CHAPTER FOUR

Moral Worth and the Worth of Rights

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> There are only individual people, different individual people, with their own individual lives . . . each with his *own* life to lead . . . each with his own life to *lead*.
>
> Robert Nozick, *Anarchy, State, and Utopia*

> Utilitarianism does not take seriously the distinction between persons. . . . Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override.
>
> John Rawls, *A Theory of Justice*

> Liberalism is a political theory and politics based on equal respect for all individuals, expressed in a regime of rights, the rule of law, and a commitment to public justification.
>
> Stephen Macedo, *Liberal Virtues*

THE IDEA OF equal moral worth is at the heart of classical liberalism and its commitment to individual liberty and democracy. This liberalism holds that the state should give equal respect and consideration to all individuals because they all equally share a common humanity that grounds what we call

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human dignity. It is this value of persons that makes them sovereigns of their own lives and gives them an inviolability that no one may override in the name of a higher good. Hence, neither the state nor other individuals may sacrifice anyone to the ends of more virtuous or talented or powerful or more numerous individuals. The moral equality of all individuals to shape their lives as they see fit also entails that the freedom of individuals may not be curtailed without their consent, even for their own sake, by the state or by other individuals. For this would be to deny their sovereignty over their own lives. In short, the idea of moral equality entails that persons are neither mere means to others' ends nor their involuntary wards. It is this status of individuals that modern political and moral thought recognizes in its doctrine of rights and equality under the rule of law.

But what makes us morally equal? *Are* we equal in moral worth—equally valuable? Or is there a natural hierarchy of worth among human beings, as Aristotle and Nietzsche thought—an inequality in the ability to live by one's own reason (Aristotle) or in the will to power that fuels the desire to live (Nietzsche)? My first aim in this essay is to examine the idea of equal worth (section 1). What sort of worth is it, and what is its source? What conception of the self does this idea presuppose, and with what justification? Do experience and psychology support or, at least, not contradict this notion of the self? If they do, we have to jettison the idea that equal individual rights are based on equal worth and look elsewhere for a grounding.

Assuming that the idea of equal worth can be vindicated, my second aim is to see what sort of valuing response it calls for and how respect for rights expresses this response (sections 2 and 3). Rights create a space of protected freedom for us to pursue our ends as we see fit, so long as we do not infringe on the equal right of others to do likewise. More precisely, this

space of freedom is protected by what are sometimes called negative rights or rights to liberty, the Lockean rights to "life, health, liberty, or possessions"[1] that Jefferson formulates as the rights to life, liberty, and the pursuit of happiness in the Declaration of Independence. What is the connection between the right to shape one's life as one sees fit and the worth we all supposedly possess?

In section 3, I also briefly address the issue of rights absolutism or rigorism, the view that valuing persons as ends implies that no right may be violated though the heavens fall. I conclude this essay by showing that the conception of persons as having equal moral worth is not a parochial Western construct, as some have claimed, but a conception that has existed in many systems of Asian thought (section 4).

I. EQUAL MORAL WORTH

At first sight, what is obvious is our *inequality*. We live lives of unequal worth, differing both in creative talent and in moral character and, thus, in the good we do, for ourselves and for others. And both everyday experience and psychology suggest that some of these differences may be the result of inherent differences in intellectual or practical rationality or in psychic energy, even as they deny, contrary to Aristotle (and, perhaps, Nietzsche) that these differences exist along race or gender lines. But does the existence of inherent differences in these qualities imply that we must jettison the idea of moral equality that underlies liberty and democracy, the idea that we are all owed the same respect and consideration? Not necessarily. Perhaps all that is required for moral equality are the ability to set

1. John Locke, *Two Treatises of Government*, ed. Peter Laslett, 2d ed. (Cambridge: Cambridge University Press, 1967).

and pursue our own ends in light of some conception of the good compatibly with the ability of others to do likewise and the ability to value these abilities. In other words, all that may be required for equal respect are the abilities for self-direction and for self- and other-regard.

No doubt even these abilities come in degrees, resting as they do on natural intellectual and emotional abilities. Some people may be naturally less capable of self-direction, some may be naturally less capable of objectivity or empathy, and some may lack one or the other entirely owing to serious intellectual or emotional impairment, as in the case of severe retardation or psychopathy. But individuals who possess these abilities to the extent necessary for an independent and harmonious social existence reach a certain baseline and are equal to each other in this respect. They have what Thomas Nagel calls the ability to see themselves as the same person now and in the future, and as one among others equally real, each with his own ends and reasons for action.[2] They have what it takes to be moral agents.

