for those alternative ways of answering to these demands that impact

⁴ Nagel is largely responsible for introducing this terminology into ethical discussion: the ideas of the agent-neutral and the agent-relative have several, non-equivalent formulations. To a first approximation, agent-relative reasons make essential reference back to the agent who has them, whereas agent-neutral reasons do not. For example, you have an agent-relative reason to care specially for your own children as opposed to other people's children, but an agent-neutral reason to support the work of a child welfare charity. Parallel distinctions have been introduced for values and aims. See *The Possibility of Altruism*, (Oxford: Oxford University Press, 1970) pp. 90-95; *The View from Nowhere*, pp. 152 - 154; *Equality and Partiality*, p. 40.

⁵ *Equality and Partiality*, p. 11.

⁶ *Equality and Partiality*, p. 11.

differently on different individuals in the light of their own values. This is the problem of collective social choice. But at this level, Nagel thinks we can already perceive that the correct answer will be substantially, not merely formally, egalitarian.

The third stage of reflection arises because we now face a problem in balancing the apparently conflicting demands that all seem, at the first and second stages of reflection, to force their truth on us. At this third level of reflection we adopt a political solution to the problem in the form of an impartiality of higher order. This reconciles the demands of the personal and the impersonal, now that they have come into conflict, in the light of a contractualist model of political legitimacy that gives everyone agent-relative ends, but the same end.⁷ In a remedy to the defects of standard contractarianism, beset by problems of free riding because it gives a collective reason for action that does not distribute over each member of the collectivity, contractualism seeks to model a structure in which those who adopt the theory are symmetrically placed vis-à-vis each other. Thus everyone has an agent-relative end, specified by the theory, but symmetry is ensured by all those relative ends in fact being the same end when viewed across the entire “constituency” of individuals to whom the theory applies.

Contractualism is usually presented as a theory of rightness.⁸ A set of principles governing conduct is right if they are such that no one could reasonably reject them as unduly burdensome. Contractualism may not be entirely convincing as a general theory of rightness, as I will discuss below, but has some degree of plausibility as a principle of legitimacy. It inverts the contractarian focus on convergent agreement and introduces, instead, what Derek Parfit has called a “complaint model” governing the selection of

⁷ That is, agent-relative and universal ends.

⁸ It is presented as such a theory, and defended in this form, by Thomas Scanlon, in *What We Owe To Each Other* (Cambridge, MA: Harvard University Press, 1998). I have a different interpretation of how one best explains away the intuitions that seem to support contractualism, described in section V of “Internal Reasons and Contractualist Impartiality” in *Utilitas* volume 14 number 2 (July 2002) pp. 135 - 154.

normative principles.⁹ In the light of this contractualist model we select that theory that is acceptable by its lights: that theory which has the feature of giving everyone the same agent-relative aim and which no involved party can reasonably reject. That leads, in Nagel's argument, to a fourth level of reflection, where we structure our social world to ameliorate the conflict between the personal and the impersonal, in the light of the demands of the higher order impartiality that we have now adopted.

Nagel cautions that he believe that his solution will only ameliorate the possible clash between the personal and the impersonal: it will not eliminate it entirely as that is simply psychologically unrealistic. But he notes that the clash between the personal and the impersonal, which higher order impartiality adjudicates, is not inevitable in all respects: it only occurs when they overlap. But when they do overlap and come into conflict, the higher order reconciliation effected at the third level of reflection will have been implemented in the institutional design of society such as to ameliorate the conflict:

The ideal, then, is a set of institutions within which persons can lead a collective life that meets the impartial requirements of the impersonal standpoint while at the same time having to conduct themselves only in ways that it is reasonable to require of individuals with strong personal motives. But to state this ideal is to see how hard it will be to realise. Its two conditions pull in contrary directions.¹⁰

So, at the fourth stage of our reflections we have a clear plan of how to proceed: this looks like an outline of a constructive solution to our original problem. But this proposal is derailed by a new and special problem: the idea of responsibility plays a different role in a

⁹ Parfit, 'Equality or Priority?' reprinted in Clayton, M. and Williams, A (eds) *The Ideal of Equality*, (Basingstoke: Palgrave 2002) pp. 81 – 125.

¹⁰ *Equality and Partiality*, p.18.

political context than it does in a moral one, and that is why Nagel believes there is no direct "analogue" in political theory for our best normative ethical theory.

Nagel's particular concern about institutional design is that while it has a great impact on people's lives and ought, therefore, to be voluntarily underwritten, it cannot be entirely so underwritten. Yet this lack of voluntariness must be combined with a particularly heavy burden of responsibility (a point that has always been forcefully made by Rawls).¹¹ In the case of political responsibility, Nagel believes, there is no distinction between positive and negative responsibility. In the case of state action, there is no difference between action and inaction and the state is as responsible for what it fails to prevent as that which it brings about.¹² This suggests to Nagel that it would be unacceptable, at the political level, to implement an analogous political theory to hybrid theory or pluralism in ethics. What we have to do, to meet this challenge, Nagel believes, is to apply the fully impartialist theory we discerned at the second level of reflection to the basic structure of society. It is too stringent a demand within ethics, but politics introduces stringent demands because of the special nature of political responsibility.

What we have to hope for, then, is that we can implement a "moral division of labour" whereby we incorporate strong egalitarianism into the basic structure of our society, and hope that this leaves enough social and political space for us to lead ethical lives guided by our best normative ethical theory. But that hope is itself illusory. Strong egalitarianism is not undermined by another theory but frustrated by macro-effects arising from the deployment, at the individual level, of micro-level individuals leading their lives in accordance with a pluralist ethical theory.

¹¹ See, for example, Lecture VII of *Political Liberalism*, 'The Basic Structure as Subject', (New York: Columbia University Press, 1993) pp. 257 – 288.

¹² *Equality and Partiality*, pp. 71 - 2, pp. 99 - 102. For some related discussion of the general problem of responsibility in the theory of justice see essays 2 to 5 of Samuel Scheffler, *Boundaries and Allegiances*, (Oxford: Oxford University Press, 2001).

This is a practical conflict where we simply cannot implement two practical policies simultaneously, any more than we can play the tuba while swimming underwater. Nagel considers how the argument could be taken forward in the light of his diagnosis of our current situation. One response is to say that the inequalities that Nagel has focused on have their sources in class and talent, expressed through the influence of families in the former case, and that these are simply “the way things are”. The inequalities they give rise to are, therefore, outside the scope of justification. If we have reasons to restrict them, they are, as it were, external to their nature. The alternative view says that once the “natural” impacts on the social to generate inequality, it is open to justification by the standard we apply to our basic social institutions. Nagel shares Rawls's view that we are not responsible for our talents so that inequalities arising from them (except for the “most immediate”) are “morally questionable”. But that repeats the problematic point the argument has reached without solving the problem at all or suggesting how it might be solved.

