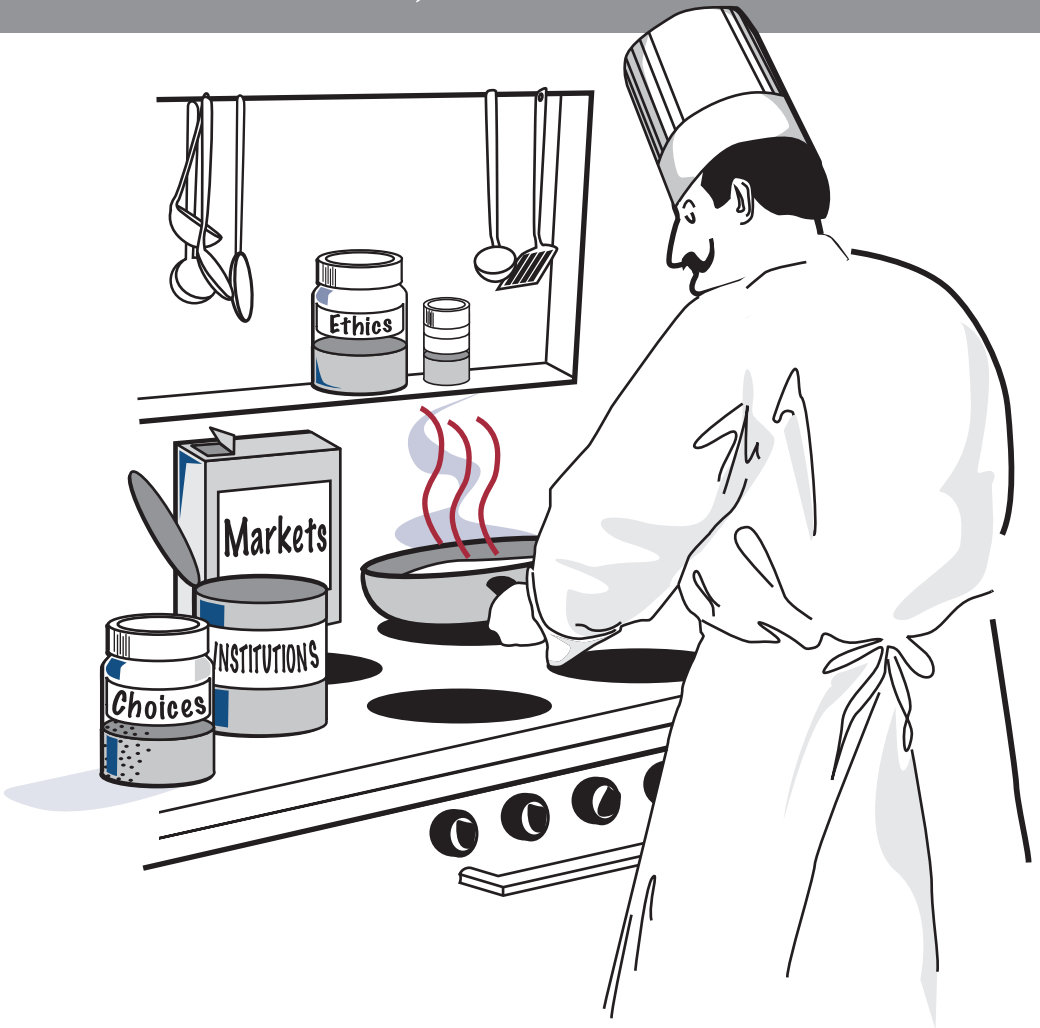


# SPICE

Student Perspectives on  
Institutions, Choices and Ethics



*The Student Journal of the Philosophy, Politics and Economics Program*

THE STUDENTS OF THE PHILOSOPHY, POLITICS &  
ECONOMICS PROGRAM PRESENT

# SPICE

STUDENT PERSPECTIVES ON INSTITUTIONS, CHOICES & ETHICS

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## LETTER FROM THE EDITOR

It is with great pleasure that we present to students, faculty, and friends of the Philosophy, Politics, and Economics major the fifth issue of SPICE: Student Perspectives on Institutions, Choices, and Ethics. As the major continues to grow and adapt, we have chosen four articles that highlight the essence of the multi-disciplinary approach. In our increasingly interconnected world, the interdisciplinary perspectives embodied by the four articles will be essential in addressing future challenges and issues.

Embedded in this journal are the dedicated efforts of many individuals who deserve recognition. First, I would like to thank the student editorial committee for their devotion and hard work in creating this publication. I am particularly proud of the team cooperation and group cohesiveness exhibited by this year's committee. Next, I would like to express my gratitude to Dr. Sumantra Sen for his continuing support and assistance throughout the publication process. We are all extremely appreciative of Dr. Sen's guidance. The editorial board reviewed many outstanding papers for publication, and we would like to thank all those who submitted their work. Finally, I would express my appreciation for Monica McVey and the staff of Penn Publishing who provided critical help in the publishing of this journal.

The editorial board and I hope that you find these articles as engaging and thought-provoking as we did. May they stimulate discussion that furthers the importance of interdisciplinary work.

Sincerely,

Mario Peia  
*Editor-in-Chief*



**THE DESPOTIC FRAGMENT:**  
A CRITIQUE OF THE TRADITIONAL ACCOUNT OF THE RELATIONSHIP BETWEEN THE DIFFERENT INTERNAL PRINCIPLES OF ACTION AND THE VARIOUS PARTS OF THE SOUL

JULIAN URRUTIA

*It is the conceptions of ourselves that are most important to us that give rise to unconditional obligations. For, to violate them is to lose your integrity and so your identity, and to no longer be who you are. That is, it is to no longer be able to think of yourself under the description under which you value yourself and find your life to be worth living and your actions to be worth undertaking. It is to be for all practical purposes dead or worse than dead.*

*-Christine Korsgaard<sup>1</sup>*

The path to self-discovery is one which today's youth are very concerned to travel. The tropical paradises of the world are populated by beach-bums who 'found themselves' on their sandy shores. But my grandfather, and many of his generation, never quite understood how it could be possible that one should discover, or 'find', oneself (or rather, how it could be possible that one should *not* do so). And it must be conceded that the manner in which the topic is usually discussed begs the question. My grandfather never accepted the notion, which now has become common knowledge, that one needs to actively discover one's 'self'. How could one possibly lose one's 'self' such that one should have to find it? How could one have reached the age of reason without a clear idea of who one is?

My grandfather was born before the psychological revolution that began with Freud's theory of the subconscious, which might explain why he never empathized with these concerns. However, the idea that we have repressed desires, impulses and inclinations, whose existence we ignore, and that influence how we act and make decisions, certainly legitimizes much of the prevalent preoccupation over the character of our agential identities. Unfortunately, exploring Freud's neatly dichotomized mind might prove more disconcerting than one might hope. We often do not identify with that urge we discovered,

1. Korsgaard, Christine. *The Sources of Normativity*. Cambridge: Cambridge University Press, 2004.

or with that desire we didn't know we had—they seem external to us; we do not feel they are expressive of who we really are. So we might come to the conclusion that the process of finding who we *are* necessarily involves a process of deciding who we *are not*—for through our introspection we might discover more than our self. The problem thus becomes one not only of self-discovery, but also of self-formation. We are faced with the problem of having to decide which of the many internal principles of action that motivate our behavior are part of what we are as agents, and which are not—and this is no small problem.

But the problem is more than just an academic one. It is not just a matter of wanting to understand ourselves because it is a meaningful goal in itself—it is also a matter of much more profound significance. Too many important aspects of our lives—ranging from our professional reputation, and our position in our networks of friends and family, to our religious and cultural affiliations—are irrevocably and unequivocally linked to our agential identities. In *The Sources of Normativity* (1996), Korsgaard gives us an analytical account of the enormous implications that our practical identities carry with them. She argues that our practical identities are the source of our normative commitments.

The conception of one's identity in question here is not a theoretical one, a view about what as a matter of inescapable scientific fact you are. It is better understood as a description under which you value yourself, a description under which you find your life to be worth living and your actions to be worth undertaking. You are a human being, a woman or a man, an adherent of a certain religion, a member of an ethnic group; someone's lover or friend, and so on. And all of these identities give rise to reasons and obligations. Your reasons express your identity, your nature; your obligations spring from what that identity forbids.