However, it is hard to see how the mere ability for moral agency can make us worthy of respect and consideration, giving us the moral standing that is recognized by the ascription of rights. Surely Aristotle is right to think that by nature we are neither good nor bad, that good and bad characterize only action and character—the second nature we acquire through habituation?[3] And that self-love or self-regard is good only when the self that is loved is itself good?[4] For the mere fact that someone can form a conception of the good life doesn't show that the conception is worth forming. At most, then, it might be argued, the ability for self-direction and self-regard have

2. Thomas Nagel, *The Possibility of Altruism* (Oxford: Clarendon Press, 1970; Princeton: Princeton University Press, 1978).
3. Aristotle, *Nicomachean Ethics* (hereafter *NE*), book 2, 1103a19–26.
4. Ibid., book 9, 1169a11–12.

worth only when the life and self they are used to create has worth. Just as there is no value in a facility with computer languages if we use it simply to create new viruses, so there is no value in the ability to shape our lives if we use it simply to create a new form of low life. But because some people do just that, everyone's ability to shape their lives and have self-worth cannot have worth, much less have equal worth. Similarly, the capacity for other-regard has worth only when it is directed at those who are worth regarding: regard for good con artists doesn't cut it.

One might respond to this objection by granting the premise that the worth of an ability depends upon the way it is exercised, but denying the premise that some lives lack worth and thereby denying the conclusion that the capacity for moral agency can sometimes lack worth. Instead, one might argue, worth of different lives is unique and incommensurable. Loren Lomasky makes a strong case for this thesis by building on the idea that we are the sorts of beings who forge our identities and individuate ourselves by committing ourselves to certain ends and shaping our lives accordingly.[5] In other words, we are *project pursuers*, not *indiscriminate evaluators* pulled this way or that by every passing attraction. Through our pursuit of projects, we *create* value, a personal value that is independent of the moral dimension of our lives. Our projects give us reason to pursue them just because they are ours, and their central importance in ordering our lives and providing us with a personal standard of value rationally obliges as well as motivates us to value the necessary means to them, namely, our ability to pursue projects

5. Loren Lomasky, *Persons, Rights, and the Moral Community* (New York: Oxford University Press, 1987), 31–34. Bernard Williams first introduced this idea in his criticism of utilitarianism in J. J. C. Smart and Williams, *Utilitarianism: For and Against* (New York: Cambridge University Press, 1973).

(58–59). Our projects and our ability to pursue them have agent-relative value—a value for us—even if they have no value for anyone else. If the standard of all value were impersonal, such as the general happiness or the glory of God, the value of an individual life would be measured by its contribution to this impersonal value, regardless of the value the individual herself put on her life. And so an individual's life would have purely instrumental value, and there could be no moral objection to sacrificing an individual with lesser value to save an individual with greater value. What makes us irreplaceable, according to Lomasky, is that our lives have not only impersonal but also personal value and that this personal value is unique and incommensurable. In investing our lives with personal value through project pursuit, we bring a unique value into the world, a value that cannot be compared with the value of other individuals' lives. Hence, there is no interpersonal measure of value in terms of which the personal value of different lives can be compared, ranked, or traded off. Lomasky (1987) continues:

> *A* regards himself as a member of a Kingdom of Ends when he both respects the unique individuality that is his own and recognizes that all other project pursuers are themselves unique individuals, each with his own life to live, and each possessing reason to reject overreaching impositions from others. In a Kingdom of Ends, each project pursuer is accorded moral space within which he can independently attempt to realize a connected and coherent conception of the good life for him. Rights are just this entitlement to moral space. (54)

Rights protect us in our projects of living our own lives, which are no less than the projects of creating our own selves. Rights recognize our unique and irreplaceable worth as beings who create value.

This account of rights as recognizing and protecting the equal worth of persons as project pursuers is a powerful re-

sponse both to the inegalitarian proponent of a hierarchy of valuable lives and to the utilitarian "socializer" of all ends who fails to see how our commitments to our projects give us special reason to pursue them and how we shape our identities by doing so (34). But even if Lomasky's distinction between personal and moral value is well-taken (and I have reason to doubt that it is), is it true that all lives have personal value and that this value cannot in any respect be compared because there is no interpersonal measure of personal value? Certainly the claim of uniqueness and the absence of an interpersonal measure does not follow from the thesis that impersonal value does not reign supreme. Nor does this claim seem essential to the claim that we are irreplaceable ends in ourselves.

We may start by noting that the personal value of a single life can vary over time. Consider Silas Marner, the eponymous hero of George Eliot's novel. Silas Marner's life as a solitary miser was less worthwhile to him than his life as a loving father to Eppie. But if we can compare the personal value of two stages of his life, we can also compare the personal value of the life he actually led with the value of the life he might have led had he never found Eppie. We can say that if Silas Marner had never found Eppie, if he had lived out his life as a solitary miser, it would have contained less overall personal value than it actually did contain. He might never have known this, of course, not only for the trivial reason that he wouldn't have had a life with Eppie to compare it with but also for the deeper psychological reason that he might never have realized his capacity for a greater value.