Individual motives remain, and they work against equality in two ways: by inhibiting support for institutions which attempt to reduce inequality, and by putting pressure even on institutions that give priority to the interests of the worse off to tolerate substantial inequalities as the price of efficiency. At the same time these motives seem to play an essential role in the successful operation of a modern competitive economy.¹³

Nagel cannot envision a transformation of motives that would make this problem go away. Not everyone can be motivated to work hard solely by the intrinsic rewards of the job nor, for that matter, by generalised benevolence. The market is the most efficient transmitter of information about preferences and to meet those preferences people need economic

¹³ *Equality and Partiality*, p. 121.

motivations such as the desire for economic success, which in turn can be directly (and is always indirectly) competitive.

There are ways in which people can be motivated to restrict their economic motivations: markets are regulated to a greater or lesser extent and everyone can see the point of controlling negative externalities. Similar justifications apply to the regulation of competition. So, by analogy, can we encourage a division of motives where people are motivated to pursue profit with that pursuit being constrained by the demands of impartiality? Nagel suspects not and argues that the furthest one can go is a support for a decent social minimum that would not put in question, as Rawls and his strong egalitarianism does, a "general suspicion of inequalities owing to class or talent". Acquisitiveness is hedged by redistributive taxation, with the underlying motivation being the alleviation of sufferings that are not a person's fault, without undue overall cost. All in all, this looks like a philosophical route to the conclusion that an extension of existing welfare state provision is the most realistic way forward. Nagel's point, however, is that if this is our way forward, we have to accept that it has no rationale at the level of theory that is not internally incoherent.

Nagel can see only two ways of closing the gap between this "best case scenario", which represents for him a serious compromise with the truth of strong egalitarianism, and the goals set by the more demanding egalitarianism that morality demands of us. The first route involves compromising with people's current motivations and pushing for a higher level of minimally decent social provision in addition to fair equality of opportunity. Above the basic minimum, inequalities are not themselves suspect and are in any case ameliorated by taxation. People above the minimum can blamelessly seek competitive advantage. For those below the line, Nagel assumes that "a guaranteed base will not prevent most people from working, since most people want more than they have". But he regards this option as very much a second best to directly implementing strong egalitarianism.

If we could get that far, Nagel envisages a further stage which acts more fundamentally on people's motivations: incentives and innovation would not be in the

form of unequal pay. This would be sustained by a general disposition not to be "conspicuously" better off than others. People would want to do well, for themselves and their families, but would be reluctant to do well if, comparatively, others in their society were doing badly. Nagel adds that he views a psychological development of this kind as "highly unlikely". It is, further, problematic in its own terms in a way he identifies: it introduces a "gap in incentives to economic efficiency". Those with the highest competitive advantages are motivated to do well, but not as well as possible if that leaves others trailing in their wake and that is going to impact negatively on economic efficiency. This view is morally better, but less efficient. He concludes that the more egalitarian scenario is difficult to envisage and that the only psychologically realistic possibility is a more humane form of social democracy.

Given how far this falls from his strong egalitarian ideals, he adds that "an acceptable combination of individual and political morality remains to be invented".¹⁴ At this point the spiral of reflection is complete and we find that the original argument proves to be self-stultifying. The best political solution that we can manage at the highest level of reflection does not pass the test of *feasibility*. The operations of the personal frustrate the operations of impartial egalitarianism as applied to the basic structure of society. Nagel concludes, unsettlingly, that we have no feasible political ideal of equality.

III

This is, clearly, a complex and sophisticated argument. While it "transcendentally deduces" a set of welfare state arrangements as the most feasible trade off between efficiency and equality, it should nevertheless leave one very uncomfortable, as it does so without reconciling a theoretical incoherence in our justification for this state of affairs. I could not, in the scope of this paper, aim to address every part of this complex overall view. My argument will focus on how Nagel conceives of the interface between the moral

¹⁴ *Equality and Partiality*, p.129.

and the political. Nagel is not the first person to tell us that how people lead their lives at an individual level can have an impact, through time, at the level of a collectivity made up of such individuals. Nor, for that matter, is he the first person to argue that when it comes to the basic structure of society, our intuitive notion of responsibility seems hardly to apply. Because of his rejection of any pre-institutional notion of desert, Rawls does not allow responsibility to figure in any basic way in his account of the justification of distributive justice as a whole.¹⁵ Anyone as influenced by Rawls as Nagel has been is bound to endorse the thought that we are as liable, politically, for what we fail to prevent as for that which we bring about.

The distinctive part of Nagel's view is that our commitment to strong impartial egalitarianism is not simply a commitment within our political principles: it is foreshadowed at the level of the ethics of individual conduct by the impartialist component of that view. It is this distinctive feature of the view (coupled with Nagel's analysis of the internally divided nature of persons) that forestalls a quick response that takes the form of a reminder that social space is made up of individual lives and that we simply have to choose. We have to choose between an ethical pluralism that gives significant scope to individual autonomy or a demanding egalitarianism that may prove burdensome at the level of the individual. If we build strong egalitarianism into the basic structure of society, and that frustrates the operation of a pluralist ethical theory at the individual level, then pluralist ethical theory is false. If pluralist ethical theory is true and frustrates the operation of strong egalitarianism, then the latter view is false. A more clear-eyed view simply insists that we face not paradox here but a practical decision. But this response does not go to the heart of what is troubling Nagel: that the *very same* impartial perspective that generates strong egalitarianism at the collective level is itself part of our pluralist ethical outlook. For that reason, I believe, we need to see how this commitment to impartial egalitarianism is

¹⁵ This is closely tied to the issue of how Rawls treats the idea of desert, as is well brought out by Samuel Scheffler in "Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics" chapter one of *Boundaries and Allegiances*.

supposed to be a part of our best ethical theory. I aim to show that Nagel's derivation of this component of his allegedly pluralist ethical view undermines that view from within. That gives us, I think, reason to be suspicious both of the view and of its alleged place within a supposedly "pluralist" ethical view.

With the aim of casting doubt on the derivation of egalitarian impartialism, I will examine the transition in Nagel's argument from normative ethics to political theory. That process was shaped by a fundamental theme in Nagel's philosophy, namely, his contrast between "objective" and "subjective" points of view. That contrast has been much discussed, and the central issue is whether to understand a process of objectification as "Cartesian" or "Hegelian". On the former view, when we move from the subjective to the objective, we strip away a subjective guise and dismiss it as mere appearance. On the latter view, when we move from the subjective to the objective, we place two equally valid views of the world side by side and try as best we can to integrate them. The question that arises throughout Nagel's philosophy is which model of objectification is appropriate in different areas. He clearly deploys them both in different areas and to different purposes. In the present case, we are supposed to be dealing with a process of "Hegelian" objectification. But, in fact, things do not run so smoothly. This emerges in the treatment of agent-relative and agent-neutral reasons. This apparently innocent terminology is, in fact, the vehicle in this particular debate for Nagel's views about the proper form of objectification in this area and his use of this terminology is precisely where the argument goes awry at a fundamental level.