As such, my grandfather's position regarding the process of self-identification does not seem like it should be counseled. Instead, it would perhaps be advisable that one should take pains to form a self with which one is comfortable and satisfied, since our normative commitments are inseparable from our practical identity as an agent. So the question

becomes about how it is that we navigate this self-formation that results in an identity which is, according to Korsgaard, “the source of normativity.”<sup>2</sup>

Harry Frankfurt believes that our capacity for introspection, by which we are able to confront and evaluate our motives and desires—which is what gives rise to the problem in the first place—also provides the solution. The reflexive structure of our mind, by virtue of which we are self-conscious, not only forces us to confront and evaluate those principles by which we are moved to action; it further allows us to be active with respect to those very principles. In so far as we are the kinds of beings who can reflect on our appetites, passions, reasons and desires—we are also the kinds of beings who can decide which of those motives truly constitute what we are; we can decide whether any particular disposition in question is a characteristic with which we identify, and thus actively incorporate into ourselves, or whether we reject it and exclude it from our agential identity. Frankfurt would therefore have us believe that it is through a conscious exercise of our will that we come to create our agential identity. Korsgaard seems to share a very similar view. There is a strong affinity between her strategy, which involves a process of ‘reflective endorsement’ of our motives, and Frankfurt’s treatment of the question at hand.

I do not believe Frankfurt and Korsgaard’s theory of identification is correct. Their error is consistent with a long-standing but misguided view of the structure of the human soul. It results from assuming a fallacious relationship of authority between our conscious, deliberative faculties and the other internal principles of action. I reject the notion that reflection stands in a privileged position of prerogative over the other internal principles of action as the most legitimate source of our agency. I maintain that the philosopher’s habit of deferring to conscious deliberation before and above any other of our internal springs is unfounded. There is a mounting body of empirical evidence that suggests that no amount of reflexivity has the capacity to unify our agency such that we can create ‘self’ through reflexive self-evaluation in the way Harry Frankfurt envisions. Rather, I believe the evidence suggests that any self-conception at which we arrive through reflection will fail to

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2. Korsgaard, *The Sources of Normativity*.

be representative of the entire quality of our agency, and further, it might estrange us from aspects of our agency which we might fully endorse in different contexts or under different circumstances.

I will first review the significance and the fundamental characteristics of Frankfurt's theory of identification, including Michael Bratman's expansion on it, in order to obtain a picture of the kind of agents they would have us believe we are. Then, in an effort to produce a comprehensive argument, I will begin my own exposition with a systematic account of what it means to be one kind of agent as opposed to another—of what I believe are the correct criteria by which we arrive at these distinctions. From there, I will proceed to review a body of empirical evidence which suggests a picture of human agency that discords with Frankfurt and Korsgaard's perspective. This will lead us to my view of the structure of our cognitive architecture, which will allow us to make sense of that odd body of empirical evidence regarding the actual character of our agency.

### **Identification, Freedom and Normative Agency**

*Appetites, passions, affections, and the principle of reflection, considered merely as the several parts of our inward nature, do not at all give us an idea of the system or constitution of this nature, because the constitution is formed by somewhat not yet taken into consideration, namely, by the relations which these several parts have to each other; the chief of which is the authority of reflection or conscience.*

*-Bishop Joseph Butler<sup>3</sup>*

In his sermons, Bishop Butler articulates a view of human nature that can be traced at least back to Aristotle, and that has been—and still is—the most prevalent view of our motivational structure. I will call it 'the traditional view' and it is the view which I intend to challenge. This view of the 'soul', if you will, is biased in favor of one of our internal principles of action, viz. the 'principle of reflection', which is given a prerogative over all the

3. Butler, Joseph. *Five Sermons*. Indianapolis: Hackett Publishing Company, 1983.

others as if the legitimacy of its authority was completely obvious. Although Frankfurt's and Korsgaard's views are, in my opinion, more aligned with the facts than the traditional view, they nonetheless beg the question by granting our capacity for reflexive self-evaluation an unwarrantedly privileged position. And the problem with this assumption regarding the status of our capacity for self-evaluation is that it allows us to arrive at fallacious solutions to several important problems, such as those regarding the freedom of our wills or the sources of normativity. Thus, a challenge to the traditional view amounts to a challenge to the solutions for those problems that follow from it.

### Freedom of the Will and Frankfurt's View

Let's begin with Frankfurt's take on the subject. He begins with the reality that people in general care about what kind of persons they are. And the truth of the matter is that we do, generally, care very deeply about what moves us to action—about what motives, desires, inclinations, or reasons (etc.) underlie our behavior. To use Frankfurt's language, "It matters greatly to us whether the desires by which we are moved to act as we do motivate us because we want them to be effective in moving us or whether they move us regardless of ourselves or even despite ourselves."<sup>4</sup> According to Frankfurt, it is as if we were not in control of our own behavior—as if our actions were being determined by something that is not a part of ourselves such that we become passive observers of our own behavior. Thus, he argues that the problem of who we are can also be construed as problem of free will. Frankfurt reminds us that "according to one familiar philosophical tradition, being free is fundamentally a matter of doing what one wants to do."<sup>5</sup> But under this account, it is impossible to distinguish between an agent who *acts* freely, and one whose *will* is free. As such, it is important to draw a distinction between a free action and free will. Frankfurt

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4. Frankfurt, H. "Identification and Wholeheartedness." In: *The Importance of What we Care About*, by Harry G. Frankfurt. Cambridge: Cambridge University Press, 1988.

5. Frankfurt, H. "Freedom of the Will and the Concept of a Person." In: *Free Will*, edited by Gary Watson. Oxford: Oxford University Press, 2003.

defines the will as that desire which effectively moves a person to action.

He therefore states:

Freedom of action is (roughly) the freedom to do what one wants to do. Analogously, then...freedom of the will means (also roughly) that [the agent] is free to want what he wants to want. More precisely, it means that he is free to will what he wants to will, or to have the will he wants. Just as the question about the freedom of an agent's action has to do with whether it is the action he wants to perform, so the question about the freedom of his will has to do with whether it is the will he wants to have.<sup>6</sup>

As such, the free will problem is not one that all agents have to face. Only those who can have desires regarding their desires—those who can have second-order desires—face this problem. Only those agents who can, as it were, reflect on their desire to act this way or that, and evaluate them from a distance, face the problem of finding that they are moved to act by forces that they do not endorse. In other words, from Frankfurt's perspective, the problem of free will presupposes an identity with which some desires can conflict. And as we shall see, so does the problem of normativity. Thus, it becomes apparent that the path to self-discovery takes us far beyond the beaches of Tahiti into the very depths of what it means to be, qua agents, human. It takes us down to those fundamental qualities that distinguish us from any other type of agents.

### Frankfurt's Theory of Identification

*It is these acts of ordering and of rejection—integration and separation—that create a self out of the raw materials of inner life. They define the intrapsychic constraints and boundaries with respect to which a person's autonomy may be threatened even by his own desires.*

*-Harry Frankfurt<sup>7</sup>*

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6. Frankfurt, "Freedom of the Will and the Concept of a Person."

7. Frankfurt, "Identification and Wholeheartedness."

In “Freedom of the Will and the Concept of a Person” (1971), Frankfurt claims that,

Many animals appear to have the capacity for...‘first-order desires’, which are simply desires to do or not to do one thing or another. No animal other than man, however, appears to have the capacity for reflective self-evaluation that is manifested in the formation of second-order desires.<sup>8</sup>

In his terminology, a second-order desire is an intentional state about a first-order desire; it is, for instance, a desire to have a desire. Under Frankfurt’s account, the relevant kind of identification requires more than just second-order desires—it is not enough to simply want to have a certain desire; we must want a certain desire to be our will. He calls these kinds of second-order desires ‘second-order volitions’. It is not enough for an agent who cares about her will to want to have certain desires; she needs to want that those desires to be effective. Frankfurt argues that we identify with a desire by endorsing it through a second-order volition that it be our will. This second-order volition can be understood as a commitment to include that desire as one of the internal principles of action that characterizes our agency. Unfortunately, the matter is not so simple; we are motivationally more complex than this sketchy picture of our soul suggests. Just as we are many times conflicted or ambivalent regarding our first-order desires, we can be similarly ambivalent regarding our second-order desires. Just as we are not always sure about which desires we should act on, we are not always sure about which desires we would like to have—we are not always sure about which of our desires we endorse, which ones we tolerate, and which ones we reject.