Suppose, further, that instead of Silas Marner finding Eppie, another solitary miser with his psychology—call him Midas—had found Eppie. Just as we can compare the possible life of Silas Marner with his actual life, so we can compare it with another imaginary life and come to a similar conclusion: if

Midas had found Eppie and committed himself to her, then Midas's life would have had greater personal value (greater value to him) than Silas Marner's life to Silas Marner. And if we can compare the lives of fictional characters, we can compare the lives of real people. If such comparisons were not possible, there would be no such thing as aspiration or emulation or envy or, for that matter, pity. What explains these evaluations and emotions is that no matter how idiosyncratically personal the value of a life, it is still the value of a *human* life. It is this fact that provides an interpersonal measure of worth even for personal value. Implicitly or explicitly, we use this standard to evaluate our own lives and the lives of others. And the judgments we render are often unequal.

Further, someone who feels like a failure because all he has touched has turned to naught or who dislikes the person he has made of himself and has little confidence in his ability to change may place little or no value on his projects and the life he has created. The effect of oppression or humiliation on an individual's sense of self-worth may be even more corrosive, leading her to believe that she is, at best, a tool of others' ends. Self-regard, too, then, is subject to interpersonal comparisons.

What this shows is that if our value as persons, our moral worth, resides in our ability to shape our lives and to value what we create, but the value of this ability lies in the value of what we create, then the worth of different individuals cannot be equal and cannot ground equal rights and equality before the law. And no matter how pluralistic *is* our conception of personal value, no matter how sensitive this conception is to the diversity of human needs, desires, and dreams, it is hard to deny that some persons' conceptions of the good may be shallow and the shape they give to their lives shoddy. Indeed, some lives may be both shoddy as human lives and valueless to the individuals concerned.

If we can make interpersonal judgments about the personal value of our own and others' lives and identities, then lives and identities cannot be wholly qualitatively unique. In other words, the kind of value created cannot, as Lomasky implies, be wholly unique. But why should this matter? How can qualitative uniqueness be relevant to our status as ends in ourselves? We can see its irrelevance if we imagine the case of spiritual twins, that is, two individuals with essentially the same character, personality, and style of thought and action. This is not just a remote possibility, something that occurs on Twin Earth, but a reality, as studies and stories of identical twins show (including a story, some years ago, of twin sisters who lived together, worked and walked together, and even responded in unison to situations and people.) When they discover each other's existence, should spiritual twins cease to think that they are irreplaceable ends? Should we? It will not do to point out that even spiritual twins will differ in some respects: one might like red wine, the other Classic Coke,® one might like chicken-fried steak, the other filet mignon. For if it is hard to see why uniqueness in important features of our lives and identities is necessary for being irreplaceable, it is even harder to see how uniqueness in trivial details can save this thesis.

It seems, then, that our value as persons, the ground of our human dignity, cannot lie in our scarcity or diversity, like the value of exotic birds. Indeed, as David Velleman points out, if our value as persons resided in the uniqueness of our characteristics, then we would have merely a "market value," a value that would be diminished if our characteristics were duplicated.[6]

We must conclude, then, that our equal moral worth, our status as irreplaceable ends in ourselves, can reside neither in

6. J. David Velleman, "Love As a Moral Emotion," *Ethics* 109, no. 2 (1999): 354.

the personal value of our lives (for all lives are not equally valuable or equally valued by those who lead them, and some may be altogether lacking in value) nor in their qualitative uniqueness (even if, contrary to fact, they were all qualitatively unique). All the same, both the idea of valuable lives and the idea of uniqueness are relevant to the idea of equal, irreplaceable, moral worth.

My proposal is that this worth resides in our capacities for valuing and creating that which is worth valuing and creating, in particular, for creating valuable lives and valuing ourselves and others as numerically unique and irreplaceable creators of value. If, like evil genies, our capacity to give shape to our lives and identities was limited to creating new forms of confusion and deception and harm, we would not have the kind of worth that makes us ends in ourselves, worthy of respect. If, like the cells of a body, we had no capacity to live apart from the "social body," with our own point of view on things, we would not be numerically unique and irreplaceable or capable of making ourselves our own ends.

Unlike evil genies, however, we do have a capacity for creating lives of personal worth—lives that have worth for us as human beings and as the particular individuals we are. And unlike cells in a body, we are distinct and separate individuals, numerically unique, irreplaceable as creators of value, and capable of valuing ourselves as such. The bare fact of our separateness, of our distinctness as creators and valuers, establishes our uniqueness and irreplaceability. The lives of spiritual twins are still two lives and not one, regardless of their qualitative identity. Alpha's valuing of his projects, his concern for his integrity as a person, is not diminished by the thought that there's one more just like him in the world, only separate: it would not be all the same to him if he were killed and replaced with Beta. Nor *would* it be all the same: Alpha's death would

leave one less center of valuing consciousness in the world and one less (possible) source of values. He is, and can see himself as, irreplaceable in the straightforward sense that there is only one of him, occupying his particular niche in the world, taking his particular perspective on things, even if his way of seeing them is not unique.