The connection between the subjective/objective issue and the agent-relative/agent-neutral distinction is this: the subjective, in the ethical and political cases, is the particular perspective of the engaged subject. Objectification, here, is moving to a level which is not particular in two ways. It is either general or universal (Nagel prefers the latter) and is reached by a self-imposed informational constraint. There are, clearly, two ways of understanding this transition. If we opt for the Cartesian model of the transition, the process could be understood as follows: the personal perspective seemed to involve both

agent-relative reasons and agent-relative values. But when we ascend to the impersonal level, we can see that all that there really is, evaluatively, is agent-neutral value and, correspondingly, agent-neutral reasons. So the personal perspective was a misleading way of grasping the truth about our values and reasons. Our reasons are not merely ours, particular to us, and our values are not constituted by, or essentially dependent on, their being ours. Nagel explicitly distances himself from this model, so it is worthwhile explaining what is wrong with it. On this view, we cannot understand the personal perspective as *itself* an evaluative perspective. Second, the personal point of view is essentially downgraded to the status of illusion or error.

So the preferred way of understanding the transition, and the one that Nagel clearly intends, is Hegelian: the personal perspective really does involve agent-relative reasons and agent-relative values. When we move to the impersonal perspective, we simply *expand* the set of reasons and values and add agent-neutral reasons and values to our original set. But there seem to be at least two problems with the way in which Nagel understands this transition. The first problem is that, from the standpoint of a minimal realism, we are now “double counting” values. Second, it is hard to see how a new category *of value* can be generated in the way that Nagel describes. One could add a third problem, which is that there is no way in which one could add, as commentary on this transition, that the orthogonal idea of intrinsic value attaches solely to agent-neutral values.

Both of the first two objections come together in a realist argument that it is difficult to see why merely shifting from viewing the world, ethically, from a particular to a less particular point of view can change the values in it. How can one’s “special personal interest” in the values realized in one’s own life generate a new category of value?¹⁶ If this

¹⁶ This is not the same as the question of how a special personal interest in value can generate value at all: a particular historical connection or causal origin can mean that I am attached to an antique fountain pen bequeathed to me by my grandfather in a way that cannot be reproduced when you buy me a replica when I lose the original. That is an interesting category of “relative value” but I see no way of analysing it, as the argument currently under consideration has to, as constituted by some kind of function of the

interest is allowed to do so, are we not simply double counting values? It seems to me that if one has modestly realist intuitions about value, we have to reconcile two claims: that our engagement with values introduces an irreducible class of agent-relative values and yet that we can also reflect on this commitment, abstract from our particular engagement with values, and think of those values as simply obtaining in *a* life, not *my* life. In so far as we can have this latter thought, we cannot also take ourselves to be introducing *a new class of values*, not, at least, if we are even minimally realists about the subject matter. We are, by contrast, simply taking our existing values and re-describing them so that they are not (particularly) ours. So when, in Nagel's argument, we are invited to conjoin the results of the personal standpoint with those of the impersonal standpoint, we do not get a "massive impartial addition to each individual's values". We get the agent's existing values re-described. The question of "how [they are] to be combined with the values we already have" does not even arise. Thus, from my alternative perspective, which I would claim is more faithful to Nagel's own realist intuitions, we do not have a problem here at all.

The third, consequent problem for viewing this transition as a "Hegelian" objectification concerns intrinsic value. Nagel seems to suggest that it is only at the impersonal level that one can see that one's values are intrinsic. But that cannot be right. It goes back on the claim that we have here an instance of Hegelian, not Cartesian justification, as this would certainly be an insight into the values that one already holds that would be debarred from the personal perspective. But it just looks very odd to say that there are no intrinsic values discernible from the personal perspective. Furthermore, there is no good philosophical ground for such a restriction: there is no tension between your reasons being relative to you, corresponding to values which are relative to you, and picking out intrinsic values. "Relative" here means "relational", not "extrinsic". Obviously it is a flat out contradiction to say that a value is both intrinsic and extrinsic. But that is not the claim: the claim is that the value to you of, for example, a personal

intrinsic value of an old pen plus my special interest in that particular object. Its intrinsic value, at the personal level, is that it stands in a certain kind of relation to me.

relationship is both intrinsic and yet a value that could not exist unless you stood in a relationship to an object of value. But your being related to that object is not the constitutive ground of that value: it is intelligible to you, for example, that other pairs of objects are related by the same relation (such as “parent to child”) in a valuable way.¹⁷

Let me note at this point that there is a further option: a “mixed” strategy that applies Cartesian objectification to values, but Hegelian objectification to reasons. The basis of my objection to Nagel’s Hegelian objectification was my commitment to evaluative realism, but the mixed strategy can accept that with equanimity. It is, after all, easier to accept two distinct perspectives on the same state of evaluative affairs generating different reasons than it is to see them generating different evaluative truths. The mixed strategy results in the not uncommon position that there are only really agent-neutral values (an indeed that it is a solecism to speak of agent-relative values) but that there are agent-neutral and agent-relative reasons. My objection to this position is that, first of all, it takes us some way from Nagel’s own intentions in describing a class of agent-relative values. More seriously, it does not seem to me a helpful way of thinking about the issues¹⁸. I will discuss this point further, below, in connection with Nagel’s contractualist model of legitimacy and its difficulties.

¹⁷ For example, the value to a parent of her child is constituted by the special relationship in which they stand. But that is an instance of a generally valuable relation. It would be metaphysical megalomania to think that the value of that relationship was only grounded on a child standing in a relation to you in particular, qua parent. It is the relation that is doing the grounding, not the fact that you instantiate one term of it.

¹⁸ As an innocent way of describing the phenomena, this use of the agent-neutral/agent-relative distinction is merely innocent. But when it is put to other uses, such as trying to demarcate consequentialism from deontology, or trying to align distinctions about values with distinctions about the scope of reasons, the terminology turns out to be not so innocent after all, as I have argued in “The Scope of the Agent-Relative”, unpublished ms.