So what happens in the case of conflicting second-order desires? Must we now move to a higher level and adopt a volition of the third order regarding our second-order desires? And what if there is similar tension at this level? How can we avoid the threat of infinite regress without just cutting it off arbitrarily? In the 1971 essay, Frankfurt tries to deal with this concern by stating that a person can identify herself ‘decisively’ with one of

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8. Frankfurt, “Freedom of the Will and the Concept of a Person.”

her first-order desires such that her commitment to it ‘resounds’ throughout, and hence terminates, the potential regress. But as Gary Watson points out,

We wanted to know what prevents wantonness with regard to one’s higher order volitions. What gives these volitions any special relation to ‘oneself’? It is unhelpful to answer that one makes a ‘decisive commitment’, where this just means that an interminable ascent to higher orders is not going to be permitted. This *is* arbitrary.<sup>9</sup>

Thus, in “Identification and Wholeheartedness” (1988), Frankfurt gives a more complete account of how this problem can be dealt with by appealing to an example of an individual engaged in an arithmetic calculation. Having arrived at an answer, this person verifies it with a second calculation, but it is possible that both calculations are faulty. This person faces a similar series of calculations that might extend *ad infinitum*. One way to resolve the situation is to simply quit and allow the result of the last calculation to serve as the answer. In this case the agent is passive with regard to the resolution of the conflict; in fact, the conflict has not really been resolved but merely abandoned or ignored. A more conclusive way to solve the situation is to make an active decision to adopt that solution as the answer. This is possible if, for example, the agent is fully confident that she has arrived at the correct answer. In this case, the future is clear to her and her decision to adopt this result as the answer resounds throughout the threatening regress because her confidence allows her to “anticipate the outcome of an indefinite number of possible future calculations.”<sup>10</sup> But even in the case where she is not fully confident about her results, she will be capable of deciding in favor of her answer, without being arbitrary, if she feels she has reason to believe that any future results will not conflict with those at which she has already arrived. In other words, absent complete confidence in the correctness of her results, if the agent nonetheless does not find a disturbing conflict between those results, and between those results and any results at which she might reasonably expect to arrive given further calculations—she

9. Watson, Gary. “Free Agency.” In: *Free Will*, edited by Gary Watson. Oxford: Oxford University Press, 2003.

10. Frankfurt, “Freedom of the Will and the Concept of a Person.”

is left without a reason to engage in any such further calculations. Thus, her decision to commit to her answer is not arbitrary by any means. Similarly, a person reflecting on her desires—either because they conflict with each other or because a general lack of confidence casts doubt on her satisfaction with them—can avoid the regress by making a decisive commitment to endorse one of them. If she finds there is no conflict between the results already obtained by her evaluation, or between these results and any she might reasonably expect to obtain through further evaluations, the agent is left without a reason to continue evaluating her desires and can decide to endorse one or the other. Terminating the evaluative regress at this point can hardly be deemed arbitrary. And through this decision to cut off the process of forming desires of increasingly higher orders, our agent determines what she really wants because it allows her to separate the desires she endorses from those she does not—the decision makes that desire which she has chosen to endorse fully her own, it makes her *identify* with that desire.

### Frankfurt and Korsgaard's Agent

*A lower animal's attention is fixed on the world. Its perceptions are its beliefs and its desires are its will. It is engaged in conscious activities, but it is not conscious of them. That is, they are not the objects of its attention. But we human animals turn our attention on to our perceptions and desires themselves, on to our own mental activities and we are conscious of them. That is why we can think about them. And this sets us a problem no other animal has. It is the problem of the normative.*

*-Korsgaard<sup>11</sup>*

In "Identification, Decision, and Treating as a Reason" (1999), Michael Bratman fills in the possible gaps Frankfurt leaves by giving a systematic account of what it means to make a decision by which we identify with our desires. Bratman argues that we come to identify with a desire when we decide to treat it as reason-giving. It involves a decision

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11. Korsgaard, *The Sources of Normativity*.

about whether or not to count a desire as a reason in our deliberation. Thus, the decision by which we identify with a desire involves deciding to treat the desire as reason-giving, and being satisfied with that decision in the sense of it not being in conflict with other standing decisions about which desires to treat as reason giving.<sup>12</sup> In doing so, we endorse that desire and make it part of who we are. A full description of ourselves would have to include a commitment to pursue the satisfaction of that desire, since we have decided to treat it as reason-giving.

According to Bratman, ‘reasons’ give us ends that we feel we are justified in pursuing; ‘reasons’ justify the relevant means we take towards an end.<sup>13</sup> But they play more than simply a justificatory role; as Korsgaard points out, the word ‘reason’ is a normative word. As such, we are more than simply justified in pursuing an end which we believe we have reason to pursue—we are committed to its pursuit. Reasons commit us in the sense that not behaving in the way we have reason to behave would make our actions unintelligible both to ourselves and to third parties. A chess master playing to win a tournament has a reason to make a certain move if he realizes it will put his opponent in checkmate. That fact not only justifies his making the move—it makes it so that any other move would be impossible to explain; it would be incoherent and unintelligible. Thus, through the same process by which we come to identify with our desires, we find that we become obligated to them. So by the same process through which we create a practical identify for ourselves, we come to create commitments for ourselves—we come to obligate ourselves.

Thus, the same faculty which according to Frankfurt makes us into the kinds of agents who *can* have a free will, for whom freedom of the will can be a problem by virtue of being able to make our desires the objects of our attention, also makes us into the kinds of agents who impose duties and obligations on ourselves. The process of identifying with our desires through reflexive self-evaluation also makes us commit to the satisfaction of those desires because, as Korsgaard puts it, our “identities give rise to reasons and obligations. [Our]

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12. Bratman, M. “Identification, Decision, and Treating as a Reason.” In: *Faces of Intention: Selected Essays on Intention and Agency*, by Michael Bratman. Cambridge: Cambridge University Press, 1999.

13. Bratman, “Identification, Decision, and Treating as a Reason.”

reasons express [our] identity, [our] nature; [our] obligations spring from what that identity forbids.”<sup>14</sup> Therefore, our capacity for reflexive self-evaluation makes “obligation in general a reality of human life.”<sup>15</sup>

The argument is certainly compelling. As Frankfurt himself points out, his account of identification allows for a theory concerning freedom of the will that meets all the essential conditions which such a theory should meet: it accounts for our disinclination to adjudicate this freedom to any other species than our own, and it makes it apparent why this kind of freedom is desirable. According to Frankfurt, a person who is free to do what he wants to do, and to want what he wants to want, enjoys “all the freedom it is possible to desire or to conceive.”<sup>16</sup> It also allows Korsgaard to ground the elusive source of normativity in a way that is consistent with that freedom. It allows her to provide a view of human agency that is simultaneously autonomous and normatively constrained. In other words, Frankfurt and Korsgaard’s appeal to our self-consciousness allows them to simultaneously establish the source of the characteristics which we believe are epitomic of human agency: freedom, autonomy, and morality.

Unfortunately, if our capacity for reflexive self-evaluation really *is* the source of our freedom, our autonomy, and our morality, it is not at all clear to me that we really *are* free, autonomous and moral agents—nor that we would want to so be. I am of the opinion that we are much less self-conscious than we would like to be, and that any identity we might create through a process of reflexive endorsement will necessarily leave out aspects of our agency that will eventually be effective in governing our behavior, and that we would endorse if we could. However, I do not believe the problem is simply one of epistemic limitations. My claim is much stronger than that: my claim is that even if we did have conscious access to all the aspects of our agency, a process of reflexive endorsement would necessarily estrange aspects of our agency that will, again, eventually govern our behavior, and that we would fully endorse given the appropriate circumstances or context. As such,

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14. Korsgaard, *The Sources of Normativity*.

15. Korsgaard, *The Sources of Normativity*.

16. Frankfurt, “Freedom of the Will and the Concept of a Person.”

not only will we not be free much of the time, nor will we be autonomous or moral—we will not want to be any of these things because that identity which *would* be the source of our freedom, autonomy, and morality will always be more a product of circumstance than of our volition, and it will therefore necessarily estrange aspects of agency which, *mutatis mutandis*, we would fully endorse as being a part of ourselves, and which we would desire that they be effective in governing our behavior given the appropriate circumstances or the appropriate context.