If we are equally worthy, it is because we are all capable of creating value and of valuing ourselves (and others) as distinct and irreplaceable creators of value. These abilities themselves are not *sui generis* but a function of our various intellectual, emotional, and physical abilities. We may misuse the ability to create a worthy life or even fail to exercise it as a result of anomie or despair, just as we may misuse or fail to exercise or value some physical ability. But misuse of or failure to exercise an ability does not imply that it has no value, and so it does not imply that we, as agents and creators, have no value. It is the *possibility* we own for creating worthy lives and caring about things, and most of all about things that are ends in themselves, "in that reflective way which is distinctive of self-conscious creatures like us,"[7] that invests us with value. And it is this that makes us fit objects of "recognition respect" and "recognition self-respect," even when the selves we create fail to merit "appraisal respect" or "appraisal self-respect," and even when we see ourselves as mere tools of others' ends instead of as irreplaceable creators of personal value.[8]

This analysis fits in well with the root idea of the word *respect*,

7. Velleman, "Love As a Moral Emotion," 365.

8. The distinction between "recognition" and "appraisal" respect is from Stephen Darwall, "Two Kinds of Respect," *Ethics* 88 (1977): 36–49. Robin Dillon extends Darwall's distinction to self-respect in "How to Lose Your Self-Respect," *American Philosophical Quarterly* 29 (1992): 125–39.

which is "to look back" or "to look again."[9] In extending recognition-respect to others, we pay them heed, give them proper attention, and acknowledge these capacities underlying their character and personality. And we do the same when we extend recognition respect to ourselves. If we look at ourselves from within our lives, from the inner perspective, and see these powers of creation and appreciation, we can value them even when we cannot value the way we have exercised them or what we have achieved with them. In other words, we can have what Kant calls reverence for the self even when we cannot have the Aristotelian virtue of pride—pride in our virtues. To lack recognition self-respect is to lack an appreciation of our potential for creating value and valuing value and to see our value (if we see it at all) as deriving entirely from the actual exercise of this potential.

It is in the idea of the self defined by these capacities that the ideas of equality and worth, which seemed to pull in opposite directions, can be brought together. The reflective and self-reflective self, with its powers of valuing and creating, has the ability to see itself and others as equally real and equally enduring, extending into the past and reaching into the future. It is this self that is the proper object of respect as well as of love understood as agape, or charity. For agape, the love of humans qua humans, is also directed at all alike, independently of their character, personality, or achievements. Despite the differences between agape and respect, then, they are directed at the same self, the self that Kant identifies as our humanity and Augustine, as the good or God in everyone.

The claim that the object of respect is an enduring capacity for appreciation and creation of value might be challenged on

9. Thomas Hill, "Respect for Persons," *Routledge Encyclopaedia of Philosophy* (online version, 2000).

the grounds that it posits a ghostly self—a reified entity, like Kant's noumenal self or the Christian soul—behind the empirical self constituted by our character and personality traits, a self that we have little reason to believe exists.

However, the capacity for appreciation and creation of value, the capacity for humanity, can be understood in entirely naturalistic terms. The first step in its demystification is to note that saying there is such a capacity is no more than saying there must be some psychological ability that explains how those who create valuable lives are able to do so and how those who fail at first can later change. This is no more (and no less) mysterious than saying that there must be some psychological ability to explain how literate people can read and write and how illiterate people can learn to do so. If there was no underlying capacity to change one's character, then those whose sense of their own or others' worth has been severely damaged—the abused wife, the slave, the predatory gang member, the former Nazi—could never succeed in recovering that sense of worth. But some clearly do, sometimes gradually, sometimes as the result of a transformative experience. A book, a person, a chance event—almost anything can lead to a radically new conception of the world, either by overturning central beliefs and values or by crystallizing inchoate thoughts, emotions, and values into a normative whole.

Another and stronger objection to the idea of a capacity for creation might be that it assumes a radical freedom to overcome the influence of character and situation, and this assumption is contrary to the lessons of science and experience. For science and experience support the conclusion that our choices are determined by a combination of situational factors and character and personality traits that, in turn, are determined by our heredity and environment. A satisfactory account of free choice and agency must, then, be compatibilist.

Whether or not our choices are determined, as this criticism states, it is true that our freedom to shape our lives and identities is not radical, in the sense that we can make and remake ourselves at will. Our capacity for self-creation operates from the beginning within unchosen constraints, and like any natural capacity, it can be undermined or destroyed by accident, disease, or severe abuse. Most relevant for our purposes, this capacity can be undermined by the very identity we create through the exercise—or lack thereof—of this capacity. For reasons that are implicit in the very descriptions, people with weak or unreflective characters will find it hard to change themselves. And people with vicious characters—mass murderers like Osama bin Laden and erstwhile Communist and Nazi leaders—will be prevented by their warped view of the good across a whole range of issues and the pleasure they take in evil from seeing any reason to change. In other words, as we would expect of any psychological capacity or trait, the capacity for valuing and creating value is itself subject to external influences as well as the use we make of it. When viciousness leads to madness, then it may be that this capacity, the capacity that makes us ends in ourselves, has been destroyed. This may be the case with the mother depicted in the recent book *Son of a Grifter*, written by one of her sons, Kent Walker (New York: William Morrow & Co., 2001). At this point, lack of certainty may be the chief justification for continuing to think of them and treat them as ends in themselves (see below).