These crucial problems with the agent-relative/neutral terminology, it seems to me, really stop Nagel's argument getting off the ground. Nagel's diagnosis of the problem at his second level of reflection is as follows:

What the impersonal standpoint generates is a massive impartial addition to each individual's values without any indication of how this is to be combined with the values that are already there.¹⁹

If, as we are supposed to, we understand this transition as one of Hegelian reflection then we seem to be double counting: two perspectives on values have become two new sets of perspectival values. Nagel continues his argument in the following way:

The individual is of course counted as one among the many whose life is seen to have value from the impersonal standpoint, but that does not make his special personal interest in his own life go away.²⁰

This does not seem to me quite accurate either: the impersonal perspective just *left out* the fact of one's particularity: one's "special personal interest" in the values that are not just there, period, but there for you in your life. Either "special personal interest" generates a category of agent-relative reasons or agent-relative values, or it does not. If it does not, then the impersonal perspective leaves nothing out and it is difficult to see why it is criticised for introducing a competitor set of values. But we have seen the difficulties attaching to the alternative interpretation.

A related worry, which I will mention briefly, is once again how one is to understand the relationship between the personal (particular) and the impersonal perspectives in Nagel's account, such that they come into conflict with each other. The

¹⁹ *Equality and Partiality*, p. 16.

²⁰ *Equality and Partiality*, p. 16.

explanation he actually gives is this: his pluralist view can allow both impersonal and personal elements. They do not always come into conflict in any given practical decision, but when they do *the impartial is prior to the personal*. But this makes Nagel's commitment to ethical pluralism merely superficial. There are (at least) two ways to subvert a pluralist ethical view. The first is to take the list of plural ethical commitments and to derive them all from a single principle that allegedly underlies them.²¹ The second is to make one of the items in the original list tacitly prior to the others. Nagel in fact offers an example of both strategies. One of his allegedly plural ethical commitments, impartialism, constrains the others. Yet it also, by generating a new class of values, sets up a conflict that calls out for resolution. That resolution is an "impartiality of higher order". But if the original outlook is genuinely pluralist and if we avoid "double counting" agent-relative and agent-neutral values, then there is no conflict driving us to this level. We have a plural set of commitments and a commitment to practical judgement, in any particular case, as effecting a resolution of their claims where this is possible.

III

Even if there is some way around the difficulties I have raised for the initial move from the personal to the impersonal standpoints, further problems remain. The whole idea of a contractualist model of legitimacy seems to me unfortunate, or, at least, not to be capable of delivering that which Nagel expects from it. We were, in Nagel's argument, driven to a higher order Kantianism simply by the demands of legitimacy itself. The argument looks like it will beg the key question: if we are fundamentally torn between our impartial and our personal commitments, what, at the level of political theory, will drive us to overcome this division? Why are we even in the business of doing so? In ordinary life, we often

²¹ I discuss both versions of this general strategy in "Consequentialism and the Subversion of Pluralism", in Brad Hooker, Elinor Mason and Dale E. Miller (eds.) *Morality, Rules and Consequences* (Edinburgh: Edinburgh University Press, 2000) pp. 179 - 202.

"agree to differ" with those with whom we strongly disagree and we often conceive of politics itself as a matter of accommodating conflict. Indeed, as I will shortly argue, some philosophers have followed the common understanding in taking conflict and how it is understood to be the very essence of the political, a point on which I think they are profoundly correct.

Nagel has two basic responses: that we need to distinguish fundamental, constitutional questions from day to day politics, and that we do not even want the latter to be a matter of pure bargaining between special interest groups.²² Nagel assumes that however much citizens of a legitimate state may disagree over policy, they must share at a deep level a commitment to the legitimacy of the political process, perhaps expressed by a shared commitment to the fundamentals of a constitution. This need for unanimity is going to have to be reconciled with what Nagel takes to be our fragmented, dual nature.

The problem is that a presupposition of agreement is being built into the operations of the contractualist model. The basis of this problem is the "thinness" of the contractualist model of agreement (non-divergence). Normally when we think of agreement and reasonable rejection, we are appealing to a set of underlying considerations that are the grounds of such dis/agreement. One might, for example, think that the correct normative ethical theory was the right one, because of the values it incorporates, and thus that no one could reasonably reject it because it was right. But in the contractualist model, rightness just *is* being that set of principles that no one could reasonably reject. There is no sensible question, if a normative theory is correct, along the lines of "correct in virtue of what".

²² For example, in *Equality and Partiality*, on page 45 the contractualist theory of legitimacy is revealingly contrasted with a form of legitimacy that represents "a *merely* political solution". On p.87 reference is made to "ordinary political bargaining and the calculus of interests". One of the problems of Nagel's Kantian ideal of legitimacy is the poor light in which it casts the ordinary political process which is never, it seems, about principled agreements.

There is no independent basis for correctness independently of the fact that it is the theory that no-one can reasonably reject.²³

To those sympathetic to contractualism, this line of objection is (as they might politely put it) over familiar and can be rebutted. The charge that contractualism is tacitly circular is not exactly novel: it is *the* charge leveled against contractualism in the version developed by Thomas Scanlon originally as a theoretical account of rightness and wrongness.²⁴ Scanlon's critics have often alleged that judgements of rightness and wrongness are connected to the idea of impartial defensibility, but not as closely as Scanlon suggests. We give grounds for judgements of rightness and wrongness, grounds that typically involve values and so Scanlon has at most drawn attention to a "constant conjunction", in a core set of moral judgements, between certain values, judgements of rightness and wrongness, and the idea of impartial defensibility explained in terms of reasonable rejection. But that falls far short of the two reductive claims that Scanlon makes: first, that values are identical to those properties that give reasons (his "buck passing" account of value); second, that rightness and wrongness are identical to those reason giving features that constitute our idea of impartial defensibility.²⁵

²³ Scanlon does address the issue when developing his contractualist theory of rightness, but the answer is not likely to reassure those who regard his view as tacitly circular. See *What We Owe to Each Other*, pp. 170 - 171, especially footnote 21. For a parallel argument that is specifically about procedural models of political legitimacy, see Charles Taylor, "The Motivation Behind a Procedural Ethics," in *Kant and Political Philosophy: The Contemporary Legacy*, Ronald Beiner and William James Booth, eds. (Cambridge: Harvard University Press, 1993) pp. 337 - 60. While Taylor's argument is directed at Habermas, its central point seems to me to extend easily to Scanlon's view adapted to function as a theory of legitimacy and in particular to raise the same problem of tacit circularity which I pursue below.

²⁴ For a representative version of this charge, but developed in a particularly subtle and insightful way, see Philip Pettit's review essay 'Two Construals of Scanlon's Contractualism', *Journal of Philosophy*, 97 (2000) pp. 148 - 164.

²⁵ I am indebted for understanding the buck passing theory of value in particular to an unpublished paper by Philip Stratton-Lake, 'Values and Reasons: In Defence of Passing the Buck', unpublished ms.

The charge, then, is not novel, but I am still inclined to persist with it, even though the issues that it raises are very complex. A full consideration of them goes beyond the scope of this paper, but I will offer a limited defence of continuing to charge contractualism, as a theory of rightness and wrongness, with tacit circularity. Given that one of my emphases in this paper is on the distinctness of issues in moral and political philosophy, I will first of all discuss the circularity of ethical contractualism before going on to examine Nagel's adaptation of the view as a theory of political legitimacy.