To establish my claim, I will rely mostly on empirical evidence that shows how remarkably ineffective, inconsistent, and self-deluded our conscious agency really is. I will use this evidence to show that we are *not* the kind of agents Frankfurt and Korsgaard would have us believe we are. I will then give an account of my view of the structure of our cognitive architecture, which I will use to argue why we *cannot* be that kind of agents. Why we would not *want* to be those kinds of agents will be self-evident given that my view of the structure of our cognitive architecture is indeed accurate. However, it is worthwhile to indulge in a quick digression about the criterion by which we distinguish between different kinds of agents so as to avoid any potential misunderstandings about what I mean when I talk about ‘different kind of agents or agencies.’

## **Human Agency**

### The Constraint-Conforming Approach to Agency

*To be an intentional system, and therefore to qualify as ‘minded’ in some minimal sense, is, on standard approaches, to be a system that is well-behaved in representational related respects. The well-behaved system represents things as they appear within the constraints of its perceptual and cognitive organization. And it acts in ways that further its desires...in the light of those representations or beliefs. An intentional system may not be perfectly behaved in these action-*

*related and evidence-related ways, but it will have to attain a certain threshold of rational performance—and perhaps do so as a result of a certain history or organization—if it is to seem like it is minded at all.*

*-Victoria McGeer and Philip Pettit<sup>17</sup>*

According to the Stanford Encyclopedia of Philosophy, an agent is one who performs activity that is directed at a goal. Thus, agency can be understood as the capacity for goal-directed activity. This definition is perhaps too broad if one intends to address human agency, but I want to start with the most general understanding of what constitutes agency and build my way up to a precise understanding of what constitutes human agency—what distinguishes human beings from other agents. However, I am willing to make one pre-analytical claim about human agency that I don't believe will be disagreeable: human beings are very sophisticated agents. Compared to a cow, a pigeon, or even Deep Blue (the computer that beat Kasparov at chess), human beings are much more complex, refined and multifarious agents. But it is important to distinguish between the faculties that support a certain kind of agency, the capacity to exercise that agency, and the actual character of the agency that is exercised.

As I mentioned very briefly in the introduction, I believe that the mind, which I will argue is embodied in our cognitive faculties, is the very source of our agency. A good understanding of the structure and the functioning of our mind is therefore requisite in any discussion about agency. I began this section with a quote from McGeer and Pettit's "The Self Regulating Mind," where they articulate what they call 'the constraint-conforming approach to the mind,' which I have borrowed to suit my purposes. We ordinarily think of the difference between human beings and other animals in positive terms. We think of the things that we humans can do that other agents cannot—we think of the difference in terms of being differently able. Another way of approaching the subject would be to think of the difference in negative terms—in terms of being differently constrained. I think both

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17. McGeer, Victoria; Pettit, Philip. "The Self Regulating Mind." In: *Language & Communication*, 22 (2002) 281-299.

approaches are ultimately equivalent, but it will suit my purposes better to use the latter approach. I will argue that we should distinguish between different kinds of agents on the basis of the constraints that limit the manner and the extent to which they exercise their agency.

It is almost trivial to state that there are constraints to agency. An agent locked in a small room has her capacity for activity effectively constrained. She might be similarly constrained by non-physical forces, like strong social pressures or her family's expectations. However, most constraints are not exogenous to the agent in this way. Agency can also be constrained by physical, perceptual, epistemic, and motivational limitations (to name only a few) that are themselves endogenous to the agent. As McGeer and Pettit point out in the quote above, some of the most significant constraints on our agency are representational. The more accurately and extensively an agent can represent his environment, the more nuanced, precise, and sophisticated his agency. Of course, different agents face different constraints, and similar constraints might limit different agents to varying degrees. In other words, the constraints that limit the extent to which agency can be exerted vary in degree as well as in kind. A very myopic individual faces a constraint to her agency which, *ceteris paribus*, someone who is only moderately afflicted by the same condition does not face; the difference between the constraints these individuals face is one of degree. In contrast, an arachnophobe faces a constraint which, *ceteris paribus*, a dendrophobe does not; these constraints are different in kind. Though it is perhaps an obvious distinction, I believe it has profound implications on our discussion.

The very myopic individual is less able to discriminate and attend to the relevant stimuli in her environment; she is less *sensitive* to the relevant stimuli than the other individual. As such, the scope of her agency is more limited because she is less able to respond precisely to the relevant constraints. On the other hand, the arachnophobe might be just as sensitive to spiders as the dendrophobe is to trees; they are simply sensitive to different kinds of stimuli as constraints. As such, given the right proportions of spiders and trees, the scope of their

agency could be equally limited, but each identifies very different limiting constraints; they each find very different stimuli to be relevant. This is significant because, far and wide, our phobics will face different constraints in any given circumstance; the degree to which they are limited will depend on considerations of how and when. There is nothing we can know about the extent to which they will be limited without specifications about the particular situation or context. The case of our myopes is different; we know that one will be more limited than the other under any set of conditions. This is significant in that it allows us to distinguish between different types of agents. Agents that face similar kinds of constraints might be said to be the same type of agents, even if they can be further differentiated by the degree to which those constraints limit the extent to which they can engage in goal-directed activity. Human agency is such that we face many kinds of constraints, and are very sensitive to individual instances of each kind of stimuli. We are the type of agents who are most sensitive to the biggest range of constraints.

But perhaps the question of how to distinguish between different types of agents is not so simple. It is also true that agents will differ in how they stand in relation to the same constraints. For example, an agent might be capable of exerting its agency adaptively given the constraints that it faces, without being aware of the constraints themselves. In contrast, an agent might be explicitly aware of the limits to its agency, of what constraints it faces, and as a result be capable of responding to them deliberately. An agent that is explicitly aware of the constraints it faces might not only be able to exercise its agency more deliberately with relation to those constraints, it might further be able to exercise its agency in a way that deliberately alters those constraints; it might be able to affect the limits to its own agency.<sup>18</sup> One could imagine agents that face the same constraints but differ in how they stand in relation to them in this way. Human beings are the kinds of agents that can affect the constraints that affect their own agency.

I believe the first approach is most correct, but perhaps someone might object on the grounds that this method for distinguishing types of agents is not sufficiently refined to

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18 . McGeer & Pettit, "The Self Regulating Mind."

allow for distinctions of more than academic relevance. The critic might argue that agents might face all the same constraints, and yet differ in how they stand in relation to those constraints. If the only criteria by which we distinguish agents are the kinds of constraints they face, then there is an important sense in which we might not be able to distinguish between Gary Kasparov and IBM's Deep Blue. But there *is* a very significant difference between the two Chess World Champions, and this difference lies exactly in how they stand in relation to the constraints they face. An agent who can attend to the constraints that it faces can act deliberately *in* response to the constraints themselves, while an agent who cannot attend to those constraints, who is unaware of what those constraints are, can only act *as* a response to them. An agent who can attend to its constraints can direct its actions at the constraints themselves—it can deliberately direct its actions at the constraints themselves. An agent who is unaware of what constraints it faces—one who cannot identify those constraints *as* constraints, cannot deliberately make those constraints the object of its intentional action. It cannot intentionally alter what constraints it faces. Thus an agent that can intentionally alter its constraints, such as Kasparov, can potentially change both the degree to which the constraints limit the scope of its agency, as well as the kind of constraints it faces. Deep Blue, on the other hand, does not have this option; it will always act in response to the chess-playing algorithms that constitute the source of its agency, and *having that option* is an important difference in the kinds of agency which Kasparov and Deep Blue can exercise.

But this admittedly intuitive argument is fallacious. Let's go back to our myopes and our phobics: by identifying that the quality of her vision limits the scope of her agency, our myope can choose to buy glasses with the intention of changing the degree to which she is constrained by her myopia. Similarly, our dendrophobe can choose to begin some kind of therapy to eliminate his irrational fear of trees. But notice that their capacity to attend to the constraints by itself does not necessarily change the kind of agents these persons are. It perhaps changes the kind of agent the person *can* be, but the capacity itself doesn't change

the kind of constraints she faces; it does not change whether any particular kind of stimuli actually constrain her agency. If the myope doesn't buy glasses, and the dendrophobe doesn't go to a shrink, they will continue to be the kind of agents that are respectively nearsighted or fearful of trees. Similarly, though Kasparov can choose not to be limited by the same constraints the limit Deep Blue's agency, if he doesn't choose to exercise that capacity but instead chooses to spend the rest of his life playing chess against Deep Blue, he will effectively be no different from the computer.