In this section I have argued that our equal value as persons, the sort of value that makes us worthy of respect, lies not in the incommensurable personal value of our lives and our conceptions of the good but in *the equal worth of a shared capacity*, a capacity for appreciating and creating value. If I am right, it is this conception of persons that underlies the liberal doctrine of rights and equality under the rule of law and the individualist

maxim that individuals are free to live their lives as they see fit, so long as they do so compatibly with the like freedom of others. Because the equal worth of persons lies in their shared capacity rather than in the value of the lives they create, rights must be justified as a way of valuing individuals for this capacity, as a way of valuing them as ends in themselves.

But what exactly does it mean to value persons as ends, and how do rights express this value? In the next two sections I will discuss two different understandings of valuing persons as ends and two different conceptions of how rights express this value.

2. RIGHTS AS PROMOTING FREE AGENCY

Rights create a space of protected freedom for individuals to pursue their own ends, their own conception of the good, however mistaken or shallow, so long as they do so compatibly with the like freedom of others. As we have seen, respect for persons is respect for their capacity for valuation and creation or, more simply, their capacity for free agency. Because individuals exercise their agency in setting and pursuing their ends (both self- and other-directed), and they can exercise it only under conditions of freedom, it might be thought that to respect individuals is to want to see their capacity for agency protected and promoted and that rights do just this. But can rights to liberty be justified as protecting and promoting—more briefly, furthering—our capacity for free agency?

We can start with the uncontroversial assumption that it is rational for each individual to value her own agency as a means to, or part of, her own good, and therefore it is rational for her to want a space of protected freedom in which she can exercise her agency by setting and pursuing her own ends. Hence, she needs a principled barrier against being used as a mere means to the ends of others, and so it is rational for her to want to live

in a society in which she has an enforceable right to such freedom. But to have a right to a space of protected freedom is not only to have a justified *desire* for such a space but also to have a justified *claim* against the invasion of that space by the state or other individuals. And such a justified claim, otherwise known as a claim-right, implies that it is rational for others to abstain from trespass: claim-rights imply duties.

However, although it is rational for each individual to want others to abstain, what makes it rational for others to abstain? The exercise of agency requires resources, and in a world of separate, private ends and limited resources, there is always a possibility of conflict between different individuals' pursuit of their ends. If rights are justified as principles for furthering the capacity for agency, why shouldn't others use us as mere means to their ends when doing so furthers their own agency? After all, respect for rights is respect not only for others' rights but also one's own. It looks like the "agency furthering" conception of rights quickly leads to a situation in which respect for one's own rights conflicts with respect for others' rights.

It also seems to fail to provide a principled barrier against forcible paternalism. When people act in ways that undermine their agency, by, say, putting themselves in abusive situations or becoming addicted to drugs, and forcibly curtailing their freedom can rescue them, there seem to be no reasons grounded in rights for not stepping in. Consider a man who spends all his salary drinking himself into a stupor every evening, ruining his health and driving away his wife and friends. Whatever the merits of a diurnal drunken stupor in lonely splendor, they don't add up to furthering his capacity for free agency. On what grounds, then, could a theory that sees rights as promoting this capacity say that such a man has a right to freedom from forcible paternalistic interference? That the only recourse with such a man is rational argument, appeals to his better self, tough love,

or psychological manipulation by family and friends? One reason such a theory could give for the alcoholic's right to live an inebriated life is that an individual must live his life by his own efforts, that neither the state nor anyone else, no matter how well-intentioned or wise, can do this for him. The state and other individuals can, indeed, provide the alcoholic with external goods, but not with the self-direction he so sorely needs.

In a sense, of course, this is completely true. It is a necessary truth that no one can force another to be self-directed because this precludes being forced by another. However, it does not follow, nor is there any reason to believe, that forcible interference can never play a causal role in setting an individual on the path of self-direction. Forcible interference often plays this role in the moral education of children and adolescents, and it can do so in the case of adults who are in the grip of addiction. Thus, if rights exist to further the capacity for agency, then no one has a right to undermine his own agency, and neither other individuals nor the state have a principled reason to refrain from paternalistic interference. There may, indeed, be other reasons for refraining—reasons of fallibility, the slippery slope of state power, and so on—but not a reason grounded in rights.

To summarize: When rights are construed as furthering agency, even the individualist maxim that it is rational for us to seek our own good cannot provide a principled barrier to paternalism or to being used as a mere means to the ends of others. In other words, the fundamental rights to liberty cannot be justified as furthering the value of free agency. But it is a mistake to think that valuing something is always a matter of furthering it, whether that something is persons and their rights or other values that have an intrinsic (and not merely instrumental) importance, such as friendship, truth, knowledge, and virtue. In each case, the conception of value as that which must be pro-

moted fails to capture the full value of the item in question.[10] This other dimension is captured only when we recognize that we also value things by *honoring* them or *appreciating* them. In the next section I argue that rights can perform the task of creating a space of protected freedom for individuals only if they are seen as reflecting this sort of valuing response to individuals.