Michael Ridge has offered an extended and very insightful defence of contractualism, as an ethical theory of the nature of rightness and wrongness, from the charge that it is circular. Ridge argues that:

th[e] standard objection rests on a pervasive misunderstanding *If* Scanlon's theory held that the grounds on which one might reasonably reject principles had to be agent-neutral, then the objection might be sound. However, on Scanlon's view, the reasons which ground reasonable rejection not only can be agent-relative, they *must* be.²⁶

Ridge explains his defence of Scanlon as follows: the circularity charge claims that the basis upon which a judgement of rightness or wrongness is made is a set of values, which constitute that rightness/wrongness. However, the evaluative grounds cited by Scanlon's critics must be, Ridge argues, either agent-relative reasons or agent-neutral reasons. If they are the latter, then those agent-neutral reasons appeal to underlying agent-neutral values. But in neither case could the cited grounds of our judgements meet the criteria that Scanlon imposes on his account of the "normative kind", rightness. If the cited ground is an agent-relative reason, then it does not meet a requirement that the basis of intersubjective moral reasons must be shared. An agent-relative reason that one agent has

²⁶ Michael Ridge, 'Saving Scanlon: Contractualism and Agent-Relativity',

Journal of Political Philosophy 9, S. 472 - 481 at page 472.

for accepting (not reasonably rejecting) a set of moral principles must be the *same* reason that the complainant has for objecting to the principle. For genuine intersubjectivity, the grounds for reasonable rejection must be shared between a complainant and those who take that complaint as the ground for reasonable rejection of a set of principles.

If, alternatively, the cited ground is an agent-neutral reason, then the cash value of such a reasons claim is that it represents an agent-neutral value. If this is the alleged ground of our judgements of rightness and wrongness that Scanlon has overlooked, then besides the inherent implausibility of that account of value and disvalue, the question has been begged against Scanlon. He explicitly disavows the claim that grounds for rejection of contractualist principles can be agent-neutral. It is, in fact, a presupposition of his position that such grounds cannot be agent-neutral; Ridge concludes that those who reject Scanlon's position on the grounds of its circularity are begging the crucial question.

I am not persuaded that Ridge's argument rescues contractualism from the circularity charge. The ad hominem reply to Ridge is that I would level the circularity charge against Scanlon specifically in the case of *values*. Yet I am not, let me confess it now, a consequentialist. Like Phillipa Foot, I don't understand the consequentialist idea of agent-neutral value, as values are not only related to human interests as an anthropocentric category, but involve certain kinds of relations in an explanation of the nature of certain kinds of values.²⁷ As I have already argued, if you take a paradigm eudaemonistic value, such as well being, then it is fundamentally an intrinsically valuable relational entity, namely a complex mental disposition of a person. Consider the value of being a parent, which grounds the special obligation people have to care for their own children: that is a valuable relation, such that the value only exists when it stands in a certain relation to a person. I believe examples like this can be multiplied to show that values, indeed some

²⁷ See, for example, Phillipa Foot, 'Utilitarianism and the Virtues' reprinted in Scheffler, S. (ed.)

Consequentialism and Its Critics, (Oxford: Oxford University Press 19880 at pp. 224 – 242 where Foot expresses her scepticism as to whether we can attach a sense to the expression "the best state of affairs from an impersonal point of view" at p. 232 ff.

intrinsic values, are essentially relational. For this kind of reason I do not accept that all values are “neutral” in the sense required by the agent-relative/agent-neutral distinction as applied to values.²⁸

So when I accuse Scanlon of presupposing the existence of values, on which our judgments of rightness and wrongness weakly supervene, I cannot be interpreted as claiming that these are all and only agent-neutral values. Can Ridge’s argument really be avoided so quickly? The underlying problem for Ridge is that his defence of Scanlon rests on a large, unclear and unproven assumption: that deontology is exclusively about agent-relative reasons and never agent-relative values (if that latter class exists) and consequentialism is exclusively concerned with agent-neutral values. Ridge points out that those critics whom he considers, who object that Scanlon’s account is circular because it tacitly presupposes an account of value, are consequentialists committed to an agent-neutral account of value. That is true of the critics that Ridge considers, but the deeper point is that Ridge is confident that *any* value based objection to Scanlon *must* take this form. That is because Ridge makes the assumption that consequentialism, structured around an instrumental and maximizing concept of rationality, has successfully annexed the entire category of value.²⁹ (The deontologist is left defending a special class of non-value based reasons.) There are able defenders of seeing the distinction between consequentialism and deontology in this way, but I am amongst the sceptics who see this

²⁸ For a similar scepticism about the agent relative/agent-neutral distinction, but on different grounds from my own, see John Skorupski’s paper, ‘Neutral versus Relative: Philosophical Utilitarianism and Practical Reason’, reprinted in *Ethical Explorations*, (Oxford: Oxford University Press, 1999) pp. 49 – 64.

²⁹ Ridge is not alone in seeing the issue this way and it is one of the main themes of David McNaughton and Piers Rawlings jointly authored series of papers: ‘Agent-Relativity and the Doing/Happening Distinction’, *Philosophical Studies*, LXIII (1991), pp. 167 - 85; ‘Honouring and Promoting Values’, *Ethics*, CII (1992), pp. 835 - 843; ‘Deontology and Agency’, *The Monist*, lxxxvi, (1993), pp. 81 - 100; ‘Value and Agent-Relative Reasons’, *Utilitas*, vol. 7, no. 1 (May 1995), pp. 31 - 47; ‘Agent-Relativity and Terminological Inexactitudes’, *Utilitas*, vol. 7, no. 2 (November, 1995), pp. 319 - 325; ‘On Defending Deontology’, *Ratio*, XI 1 (April, 1998) pp. 37 - 54.

entire way of structuring the debate as a heavy investment in counterfeit currency, namely, the agent-relative/neutral distinction itself, beset by insuperable problems of definition and dividing up the options in a misleading way.³⁰

Ridge's second argument is that contractualism takes agent-relative reasons seriously in the sense that it takes individual moral complaints seriously. It is non-aggregative and yet, by supplying a "bridging principle" in the form of the (agent-neutral) contractualist formulation about reasonable rejection, it connects the agent-relative complaints of different people into a single systematic account. In this way the agent-relative complaint brought by one agent can be a reason for action for another. Once again, I agree with the premises, but do not see them as supporting the required conclusion. To have any chance of being a plausible account of the deontic kind, rightness, Scanlon's account has to take individualized complaints seriously. But it is another misuse of the agent-relative/neutral terminology to derive, from a claim about the objectivity and communicability of reasons, a further conclusion about practical scope. Agent-relative reasons are not, of their nature, restricted in practical scope to the person for whom they are a reason, such that we need a "bridging principle" to move from one agent's reason to another's. If we have objective reasons, then they are mutually intelligible in the sense of communicable. But communicability is a distinct notion from that of practical scope even if both ideas are expressed by the ambiguous terminology of a reason being "for" an agent. Contractualism does not offer any particular support to the idea that different agent-relative complaints are communicable: that idea comes for free, as it were, with the idea that this is an instance of a reason with an objective content. But nor does contractualism guarantee any transmission of practical scope from one agent's reasons to another. So, overall, it adds nothing to the standard deontological idea that deontology has to accommodate a certain kind of individualized moral complaint, a notion which is certainly not the proprietary possession of the contractualist.