So it is not the case, as the critic believed, that agents should be classified according to how they stand in relation to their constraints. Instead, it is more in line with our current intuitions to classify them according to the kinds of constraints which effectively limit their agency. Our capacity to attend to our constraints—including our motivational, passionate, appetitive, or otherwise intentional constraints—allows us to distinguish ourselves in a theoretical sense, but it is not sufficient to distinguish us in the relevant, practical sense. So what Frankfurt and Korsgaard have articulated really refers to the kinds of agents human beings can be—not to the kind of agents that we *are*. Though they are both correct when they assert that our capacity for reflexive self-evaluation presents us with the problems of freedom of the will, autonomy, and normativity—it is not at all clear that it is also true that this capacity allows us to resolve the problem.

Part of the appeal of Frankfurt, and Korsgaard's account is that it seems to encompass the most fundamental and epitomic aspects of human agency: freedom, autonomy and normativity. It is by virtue of our capacity for reflective self-evaluation, through which we create the identity that characterizes us, that we are the kind of agents that are free, autonomous and moral. But it is worth wondering whether we are ever truly characterized by that identity at which we arrive through the process of reflective endorsement. Whether this identity, which Frankfurt and Korsgaard would have us believe characterizes our selves, is ever an accurate description of the kind of agents that we are. I believe the question regarding the true character of our agency remains open, but under the constraint-

conforming approach to agency, the question becomes an empirical one. So let's turn to the evidence so that we may consider whether we can ever be the kind of agents that, upon reflection, we would like to be. Let's explore whether human beings generally behave in a way that is consistent with the idea that we are characteristically self-conscious beings

### The Pre-Conscious Aspect of Our Agency

*The difference between the instrument called philosopher and the instrument called clavichord [is that] the philosopher-instrument is sensitive, being at one and the same time player and instrument.*

*-Denis Diderot<sup>19</sup>*

I choose the term 'pre-conscious' not only to avoid the Freudian baggage associated with concepts like the 'unconscious', but also because I think it is more appropriate given the structure of our mind—but we will get to that later. In any case, I think it is best to approach this subject from the angle pre-conscious agency in general. I will therefore begin by considering the degree of sophistication of which an agent that is not conscious is capable of. By conscious, I mean of being capable of reflexive self-evaluation, and therefore self-aware in the sense of being aware of its own deliberation. I find that McGeer and Pettit's distinction between routinized and self-regulating minds is a good point of departure:

A routinized mind, be it animal or robot, will produce actions in an intentional or voluntary way...But the system will not act intentionally with regard to how far it conforms to evidence-related and action-related constraints as such; it will not even have beliefs as to what those constraints are or require. Its conformity with the constraints will happen by courtesy of nature or nurture; it will not be intentionally achieved or intentionally reinforced.

In contrast, a self-regulating mind is one that can discriminate and attend its own intentional states as such; it is explicitly aware of the content of its intentional states, and

19. Diderot, D. "d'Alembert's Dream." London: Penguin Books, 1966.

therefore is in a position to evaluate them and to act with the intention of altering them. That this is simply a more formal account of the same claims we have been examining all along becomes evident when we recall Korsgaard's claim that,

A lower animal's attention is fixed on the world. Its perceptions are its beliefs and its desires are its will. It is engaged in conscious activities, but it is not conscious of them. That is, they are not the objects of its attention. But we human animals turn our attention on to our perceptions and desires themselves, on to our own mental activities and we are conscious of them.

So given a system with relatively simple cognitive faculties, it will be able to adjust to incoming information in a relatively faithful manner, thereby generating a representation that allows it to behave in an adaptive manner in relation to the constraints it faces. The point is that all of this is possible without the system being reflexively aware of its own intentional states in general. It need not be aware of its own representations or beliefs; it need not be able to act intentionally with regard to how it conforms to those constraints; it does not even need to represent what those constraints require. As long as the system is endowed with cognitive faculties that allow for sufficiently faithful representations, the agent will be able to act in response to them and behave adaptively. But its behavior will be automatic and unreflective; it will be a routinized agent.

This description seems to fit the mind of relatively simple animals. Honeybees (*Apis mellifera*) for example, will invariably follow a vector derived from simple dead-reckoning that would have taken them from their hive to a feeding station, even if they are captured as they leave the hive and are displaced to a different location.<sup>20</sup> Their behavior is governed by a routinized mind that unreflectively conforms to the beliefs it has about the constraints

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20. Menzel, R., Greggers, U., Smith, A., Berger, S., Brandt, R., Brunke, S., et al.. "Honey bees navigate according to a map-like spatial memory." *Proceedings of the National Academy of Sciences* 102 (2005), 3040-3045.; De Marco, R.J. & Menzel, R.. "Learning and memory in communication and navigation in insects." In: *Learning Theory and Behavior Vol. 1 of Learning and Memory: A Comprehensive Reference*, 4 vols. (J. Byrne Ed.). Oxford: Elsevier; (2008) p 477-98. ; Menzel, R., Greggers, U., Smith, A., Berger, S., Brandt, R., Brunke, S., et al.. "Honey bees navigate according to a map-like spatial memory." *Proceedings of the National Academy of Sciences* 102 (2005), 3040-3045.; Menzel, R., De Marco R. & Greggers, U. "Spatial memory, navigation and dance behaviour in *Apis mellifera*." In: *Journal of Comparative Physiology A* 192 (2006), 889-903.

it faces. It is so routinized that the bees do not even respond to counterfactual evidence about the fidelity of those representations available to them as they travel along the false vector. Interestingly enough, however, once the bees have travelled the length of the false vector, they reorient themselves and return to the hive (or the feeder) along a straight homing-vector which they had probably never travelled before, suggesting that they also have a Euclidian map-like representation available to them which they only deploy *after* their initial route memory proves erroneous.<sup>21</sup> These findings show a clear case of an animal that automatically represents its spatial location in the environment in two different ways, and deploys them hierarchically when navigating. This strongly suggests that these navigating systems are supported by largely independent cognitive processes; or rather, by one independent cognitive process which only allows the animal to navigate according to dead reckoning, and a second which generates a richer, map-like representation that allows the animal to be more flexible in its behavior. The system that allows for the dead-reckoning causes the agent to follow a rigid, memorized vector—the other allows the agent to navigate according to a Euclidian map-like representation, which requires robust interaction between landmark, map-like based information and dead reckoning information, thus generating a richer representation. This suggests that the bee's mind is fragmented into at least two modules, one of which builds on the other, but each of which is a separate source of a different kind of agency. I will return to this important point later.

For now it is enough that we realize the degree of sophistication that is exhibited by the bee when it navigates according to its map-like representation. Certainly nobody would claim that honeybees are conscious in the way we are, and the rigidity of the way in which they deploy the two navigating systems hierarchically certainly suggests that there is very little reflexive self-evaluation going on. Yet their routinized minds allow these animals to be able to learn the relative locations of different landmarks in their environment, and to compute new trajectories which they have probably never travelled before. As such, these animals do not need to be able to discriminate and attend to the contents of their

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21. Ibid.

intentional states; they do not need to be capable of intentionally altering the kind of agency they exert. The quality of their agency is given to them by their routinized minds; what kinds of stimuli are identified as relevant constraints on their agency is determined by which cognitive process—either the dead-reckoning system or the map-like system—is dictating their behavior in any given context. And this is not the most striking example of behavior supported by what seem to be completely routinized processes. Instead, ethologists believe most animal behavior can, and should, be explained in exactly these terms. This includes everything from altruistic behavior in birds<sup>22</sup> and teaching in wild meerkats,<sup>23</sup> to inferences of social rank in fish.<sup>24</sup> All of this behavior can be accounted for by routinized, irreflexive cognitive processes that are sensitive to very specific stimuli and the constraints they embody.

This is not a very controversial claim, and it is probably unsurprising to most of us; indeed, what people commonly mean by ‘instinct’ would probably come down to something very similar. But most people would probably be much more reluctant to accept that anything but the crudest of our own behavior is governed by similarly routinized processes. Even though Freud’s idea of the subconscious, or something similar enough, has become thoroughly entrenched in popular culture, it is usually understood in terms of repressed urges and impulses that mysteriously affect the outcome of our deliberative process, or as if it secretly inclined us towards certain idiosyncratic behavior that is nevertheless ultimately made effective through the conscious exercise of our agency. In other words, the common view is that this subconscious part of the mind secretly influences conscious decision-making; few would be willing to acknowledge that they actually do not have conscious control over much of their own behavior; that their ‘subconscious’ is an independent source of very sophisticated agency.