3. HONORING FREE AGENCY

Things that are ends in themselves, that is, things that have intrinsic value, call not only for protection or promotion but also for *appreciation*. Art objects and other objects of beauty are obvious examples of such things. Attention to the aesthetic properties of things, the properties that make them things of beauty, evokes a valuing response that says, in effect, that it is

10. This point was first made by Robert Nozick when he distinguished between two sorts of moral theories, those that see all moral concerns as goals or end-states to be promoted and those that see some moral concerns as calling for side constraints (*Anarchy, State, and Utopia* [New York: Basic Books, 1974], 28–33). He argues that the former can support only a utilitarianism of rights and thus cannot sufficiently respect persons as distinct individuals. Nevertheless, arguments for rights that implicitly or explicitly take an end-state view of value have continued to be made even by those who take themselves to be rejecting utilitarianism. See also Eric Mack's argument against these theories in "In Defense of the Jurisdiction Theory of Rights," *Journal of Ethics* 3, nos. 1–2 (2000): 71–98.

The general point that not all value is not something to be promoted has since been made by the following authors in different ways: Michael Stocker, "Values and Purposes: The Limits of Teleology and the Ends of Friendship," *Journal of Philosophy* 78 (1981): 747–65; Christine Korsgaard, "The Reasons We Can Share: An Attack on the Distinction Between Agent-Relative and Agent-Neutral Values," *Creating the Kingdom of Ends* (Cambridge: Harvard University Press, 1996), 275–310; Christine Swanton, "Profiles of the Virtues," *Pacific Philosophical Quarterly* 76 (1995): 47–72; Velleman and Neera Badhwar Kapur, "Why It's Wrong to be Always Guided by the Best: Friendship and Consequentialism," *Ethics* (April 1991): 483–504.

good that they exist—good not for this or that purpose but simply for what they are. A sunset over the Grand Canyon, a Rodin sculpture, a cherry tree in blossom—all add value to the lives of those who perceive them. Many of the discoveries and innovations of human intellect and enterprise, in addition to being valued for their utility, also evoke this kind of appreciation. A mathematical theorem, a bread machine that turns out perfectly shaped loaves, a sleek, noiseless train—all can be objects of aesthetic appreciation by virtue of their sheer cleverness and ingenuity. And appreciation is free of any urge to do something to or for the object of appreciation; it consists simply of the inclination to stand back and look, in pleasure or admiration or reverence.

If these products of human interest and energy and creativity are worthy objects of appreciation, how much more worthy, then, are persons, who both create and appreciate these products. Unlike other living entities, we not only seek or pursue that which is of value to us, as the sunflower seeks the sun or the tiger pursues its prey, but we also create it. And unlike the sunflower or the tiger, we not only use what is of instrumental value to us, but we also value it, that is, perceive it as an instrumental value. Depending on the object, we can also appreciate it as an end in itself. Indeed, with sufficient imagination, we can appreciate even the most mundane of things, from the design of a toothbrush to the multicolored variety of rubber bands in a stationery store. And this exercise of the capacity for valuation is a kind of creation as well, insofar as it bestows value on things by attending to them and realizing their potential to surprise and delight in ever new ways. Persons, and persons alone, appreciate value and create value, including even the value of their own individual lives. This is what makes individuals the owners of their own lives. And this is why human agency is the ground of dignity and why individuals are worthy objects of not only

appreciation but also a special kind of appreciation, which we may mark by calling "honor."

It is respect construed as honor that inclines one to stand back and look rather than to protect or promote that reflects the status of individuals as being equal in their capacity to value and to create value. To appreciate persons for themselves is to honor them for their power of valuation and creation, a power that gives them a godlike authority over their own lives. In respecting individuals, we give priority to their status as agents rather than as potential recipients of benefits, as beings with sovereignty over their own lives who must therefore be left alone to direct their lives as they deem fit.

To see individuals as equally sovereign is to see both that using them as mere means to others' ends is to devalue them and that they are free, if they wish, to sacrifice themselves for the good of others. In addition, to see individuals as sovereign is to see both that trying to further their good against their will is to devalue and violate them and that they are free, if they wish, to seek help from others. When valuing individuals as agents is seen entirely as a matter of protecting and promoting their agency, it is impossible to understand why Dax Cowart, who was forced to endure months of agonizing treatment despite repeated pleas to be allowed to die, should even now be convinced that he was not given the respect due to him, that forcing treatment on him violated his rights.[11] It is impossible to understand this because although permanently disfigured and blinded, Cowart retained his ability to direct his life and, indeed, now leads a productive, worthwhile, happy life.