³⁰ I have discussed this issue further in 'The Scope of the Agent-Relative', unpublished ms.

I conclude that in spite of Ridge's efforts, there remain good grounds for suspecting that contractualism, as an ethical theory, is damagingly circular. However, not only does it not fare better as a theory of political legitimacy, it fares even worse. That is because of how one is to understand the concept of the political. That, too, is an issue full consideration of which falls outside the scope of this paper. But one of my aims is to connect Nagel's discussion with a wider consideration of the relation between political and moral theorising and Bernard Williams has recently argued that "political philosophy is not just applied moral philosophy, which is what in our culture it is often taken to be".³¹ Williams argues that political philosophy has a distinctive set of concepts, focused on the ideas of power and legitimation; that it has a distinctive notion of what constitutes a political disagreement; that it involves interpretation, but not in the limiting sense of determining what counts as particular instances of a political value; finally, that to make sense of politics you basically need to make sense of the idea of political opposition. Williams self-consciously echoes Carl Schmitt here, in particular his controversial definition of the concept of the political. Schmitt notoriously understood the concept of the political as "reducible" to the criterial distinction between "friend and enemy".³² On the least alarming interpretation, this view understands the political not in terms of actual conflict, but in terms of the permanent possibility of conflict centred on conflicting "ways of life".³³ Understanding how a certain kind of conflict is possible is integral to the concept of the political, as a concept allegedly distinct from the ethical.³⁴

³¹ Williams, 'From Freedom to Liberty', p. 5.

³² Carl Schmitt, *The Concept of the Political*, pp. 26 - 29.

³³ Nevertheless, Schmitt is concerned with actual conflict as opposed, he sardonically comments, to a "moral and ethical" understanding of conflict in which there are only other "debating adversaries", *Concept of the Political*, p. 28. He contrasts with this ethical sense a more fundamental sense in which "the enemy concept belongs to the ever present possibility of combat", *Concept of the Political*, p. 32.

³⁴ Leo Strauss pointed out the obvious conflict in Strauss between his emphasis on the distinctiveness of the concept of the political and yet its basis, in Schmitt, in an authentic, existential and hence clearly

The basic point I want to take from Williams's insightful discussion is that making sense of the political involves, precisely, making sense of conflict explained via the idea of political opposition.³⁵ Conflicting political values are experienced as involving trade offs and hence costs; if those costs are not to be resented by those who must bear them when they do not accept the justifications for them, a way must be found to accommodate this fundamental idea of political opposition. Legitimacy, here, is the acknowledgement of an authority that decides what will happen, but not, as Williams puts it, an authority that decides what will happen rightly, such that the opponents of the decision are revealed as merely intellectually confused all along. Williams's explicit target is an over-moralised, or one might say, de-politicised notion of legitimacy that he argues is present in Dworkin's *Sovereign Virtue*, but his argument seem to me to be equally applicable to Nagel.³⁶ If it is correct to connect the concept of the political to a certain kind of understanding of disagreement, then it is striking that in Nagel's version of a contractualist model of political legitimacy, the model itself presupposes convergence on agreement and *must be revised until that is precisely what it delivers*. The problem of circularity transfers directly, then, from the ethical case, to the use of the theory as a model of political legitimacy.

We are looking for a set of arrangements that we cannot reasonably reject. In virtue of what? Not the underlying values or interests, as Nagel explained that they were the source of our difficulty: they were plural and in conflict and we need unanimity. So we

ethical experience of "the other" as enemy. Strauss's notes are printed as an 'Appendix' to the University of Chicago translation of *Concept of the Political*; see especially paragraph 27.

³⁵ As Williams puts it, "The idea of the political is to an important degree focused in the idea of political disagreement: and political disagreement is significantly different from moral disagreement. Moral disagreement is characterized by a class of considerations, but the kinds of reasons that are brought to bear on a decision. Political disagreement is identified by a field of application – eventually, about what ought to be done under political authority, in particular through the deployment of state power", 'From Freedom to Liberty', p. 6.

³⁶ Ronald Dworkin, *Sovereign Virtue*, (Cambridge, MA: Harvard University Press 2000).

are heavily reliant on the idea of reasonableness itself. But how can that idea be explained independently of what we value?³⁷ This leads directly to the problem that when one examines the contractualist underpinnings of Nagel's liberal principle of legitimacy, a worrying circularity emerges: when it comes to the actual procedure by which Nagel hopes to generate assent to such principles, his own preferred account of the ethical suggests that no principled solution can be found. Rather than acquiesce in this result, however, Nagel concludes that the very failure to come up with principles that no one can reasonably reject is itself a basis for revising the relevant standards of reasonableness.³⁸ It looks like when we fail to derive the outcome we want, we are given another attempt at laundering our initial position until it gives us the right outcome. This is clearly not going to give us much by way of independent justification.

A related concern is that if one is a genuine ethical pluralist, there is an ineliminable role in one's view for practical judgement. A plurality of judgements from different sources, of different degrees of abstraction, can come into conflict and that conflict requires practical decision. One motivation for Nagel's ascent to the level of higher order impartiality might be to attempt to pre-empt this requirement: after all, we do not need practical judgement if we all agree, or if we fail to diverge if none of us is motivated to bring a complaint against a set of principles. But the contractualist formulation applied to

³⁷ I accept entirely that Scanlon acknowledges that reasonableness, itself, is an idea with moral content such that his model of justification is to some extent locally holistic. But that is a point about his ethical model: in the current case of political justification it is part of that very idea that an ideal of a reasonable citizen has to be explained in terms of how we understand certain kinds of disagreement, not how we understand agreement.