But be that as it may, I think the latter view is much closer to the truth than the

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22. Komdeur, J. & Edelaar, P. “Male Seychelles warblers use territory budding to maximize lifetime fitness in a saturated environment.” In: *Behavioral Ecology* 12 (2002), 706-715.

23. Thornton, A. & McAuliffe, K. 2006. “Teaching in wild meerkats.” In: *Science* 313, 227-229.

24. Grosenick, L., Clement, T.S. & Fernald, R.D. “Fish can infer social rank by observation alone.” In: *Nature* 445 (2007), 429-413.

alternative. We make many decisions without being aware that we made them, and much of our behavior is dictated by pre-conscious, routinized cognitive processes. No one would claim that she consciously controls all of the operations of her own brain: nobody in their right mind would claim that she deliberately makes her heart beat, or that she is conscious of the process by which the waves of electromagnetic radiation that hit her retina are converted into visual images. We all know we have no conscious control over certain 'knee-jerk' behaviors (like the reflex which gives rise to that expression), which by itself establishes that we do not control all the operations of the mind that dictate our behavior. But these examples of non-conscious activity are different from the activities that concern us here. They are instrumental and necessary, but they are not the kind of actions which interest us in this discussion: they do not require a cognitive or associative 'mind' of any sort, they do not require intentional states, and they are not goal-directed or purposeful in the relevant sense. So let's go to an example of relevant, agential behavior, like our daily commute to work: we most probably do not deliberate consciously about the route that we will follow; instead, we simply put one foot in front of the other and we arrive at our destinations even though we might have been concentrating on a deeply engrossing phone conversation the whole way. Nonetheless, the skeptics will grant that we do this unreflectively; but they will reply that this is a bad example of truly pre-conscious agency. They will argue that we learned the route to work after we had travelled it conscientiously many times. It becomes a habit that we no longer have to think about, but it is nothing like reflex, or instinct, or any other exercise of agency that is independent from our conscious faculties.

But the skeptic's reply assumes that there is a fundamental difference between habit and instinct. I believe that this (usually mistaken and unwarranted) assumption is the result of the vagueness with which both concepts are used in common language. When asked about the distinction between the two, the most common answers appeal to things like 'innate as opposed to learned behavior', or 'natural as opposed to acquired inclinations', but none of this is really helpful. It is a fact that animals learn much of their 'instinctual'

behavior during their ontogeny, and it seems that our inclination to navigate through our environment is just as natural as that of a bee. And if we are not willing to grant that bees learn their map-like representations through conscious deliberation, it seems odd to assume that we necessarily do. Instead, I believe that we become sensitive to the stimuli which are relevant constraints on our agency in a given environment, learn how they relate with other stimuli, and adjust our behavior on the basis of these new representations—*without any conscious mediation of the process*.

This theory of pre-conscious learning which allows an agent to quickly and faithfully adapt to those constraints that are particular to its environment is neither new, nor very controversial in either ethology or social theory. It is also not restricted to relatively simple behavior like navigation; it has been used to account for very sophisticated exercises of agency, like very subtle and complex social interactions in human beings.

There is ample empirical evidence which suggests that we do not have conscious access to the cognitive processes which support much of our agency and which dictate much of our behavior; nor does conscious deliberation suffice for autonomous, self-regulating agency. John C. Marshall and Peter W. Halligan report that “in a variety of neurological syndromes, patients may show tacit awareness of stimuli that cannot be consciously recollected or identified.”<sup>25</sup> In an experiment, they presented P.S., a patient who manifested left visuo-spatial neglect, simultaneously with two line drawings of a house that were almost the same, except that the left side of one of them was on fire. Across eleven trials, P.S. was asked if she could identify any difference between drawings, and which house she would prefer to live in. She reported that both drawings were identical and that she thought the second question was silly (“because they’re the same”); yet quite remarkably, when she was forced to choose, she preferred the house that was not burning on 9 out of 11 trials. Similar results have been obtained in patients with other neurological syndromes like ‘blindsight’,<sup>26</sup>

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25. Marshall, J.C. & Halligan, P.W.. “Blindsight and insight into visuo-spatial neglect.” In: *Nature*, 366 (1998), 766-767.

26. See Marshall paper for reference

prosopagnosia,<sup>27</sup> and brain tumors, where subjects correctly answered questions about the similarities between two stimuli, despite reporting only being able to see one of them (and like P.S., the patients found the tasks “silly” since they were being asked to compare two stimuli when they could only detect one!).<sup>28</sup>

This gives important support to the notion that pre-conscious cognitive mechanisms might be the source of much of human agency; our ability to make elaborate, decisions in the abstract need not be attributed exclusively to consciousness. We have good reason to believe that our cognitive structure might be similar in some sense to that of the bees I discussed earlier, whose behavior was dictated by two different, independent processes. I said that the bee’s mind was composed of at least two independent cognitive processes, each of which supported a different kind of agency. The one caused the bee to exert a very rigid agency; it caused the bee to invariably travel along a vector that it memorized or learned from a conspecific. The latter allowed the bee much more sophisticated and flexible agency; it allowed the bee to locate itself on a Euclidian map-like representation, and calculate a new trajectory to its desired destination. Of course, human agency is probably never this invariant or dichotomized; our mind is much more self-regulating, which allows us to engage in nuanced behavior that shows we are sensitive to subtle variations in our environment.

As McGeer and Pettit point out, language, which requires consciousness, allows for this kind of self-regulation. Just as consciousness allows for Korsgaard’s normative self-regulation, language allows for more general self-regulation with regard to non-normative constraints, including those imposed by our non-moral intentional states. But recent evidence obtained from studies on rhesus monkeys (*Maccaca mulatta*) suggests that pre-conscious psychological mechanisms are also highly self-regulating in this sense. The monkeys exhibit behavior which cannot be accounted for unless one grants that their minds meet the three conditions for self-regulation which McGeer and Pettit laid down: being capable of (1) attending to the content of one’s intentional states, (2) identifying constraints

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27. Ibid  
28. Ibid

on the formation of coherent and adequate intentional states, and (3) implementation of those constraints in the process of forming intentional states. For example, rhesus monkeys appear to be able to link knowing and behaving, at least with respect to themselves. They engage in behavior directed at changing the state of their own knowledge—thus meeting conditions (2) & (3)—which implies that they somehow realize that the knowledge that they have about their environment might be inadequate to perform a task—thus meeting conditions (1) & (2). This was demonstrated through an experiment where monkeys had to correctly select the tube that contained a reward out of a total of four possible tubes. The design only permitted the subject one choice per trial, which gave the monkeys an incentive to choose a tube only if they knew it contained the reward. In the experimental conditions, a monkey had either seen or had not seen the tube being baited with a reward (seen vs. unseen), but in both conditions the monkey could learn where the reward was by looking down the tubes. All of the monkeys looked down the tubes on some of both the seen and the unseen trials, but they looked significantly more often in the unseen trials.<sup>29</sup>

Rhesus monkeys are also capable of making judgments about their own intentional states, which, according to McGeer and Pettit, is a hallmark of a self-regulating mind.<sup>30</sup> Son and Kornell demonstrated this by training two rhesus monkeys to perform two cognitive tasks: the first involved selecting the image of the longest line out of nine possibilities, all of which were displayed simultaneously in a touch-sensitive monitor (each trial could be made easier or harder by manipulating how similar in length the alternatives were to the correct answer); the second was identical except that they had to choose the image which contained the largest/smallest numerical quantity of dots. After the monkeys had made their choice, they were allowed to place a bet on the likelihood that they had chosen correctly (they could choose either a high-risk or low-risk bet). The results showed that they were significantly more likely to place high-risk bets on trials where they had effectively given the correct answer, and more likely to place a low-risk bet on trials in which their choice had been

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29. Hampton, R.R., Zivin, A., & Murray, E.A. "Rhesus monkeys (*Macaca mulatta*) discriminate between knowing and not knowing and collect information as needed before acting." In: *Animal Cognition* 7 (2004), 239-246.