What, then, is the attitude of those who honor their *own* status as ends? Most obviously, it requires that they not see

11. Jennifer Stump, "Cowart to appear on *20/20:* Local Lawyer Fights for Patients' Rights" (*Corpus Christi Online*, March 22, 1999).

themselves as mere means to others' ends, tools for their use. This is how the slave who internalizes his master's perspective sees himself in relation to his master. This is also how the deferential wife sees herself in relation to her husband. And in seeing themselves thus, what the slave and the wife both fail to do is value themselves as the proper "final causes" of their actions, the objects for the sake of which and in honor of which they may properly act. The only proper final causes, the only ends worth acting for and worth honoring, in their estimation, are superior others. Hence, too, it is these others and not they themselves who are the efficient causes, the initiators, of their actions. Their wills belong to another. Those who see themselves as ends, then, see themselves as the proper final and efficient causes of their actions, the prime movers of their lives. In acknowledging their own value, they pay heed to themselves, give themselves proper attention. Likewise, if they also respect others, they recognize them as proper final causes of their own actions and the prime movers of their own lives. Rights are the principled, public recognition of this fact of personhood.

Rights, in Eric Mack's words, are "jurisdictional claims over particular segments of the world," giving to the right-holder the moral power to determine how she will use her physical and mental faculties.[12] Others may not use her to benefit themselves or others because, as Robert Nozick puts it, she is a distinct individual with her "*own* life to lead."[13] Likewise, neither the state nor other individuals may coerce her for her own good because she is a distinct individual with her "own life to *lead*."[14] Rights construed as jurisdictional claims provide a principled barrier to paternalism because they give the right-holder the

12. Mack, "In Defense of the Jurisdiction Theory of Rights," 95.
13. Nozick, *Anarchy, State, and Utopia*, 34.
14. Ibid.

moral power to live wisely or unwisely. Wanting rights for oneself and respecting others' rights is the appropriate response to one's own and others' inviolability.

Mutual respect for rights, then, reflects a mutual honoring of each others' normative status as agents. Unlike the agency-furthering defense, this agency-honoring defense leaves no possibility that the same facts about us—our agency—that give rise to rights and justify respect for them will also justify their violation for the sake of preventing more violations or for furthering the agent's own good. For the ground is simply that we are the sort of beings who are both the final causes and the prime movers of our actions, and this fact calls on us to refrain from interference.

However, this defense of rights does not imply that rights are always trumps, that is, that we must respect rights at any cost, putting them above all other moral principles or values. Not only can moral principles and values conflict, but so also can principles of rationality. Hence, in some cases there may be no univocal—or any—rational answer to the question of what is the right act. An act of rights-respecting justice can destroy an individual's well-being, even when his conception of well-being entails the disposition to respect others' rights.[15] And reason does not tell us that in the event of such a conflict, respect for rights must always trump concern for one's own well-being—or the other way around. Much would depend on the right in question and the effect on the rights-bearer of violating it. For example, making a false promise to meet a friend for dinner

15. This is paradoxical, but it is not incoherent. The thought is that well-being requires the virtue of justice, but, nevertheless, a particular act of justice can lead (for example) to a reprisal that ruins an individual's well-being. This is analogous to saying that good health requires regular exercise but that a particular act of exercising can lead to an accident that ruins an individual's health.

in order to shake a would-be killer off one's track seems obviously right if the act does not thereby endanger the friend's life—and obviously wrong if it does. And no friend—or any decent human being—would want one to do any differently in the former case. Indeed, in such a case, any decent individual would retroactively waive the right to one's promise-keeping, just as that individual would expect one to waive one's right if the situation was reversed.

Again, reason does not give a univocal answer when there is a conflict between respecting others' rights and preventing a gross violation of one's own rights or the rights of those one loves or admires for their exceptional character or achievements. This problem can be put in sharper focus if we imagine that the individual whose rights are in question is suspected of being violent. Although one does not have a right to violate anyone's rights to prevent violations of one's own or someone else's rights, one may well have reasons of both justice and benevolence to do just that, for example, on behalf of someone under our care. At the same time, because it is at best excusable but never right to violate someone's rights, one owes the suspect compensation if one does violate his rights.

So far the discussion has focused on cases where individuals may be excused for violating someone's rights. Insofar as the excusing circumstances are considerations of friendship or virtue, they do not apply to the state. Yet one can think of cases in times of war or natural catastrophe when the state might have an excuse for violating some people's rights to prevent an even graver violation of other people's rights.

Unlike both the agency-promotion view and utilitarian views, the agency-honoring view yields rights against trade-offs between individuals as well as against forcible paternalistic interference, regardless of the external circumstances. What it

does not, because it cannot, do is say that rights must be trumps over all other considerations.

In this conflict of reasons and values, we are confronted not with what Henry Sidgwick called "the Dualism of Practical Reason" (the conflict between the principle of benevolence and the principle of self-interest)[16] but with the multiplicity of practical reason. And this has to do not with the limitations of our understanding but with the plurality of values in a world of contingencies.

At the same time, however, this plurality also gives us a plurality of reasons for respecting others' rights. Because rights do generally serve to further our own and others' good, and respect for others' rights is generally in our own interest for both instrumental and noninstrumental reasons, we have more than one reason for wanting rights for ourselves and for respecting others' rights.