³⁸ *Equality and Partiality*, pp. 45 - 47, especially "the right way to try to approach a solution where existing motives lead to irreconcilable conflict is to use the demand for unanimity itself as a condition on the choice of rational principles", p. 45 and "the desire for a solution to our conflicts is another expression of the recognition that one is only one person among all those who exist [this] recognition [is manifested in] a consequent desire to find a way to live which can be endorsed by everyone, *partly but not entirely out of impartiality*" [My emphasis added] p. 47.

legitimacy, as in the case of its application to ethics, is a procedure for ruling proposals out, not ruling them in (it is, after all, modeled on the categorical imperative which has the same function). Sets of proposals are put forward, and complaints against them are canvassed, but this operation clearly allows for more than one set of principles to be selected on the grounds that they are not unduly burdensome. So we are going to have to appeal to practical judgement to select between them. If it is necessary at this point, why not earlier when implementing an internally pluralist ethical theory? Contractualism does not avoid an appeal to practical judgement; it presupposes it.

IV

I would like to take the discussion forward in a more constructive way. It is important to realize that there are some very positive proposals in Nagel that, because of his view about the demands of strong egalitarianism, are presented by him as strictly “second best” solutions. I will argue that not only has he precisely diagnosed forms of egalitarianism that are realistic and desirable normative goals, but that these goals are in no way compromised. They are made less attainable, however, by Nagel’s theory of the person and that theory has, therefore, to be amended.

It is only in the light of his claim that strong egalitarianism is morally demanded of us that Nagel presents us with two positions he sees as a failed “compromise”: a nonutopian extension of the form of egalitarianism that seems possible relative to current motivational structures, followed by a utopian commitment to a general disposition to be reluctant to have more than one's fellow citizens. My view is that the efficiency and aggregative considerations to which Nagel rightly draws our attention are, in fact, moral reasons for not aiming at the more utopian alternative, with the result that the first of his two options seems to me to be a feasible and attractive political ideal.³⁹ Realization of

³⁹ For a similar view, see Amartya Sen, *Inequality Reexamined*, (Oxford: Oxford University Press, 1992) especially at p. 92 and, for a more general discussion, chapter nine.

either or both of these goals would be considerably more difficult, however, if we acquiesced in Nagel's theory of the person. That theory is an abstract one: it is a very general characterisation of our "divided selves". Abstracting is not idealising: an abstract account of something leaves certain of its features out and does not attribute properties to it that it does not actually possess as an idealisation does.⁴⁰ But one could argue that Nagel's account, abstract though it is, either leaves out important features of people that are just as abstract as those he identifies, or which are less abstract but still a vital part of any solution to the problems Nagel considers.

What I have in mind here are those lines of argument in Nagel's essay that seem tantalisingly underdeveloped concerning the externalisation of demands on the self in one's social environment: that which Nagel calls the "moral division of labour". This line of argument is not only underdeveloped in Nagel's presentation, it could also be recast in different ways. Communitarianism is best viewed as a permanent corrective, within liberalism, to any tendency it may have to misrepresent our social nature as a compact between social atoms.⁴¹ We are rather, as Michael Walzer puts it, "post-social" selves, most of whose associative obligations are not voluntarily undertaken, but who greatly value the option of breaking any particular associative bond. But the communitarians emphasised the importance of recognising shared visions of the good in political life, as well as the recognition of rights, and the recognition of the connection between values and

⁴⁰ Onora O'Neill, "Constructivisms in Ethics", reprinted in *Constructions of Reason*, (Cambridge: Cambridge University Press, 1989), especially pp. 209 - 210.

⁴¹ In formulating the issue this way I am indebted to Michael Walzer's papers, "Liberalism and the Art of Separation", *Political Theory*, (August, 1984), pp. 315 - 30; "Philosophy and Democracy", *Political Theory*, (August, 1981), pp. 379 - 399; "The Communitarian Critique of Liberalism", *Political Theory*, (February, 1990), pp. 6 - 23; Michael Walzer, "The Civil Society Argument," in *Dimensions of Radical Democracy: Pluralism, Citizenship, Community*, ed. Chantal Mouffe. (London: Verso, 1992) pp. 89 - 107. For my own account of what is at stake between liberals and communitarians, see "Liberal Republicans and Civil Society", *Democratisation*, vol. 4 no. 3 (Autumn 1997) pp. 26 - 44.

identity. One important strand of this communitarian argument also emphasised traditional republican ideas such as the virtues of citizenship. It has seemed to some that developing an account of citizenship within the free associations characteristic of modern civil society is the best way forward in reconciling the claims of the individual and the social.⁴² It is not that Nagel is an atomist about persons: he is not. The social is a representative part of all of us. But the way that we are embedded in society seems misdescribed in Nagel's argument. It is the whole person, not a part of us, that is fundamentally social.

If we are going to put identity at the heart of political philosophy, and if one does hope to develop ideas such as community as representative of shared values and as a locus of solidarity, Nagel's starting point does not look hopeful. But his appeal to how our motivations can be taken up and transformed by the social is more promising. Communitarianism has its own dangers of presenting a utopian fantasy of communities structured by shared visions of the good, strongly solidaristic, but still liberal in their relations to outsiders and to internal dissenters. It needs, as a corrective, Nagel's salutary emphasis on the claims of the personal. But there are versions of communitarianism in which it is emphasised that we already have some forms of social life in which the individualism of one aspect of liberalism is balanced by the sociality of another aspect of liberalism, namely, its emphasis on free associations that are neither in the market or the state. This network of associations is civil society. These free associations are the venues for the development of the virtues of citizenship, which is the vital role in which the claims of the social and the claims of the individual are adjudicated within the individual.

The relevance of the related ideas of republicanism and civil society to our liberal egalitarian ideals has been much discussed, and I do not want to minimize the difficulties facing a view of this kind. But my general aim is to draw attention to a sphere of social relations that is co-operative, not egoistic, has a narrower scope than universal benevolence, but has a secure hold on the motivations of citizens by providing that which Michael Walzer called "the setting of settings". This is a "setting" that inculcates and develops

⁴² "Liberal Republicans and Civil Society", section 3.

the virtues of citizenship, including the duties of mutual civility and mutual restraint. It also seems to me to be the appropriate location for an ethos of mutual concern that would hinder unrestrained pursuit of economic profit if the cost is driving other citizens in one's society below a level at which they can lead decent lives free from institutionalised humiliation.

Any positive proposal of this kind tries to overcome the dichotomy between the individual and the social. From this perspective, Nagel's account of the self is under described: we have conflicting commitments, but a recognition of the "personal" can be extended, via the duties and responsibilities of citizenship, to embrace the "social" as well. It is hard to see the possibility of a view of this kind if we see the impersonal standpoint within the agent as the internalised representative of "the collectivity". If the personal spans both self-regarding actions and a legitimate ethical claim to self-realisation, and extends to things going well to those to whom one stands in a special relation (such as members of one's family, or friends) why cannot it extend to those with whom one shares a social life in a wider sense? This is not the idea that a political community should be modeled on a group of friends, rather that co-citizenship could be extended on a basis analogous to friendship, for example shared interests or values.⁴³ If this is so, then the "personal" already contains within it the resources to represent a "collectivity" and that idea should not be annexed and handed over to the "impersonal" standpoint.