30. McGeer & Pettit, "The Self Regulating Mind."

mistaken.<sup>31</sup> Thus, in line with McGeer and Pettit's arguments, the mind that makes these confidence judgments must be self-regulating in all the ways they claim language allows the human mind to be self-regulating.

So once again, either we grant that rhesus macaques are conscious in the same way we are, or we grant that this kind of consciousness is not necessary for very sophisticated, self-regulating agency. The problem with embracing the latter view is that it blurs the distinction between a routinized and a self-regulating mind—it seems to allow for highly complex aspects of the mind which allow the expression of a very sophisticated and self-regulating agency that functions without conscious mediation. It seems like it would be appropriate to speak of pre-conscious, self-regulating parts of the mind which are nevertheless irreflexive—or at least not sufficiently reflexive that they generate the self-consciousness which is allegedly so characteristic of human beings.

Therefore, conscious deliberation is not the only source of sophisticated agency in our minds. The next natural question, which takes us back to our discussion regarding the traditional view of the soul, asks about the nature of the relationship between these pre-conscious sources of agency and that which results from conscious deliberation. In particular, we need to address the puzzling fact that it certainly feel as if much, if not most, of our behavior were governed by the reflexive, self-conscious parts of our minds. I think Daniel Wegner's analysis of this phenomenon is correct: he claims that we so often experience our actions as the result of conscious deliberation that we assume that this is always the case.<sup>32</sup> And I agree with his insistence that this impression isn't therefore necessarily accurate—there is overwhelming evidence (such Marshall's work with P.S.) that it is in fact grossly inaccurate much of the time. Michael Gazzaniga's work on patients with a 'split brain' is especially convincing.

In one experiment, he flashed an image of a chicken claw to the left hemisphere of a

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31. Son, L.K. & N. Kornell. 2005. "Metaconfidence judgments in rhesus macaques: Explicit versus implicit mechanisms." In: *The Missing Link in Cognition: Origins of the Self-Reflective Consciousness* (H.S. Terrace & J. Metcalf, Eds.), pp. 296-320. Oxford University Press, New York.

32. Wegner, D. M. (2003). The mind's best trick: How we experience conscious will. In: *Trends in Cognitive Sciences*. Vol 7(2), 65-69.

patient's brain (right eye), and one of a snow scene to the right hemisphere (left eye). He then asked the patient to choose from an array of pictures arranged such that some were lateralized to the right, and some were lateralized to the left. The patient responded by choosing a picture of a chicken with his right hand, and a shovel with his left. When asked why he chose those images, he answered "Oh, that's simple, the chicken claw goes with the chicken, and you need a shovel to clean out the chicken shed."<sup>33</sup> Now, we know the left hemisphere is endowed with what Gazzaniga calls an 'interpreter system' that operates on the activities of other cognitive processes, and is devoted to giving explanations. In this case, the obvious associations were the chicken for the chicken claw, and the shovel for the snow scene. However, since the left hemisphere did not have access to the workings of the right hemisphere (which is a consequence of having a split brain—hence the name), it confabulated a reasonable—but false—causal story. This experiment shows that the behavior of the left hand is clearly governed by a cognitive process which can respond to verbal instructions and dictate behavior on the basis of abstract representations, but none of this is accessible to conscious reflection. Gazzaniga argues that the cognitive process in the left hemisphere, which takes the operations of other cognitive processes as the set of data on which it performs its own operations, generated an explanation for the left hand's behavior that cohered with the information it had available regarding the right hand's behavior. We, however, know that this information was incomplete, and thus only allowed for an inaccurate (if coherent) account of the actual process by which the right hemisphere chose the shovel.

But we needn't restrict ourselves to evidence obtain from patients with abnormal brain functioning due to injury, or surgery, etc. Nisbett and Wilson (1977) reviewed a large amount of psychological studies in which normal subjects were asked to report on their behavior, which had been influenced by experimental manipulations without their knowledge. Examples included things like misattribution of emotional states to placebos and vice-versa, erroneous beliefs regarding the effect of reassurance on willingness to take

33. Gazzaniga, M. *The Mind's Past*. Berkeley: University of California Press, 1998.

electrical shocks,<sup>34</sup> and global evaluations of an individual affecting the evaluations of particular attributes like mannerisms or accent.<sup>35</sup> In one particularly telling experiment, subjects were presented with four identical stockings simultaneously, and asked to say which particular article of clothing was of the best quality. There was a pronounced left-to-right position effect, such that the right-most stocking was heavily over-chosen (by a factor of almost four to one). However, when subjects were asked why they had chosen the article they had, no subject mentioned the position of the article. And, when asked directly about the possibility of this effect, virtually all subjects denied it, “usually with a worried glance at the interviewer suggesting that they felt either that they had misunderstood the question or were dealing with a mad-man.”<sup>36</sup> They therefore concluded that:

Subjects are sometimes (a) unaware of the existence of a stimulus that importantly influenced a response, (b) unaware of the existence of the response, and (c) unaware that the stimulus has affected the response...[thus], when people attempt to report on the effects of a stimulus on a response, they do not do so on the basis of any true introspection. Instead, their reports are based on a priori, implicit causal theories, or judgments about the extent to which a particular stimulus is a plausible cause of a given response.<sup>37</sup>

They argue that “people have little awareness of the nature or even the existence of the cognitive processes that mediate judgments, inferences, and the production of complex social behavior.”<sup>38</sup>

These conclusions are given further support by Uri Simonsohn and George Lowenstein’s work regarding people’s housing preferences. Their results strongly suggest that upon moving to a new city, people’s price preference and commuting tolerance are strongly affected by what rent they were used to paying in the city they left, and how long

34. Nisbett, R., & Wilson, T. “Telling more than we can know: Verbal reports on mental processes.” In: *Psychological Review*, 84 (1977), 231-259.

35. Nisbett, R. E., & Wilson, T. D. “The halo effect: Evidence for unconscious alteration of judgments.” In: *Journal of Personality and Social Psychology*, in press.

36. Nisbett & Wilson, “Telling more than we can know: Verbal reports on mental processes.”

37. Nisbett & Wilson, “Telling more than we can know: Verbal reports on mental processes.”

38. Nisbett & Wilson, “The halo effect: Evidence for unconscious alteration of judgments.”

their commute used to be, instead of being determined by a rational deliberation regarding their ‘true’ preferences.<sup>39</sup> For example, upon moving to a new city, households coming from more expensive cities reliably chose more expensive apartments in the new city than did households coming from less expensive cities—even after controlling for potential income effects. Similarly, individuals who were used to longer commutes in their old city chose longer commutes in the new city when compared to individuals who were used to shorter commutes in their old city. In addition, they observed that people who moved again within the new city revised both their commute length and their housing expenditures, thus countering the initial impact of previous prices and commutes. These additional observations give further support to notion that their initial choices did not reflect their ‘true’ preferences, but that subjects were simply drawing on salient cues which in some cases might not have been “normatively defensible.”<sup>40</sup>

Notice that these subjects had presumably not suffered brain injury of any kind, and were not in a contrived, ecologically questionable laboratory setting. The observations were taken from normal individuals making important, real-life decisions. It is even reasonable to assume that these individuals all engaged in some kind of conscious deliberation during the process of choosing a living location, and yet the most reliable predictor of both price of rent and length commute location was how much they had paid and how long they had commuted previously. This strongly suggests that we do not always make our decisions, even important decisions, through conscious deliberation. Our conscious cognitive process is not always the source of our agency—many times it is completely ignorant of the forces that influence our decisions. It simply confabulates on these occasions.

So are we never consciously in charge? Are instances of seemingly conscious decision-making simply *post hoc* rationalizations or tale-spinning? I do not think any of the evidence

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39 . Simonsohn, U. “New Yorkers Commute More Everywhere: contrast effects in the field.” In: *The Review of Economics and Statistics* 58 (2006), 1.

40. Simonsohn, U. & Loewenstein, G. “Mistake # 37: The effects of previously encountered prices on current housing demand.” In: *The Economic Journal* 116 (2006), 175-199.

gives support to these assumptions either; they simply disprove the other extreme. They simply show that consciousness is not necessary, and is not always sufficient, for self-regulation or self-determination. So the question regarding what or who actually dictates our behavior—regarding what determines the kind of agency we exercise—therefore remains obscure; the obvious answer, ‘cognition’, is as unhelpful and vague as the question itself. But why is the question so vague? Why are we unable to ask something more concrete—something that can be answered without resorting to waves of our hand and vague concepts (like “the subconscious”) or to trivial tautologies (like “cognition”)? I believe that what is missing is clarity regarding the whole concept of agency, its sources, and its exercise. I will therefore proceed to answer a question that is generally not considered by philosophers writing on human agency; viz., what is the structure of the source our agency—what is the structure of our soul?