4. ARE RIGHTS TOO WESTERN?

I have assumed throughout that the concept of persons as valuers and creators of value is universal, hence that rights are universally valid. But are they? Rights have been challenged from many directions. As L. W. Sumner states:

> Marxists may find rights too bourgeois, conservatives may find them too liberal, communitarians may find them too individualistic, Europeans may find them too American, and consequentialists may find them too deontological.[17]

One may add to this list: Asians and Africans may find them too

16. Henry Sidgwick, *The Methods of Ethics*, 7th ed. (London: Macmillian, 1907), 404, 506–9.

17. L. W. Summer, *The Moral Foundations of Rights* (Oxford: Clarendon Press, 1987), 9.

Western. Is the concept of fundamental equal rights a parochial concept? Is there any merit to the protests of many leaders and thinkers in Asian and African countries that the concept is alien to Asian and African values? We need not worry too much when the leaders of dictatorships like China or Burma complain that they have their "own" conception of democracy and human rights—especially when they add that on this conception "individuals must put the state's rights before their own."[18] This is merely a secular counterpart of the traditional claim of the Divine Right of Kings (though embodied in a form of politics wholly original in the extent of its control of the individual). But we can still ask if the concept of rights has a basis in the ethical and political ideals of non-Western systems of thought.

That respect for rights was not a widespread political ideal in any non-Western country before colonization by Great Britain and other Western countries is undeniable. But neither was it a widespread political ideal in the West before the Enlightenment: socioeconomic hierarchies supported and were supported by political hierarchies. However, what was largely absent in pre-Enlightenment Europe, and what is still absent from most Asian and African countries, is not the idea of the right to live one's life as one chooses but rather the idea that this right does not belong exclusively to the few who are "naturally" or politically superior. The politically powerful have always arro-

18. Quoted in Amartya Sen, "Human Rights and Asian Values" (New York: Carnegie Council on Ethics and International Affairs, 1997). This comment by the spokesman of China's foreign ministry was perhaps the most noteworthy of the comments made at the World Conference on Human Rights in Vienna in June 1993. Others included Premier Li Peng of China's declaration that "[t]he imposition of a certain conception of democracy and human rights should be opposed," and the Foreign Ministry Official of Burma's statement that "[t]he Asian countries, with their own norms and standards of human rights, should not be dictated to . . . " (*Time*, June 28, 1993).

gated this right to themselves. In other words, what was and is still largely missing is the idea of the moral equality of all individuals. Yet, as Sen points out, even some Asian countries have had regimes in which moral equality and equal rights were recognized in at least some spheres of life.[19] India is noteworthy here with its long history of regimes that had policies of religious tolerance, especially in the third century B.C. under Emperor Ashoka and in the sixteenth century A.D. under the Moghul Emperor Akbar.

Again, although no strong rights tradition existed in the West before the Enlightenment and no rights tradition has ever existed in many Asian countries, the idea of the equal moral worth of all moral agents is present in much of the religious or philosophical thought of those cultures: the Confucianism of Mencius, some variants of Islam and Hinduism, Buddhism, Judaism, and, of course, Christianity.[20] Thus, Mencius holds that all agents have the capacity for virtue (the "sprouts" of the four basic virtues) and sees respect for self and others as a central part of the virtue of righteousness.[21] For example, he writes that it is wrong to use contemptuous forms of address or give alms to a beggar with contempt. Any righteous person will refuse such forms of address, and the righteous beggar will refuse alms given in this spirit. Similarly, a wife or concubine should be ashamed of a husband or lover who humiliates himself for material gain, and people should disdain to serve base rulers. In all these cases, what is at issue is the equal dignity of all.

According to Mencius, then, everyone is equal in the capacity for goodness, and even those on the lowest rung of the social

19. Sen, "Human Rights and Asian Values," 19–25.

20. Albert Weale, "Equality," *Routledge Encyclopaedia of Philosophy* (online version, 2000).

21. Bryan W. Van Norden, "Mencius," *Routledge Encyclopaedia of Philosophy* (1998).

order have a capacity for self-respect and are deserving of others' respect. There is nothing particularly Western, then, in the idea of equal moral worth. What is Western is its wide acceptance and firm entrenchment in the politics and political theory of the West. And what made it possible was the growing realization of people that their sense of the inevitability of the social and political hierarchies to which they belonged was itself the result of these hierarchies[22]—precisely the realization that those who decry individual rights wish to block.

5. CONCLUSION

I have argued that our equal moral worth as moral agents lies in our capacity for valuing and creating: valuing this capacity and its worthy manifestations in ourselves and others and creating worthy selves and objects. It is this capacity that confers *dignity* on all moral agents, a value to which the proper response is appreciation or honor. Rights to liberty are the moral and legal expressions of honor for individuals as separate and distinct persons with their own lives to lead. I have also argued that this notion of persons exists in many Asian philosophies and religions. The absence of legally recognized rights to liberty in these countries, then, cannot be traced to different underlying values, as their leaders claim, but simply to the leaders' unwillingness to honor the status of their citizens as free and equal individuals.

22. Bernard Williams, "The Idea of Equality," *Problems of the Self* (Cambridge: Cambridge University Press, 1973), 238–39.