Nagel is unduly pessimistic about the prospects for the development of civic virtues in such a way that people can be motivated not to be content with a form of shared social life in which other members of their political community lead lives below a threshold of decency. Nagel acknowledges that one way forward towards a more demanding egalitarianism would be a society in which people could work hard in their legitimate "personal" interests but where they would feel guilty about being substantially

⁴³ As Bernard Williams pithily puts it in a recent work, "We cannot be friends or friendly acquaintances with everybody, and no sane person would want to be." *Truth and Truthfulness*, (Princeton N.J.: Princeton University Press, 2002) p. 114.

better off than their fellow citizens. Nagel is pessimistic about such a transformation of motive, but perhaps we could be more optimistic about something less: the view that our society, with its particular shared values for us, is a collective enterprise and that it is a source of guilt if we see our fellow citizens, participants in that enterprise, leading lives that fall below a threshold of decency.⁴⁴

If Nagel has, in spite of his avowed pessimism, offered a positive way forward in the development of a more egalitarian conception of society, what is the source of the normative principle that we are advancing? If Nagel generates theoretical paradox by taking the commitment to impartialism to feature both as a principle within his pluralist ethical theory and within his political egalitarianism, how is the paradox avoided? I would argue by taking political egalitarianism to be precisely that: a political commitment discontinuous with our best reflective account of ethics. The idea of such a political, as opposed to moral or metaphysical, underpinning for political egalitarianism, stems from Rawls's late work, although he goes on to explain exactly what he means by the politicisation of his assumptions in such a way as largely to undercut his avowed intentions.⁴⁵ Examining this controversial issue goes too far beyond the scope of this paper to be feasible, but it does suggest that in some ways Nagel's paradox is a representative paradox, representative of those views that take political principles to be moral principles simply occupying a different functional role.

V

My fundamental concern in this paper has been with the foundations of Nagel's pessimistic view about the incoherence of an attractive set of commitments in both moral

⁴⁴ For a very helpful discussion that is based primarily on the idea of decency and not justice, see Avishai Margalit's *The Decent Society*, (Cambridge MA: Harvard University Press, 1996).

⁴⁵ See footnote 2, above, for a representative quotation that illustrates how Rawls's "politicized" concept of justice was, for him, a moral conception with a certain restricted scope and distinctive functional role.

and political philosophy. The flaw in Nagel's basic strategy is that his analysis of relative and neutral values drives him to an abstract and rationalist account of political legitimacy. This contractualist view of political legitimacy should, it seems, lead us to reject the truth of strong egalitarianism, a view forced on us by the impersonal perspective, as that view is too burdensome and demanding. That is, after all, how the analogous argument would run within normative ethical theory. But the special conditions of political responsibility, that is, an obliteration of any restricted notion of responsibility at the level of the basic structure of society, mean that no view can be unduly burdensome. If I am as responsible for that which I do not instruct our collective agent, the state, to prevent, as I am for that which it (or I) bring about, the already vague contractualist notion of unreasonable burdens becomes empty.

It is noteworthy that there is an implicit commitment in this overall argument to that which Jonathan Dancy has called "generalism" about reasons: if the reality and moral importance of others in that part of ethical pluralism which is impartial gives rise to a substantive egalitarianism, that very same reason applies *in the same way* in the context of political deliberation about a whole society.⁴⁶ This is in spite of the fact that the context of that reason is very different in the two cases. In the ethical case, it is sensitive to issues of responsibility whereas in the political case it is not. That, apparently, has no effect on its content or its defensibility, surely a questionable assumption.

One line of argument challenges this fundamental idea that there is no restrictive notion of political responsibility at the level of a society's basic structure. But I have chosen, instead, to focus on the foundational assumptions that drive Nagel to his contractualist formulation in the first place: the belief that in the purer air of higher altitude, abstract principles will prove persuasive and the basis for convergence, whereas values lead solely to irreconcilable conflict. But there is no reason to believe that an appeal to reasonableness is going to generate any more agreement than the original account of

⁴⁶ Jonathan Dancy, *Moral Reasons*, (Oxford: Blackwell, 1993) chapters 5 and 6.

values, unless agreement is built into the idea of “reasonableness” in an utterly question begging way.

The process of Hegelian objectification that Nagel describes in the move from the personal to the impersonal perspective is a device for generating conflict between two evaluative perspectives, but I have argued that the reasons for seeing the transition that way are lacking. There is a problem in accounting for those associative obligations that arise from being a parent, a friend, or a fellow citizen engaged in some association in civil society which gives rise to special obligations to co-associates, but one ought not to approach that problem with the claim that the personal is not a domain within which one can engage with intrinsic values. One could take issue with whether a contractualist model of legitimacy gives us anything more than formal egalitarianism, further take issue with Nagel’s arguments for the “pure priority view” of egalitarianism or take issue with the location of this issue at the level of constitutional structure. But a more fundamental problem arises if there is no motivation for being driven to this perspective in the first place.

I have been concerned, above all, in this paper, with the paradoxicality that Nagel diagnosed in an initially plausible set of assumptions. His claim went beyond the observation that pluralism in ethical theory may be difficult to reconcile with a political commitment to egalitarianism, or that that latter ideal may be compromised by the demands of efficiency and aggregative concerns. His paradox arose because the commitment to “strong egalitarianism” was tacitly part of our ethical outlook. It was a property both of the part and of the whole, but applied to whole society it applied independently of any issues about responsibility. I have attempted to defuse this whole line of argument. From within a pluralist ethical outlook, there is scope for recognizing a duty of universal beneficence. Politically, we may be committed to egalitarianisms of various different strengths. In the light of aggregative and efficiency considerations, we seek to reconcile these two demands. I have suggested that Nagel precisely identifies a realistic goal for social democratic politics, namely the cultivation of solidarity in such a way that these

demands can be reconciled in a realistic way. But his theory of the person is an obstruction to this ideal, not of any assistance in its development, and we do not have to accept Nagel's further claim that this is a compromised ideal, expressive of an underlying paradox in our ethical and theoretical commitments. Positively, I have argued that a republican emphasis on the development of civic virtue, in the context of free associations, may be the best route to take in the direction of these uncompromised normative goals.⁴⁷

⁴⁷ I am grateful for helpful comments and advice on this paper to Kathryn Brown. An earlier version of this paper was presented to the conference, *The Ethics of Altruism*, Royal Holloway, arranged by Jonathan Seglow in April 2002 and I benefited from the discussion of that earlier version at the conference. I also benefited greatly from the comments of two anonymous referees for this journal, whose insightful comments shaped my revisions to the conference paper to make it more suitable for publication. Research for this paper was initially carried out during research leave funded by the Arts and Humanities Research Board and I am grateful to the Board for this support.