### The Structure of our Cognitive Architecture

*And if we must say that this element possesses reason, then the element with reason will also have two parts, one, in the strict sense, possessing it in itself the other ready to listen to reason as one is ready to listen to the reason of one's father.*

*-Aristotle<sup>41</sup>*

Let's review where we are. Frankfurt and Korsgaard believe that our reflexive faculties face us with a problem regarding our own agency that no other animal has to face: they make it so that we cannot help but turning our attention to our own intentional states. As such, we become aware that we have intentional states which we would prefer not to have, we find that we do not always identify with many of our motives, desires, appetites, inclinations, etc., and this puts us in a position where we can decide which of these we would have be effective in moving us to action, and which ones we would not. They argue that through this process of reflexive self-evaluation, we construct a self that is identified by

41. Aristotle. *Nicomachean Ethics*. Cambridge: Cambridge University Press, 2000.

those desires which we treat as reason-giving, and this autonomous process of identifying with some of our desires gives rise to an agential identity that commits us to exercising our agency according to those reasons. As such, we create a self with a practical identity through this process of reflexive endorsement, which should be understood as the source of our freedom, and of the normative constraints which we autonomously choose to impose on ourselves. If they are correct, it has to be appropriate to say that human beings are the kinds of beings whose agency is limited by autonomously self-imposed constraints. However, there is much empirical evidence that suggests this is not the case. It seems like we many times respond to constraints without being consciously aware that they exist (Marshall's work with P.S.; Nisbett and Wilson's experiment with the stockings, etc.); that upon reflection, we give incorrect reports regarding which constraints determined how we behaved (Gazzaniga's work with 'split brain' patients); and that we even make important decisions that probably involved a good deal of conscious deliberation on the basis of simple biases which we probably would not endorse as being the relevant constraints for that kind of a decisions (Simonsohn and Loewenstein's studies on rent and commuting preferences).

What this means is that many times, the internal principles of action which dictate our behavior are not accessible for reflective evaluation. It is not simply the case that we might not have conscious control over which of our motives and desires are effective—many of the forces that govern our behavior might not even be available for reflective evaluation. The problem with how we relate to our own agency turns out to be more complicated than the already puzzling reality that we often encounter desires that seem completely alien and contrary to our self-conception—we must add to this picture the fact that we many times do *not* encounter desires, motives, appetites, passions, inclinations, dispositions, preferences, etc., that we would presumably then have to decide whether to endorse or reject. However, much of the difficulty is not actually inherent in the problem itself. Instead, it results from how philosophers traditionally approach the problem. I believe that many of the difficulties result from the prevalence of traditional views regarding the sources of human agency.

According to these views, which can be traced back to Aristotle's dichotomized view of the soul (as presented in the quote at the beginning of this sub-section), reason and appetite are conceptually independent faculties whose only relationship to each other lies in the fact that reason should govern the appetites.

I do not think it is too controversial to maintain that the human soul, understood as the fundamental source of our capacity for intentional, goal directed activity, is embodied in our cognitive faculties. In any case, it is my view that cognition is *the* source of agency. Agency—the capacity to act in an intentional, goal-directed manner—at the very least requires the capacity to represent the goals in pursuit of which agency is exercised, and the environment in which those goals are pursued. The process by which these representations are generated is called cognition. If we understand the structure of our cognitive architecture, we will be in a position to assess what can be true of human agency and the degree to which any given characterization of our agency is plausible in light of the properties of those faculties which support our agency altogether.

I will use Cheney and Seyfarth's definition of cognition: it is the ability to relate different unconnected pieces of information in new ways and to apply the resulting knowledge in an adaptive manner (*How Monkeys See the World*, 1990). Let me build on what it means to "relate" different unconnected pieces of information. A cognitive process could be said to identify the particular way in which particular types of stimuli relate to each other. Formally, cognition could be said to generate an abstract data type (ADT)—cognition could be said to be a process of identifying relationships or links (edges) between elements of the set of relevant stimuli (the set of potential vertices). In other words, cognition could be defined as a set of faculties which construct graphs to represent the relationships between the stimuli which are relevant to the organism. A graph is an abstract representation of a set of objects (vertices) where some pairs of the objects are connected by links (edges). A detailed description of a particular cognitive process should include the exact properties of the ADT—the properties of the links between the vertices, and the types of stimuli that

can be taken as vertices.<sup>42</sup>

The resulting mind can best be understood as the aggregate of multiple, highly interconnected—but fundamentally independent—cognitive processes, each of which is exclusively dedicated to constructing the graph which relates the elements of very specific sets of stimuli to each other. The result is a network of multiple, specialized cognitive processes, each of which is responsible for generating and responding to a particular part of the representation which determines how we exercise our agency. Some units, for example, might be devoted to processing different parts of the information collected by our sensorial apparatus, some others might be devoted to processing information about our own body, and some might be devoted to processing the information presented by certain other cognitive processes. These latter cognitive processes could be viewed as being responsible for evaluating and integrating the representations of those units on which they perform their operations, thereby providing a richer, more nuanced intentional representation. But there is no reason to assume that all the units will be fully integrated with each other at any level. As such, it is possible that some units in one part of the network are more integrated with each other than they are with units in another part of the network. If each of these less integrated parts is sufficiently complex to generate a sophisticated, self-regulating representation, they could each independently support the exercise of very sophisticated human agency. If these sub-components of the network are not sufficiently interconnected with each other such that their individual representations are not integrated with those of other sub-components, the mind which is embodied by this network would contain multiple sources of agency whose dictates would not necessarily coincide. Thus, any one sub-component could, as it

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42. The relationships represented in a 'directed' graph, for example, will specify a particular order between the vertices. Namely, the relationship  $(x,y)$  is different from  $(y,x)$ . The significance is very intuitive if taken out of the formal sphere: (John loves Mary) is different from (Mary loves John). Moreover, the edges in a directed graph can have 'weights' assigned to them. The weight of a relationship could be understood as the intensity of the relationship or the probability with which the relationship will be established (John loves Mary very much/little—or—John is very likely/unlikely to love Mary).

I will be using 'stimuli' in a very general sense of the word. By stimuli I mean any information to which an organism could be sensitive. Non-observable mental states will be understood to fall into this category. Similarly, 'types of stimuli' simply refers to an arbitrary subset of the set of stimuli to which an organism is sensitive: visual stimuli, con-specifics, behavior, etc., could all be different types of stimuli.

were, temporarily commandeer control of the entire agent's behavior. This leaves us with a fragmented agent—one whose agency is the product of several, disjointed sources who do not necessarily find the same stimuli to be relevant, and who perhaps would direct behavior towards conflicting (perhaps even mutually exclusive) goals.

It must be admitted that this account of human cognition is not entirely uncontroversial, but the traditional views are no more robust. Though the connectionist assumptions on which it relies are not universally accepted,<sup>43</sup> the debate seems to be leaning in favor of a model that is consistent with those assumptions given that they align very nicely with the neurological architecture of the brain, and that they allow for a theory of cognition that is more plausible than the classical alternatives.<sup>44</sup> The resulting model further provides us with a view of the mind that can be reconciled with the body of odd behavioral evidence that I have presented, which can be made sense of if we allow that the source of our agency is less than unified.

Though it might still seem like one could superimpose this picture of our cognitive architecture onto the Aristotelian map of the soul such that the appetites are generated by one set of cognitive processes, and reason is embodied by another set cognitive process, I believe this would be a stubborn attempt to adhere to a fundamentally misconstrued understanding of the relationship between reason and all the other potential principles of action. As I suggested earlier, reflexivity can, and must, be built into this cognitive structure to allow for the self-regulation that is required by an intentional system that is capable of deliberately acting on its own intentional states. Now, as Frankfurt points out, it is not entirely clear what order of reflexivity must be attained for consciousness to arise,<sup>45</sup> but

43. Fodor, J. A., & Pylyshyn, Z. "Connectionism and cognitive architecture: a critical analysis." In: *Cognition*, 28 (1988), 3-71.

44. Horgan, T. & Tienson, J. "Cognitive systems as dynamical systems." *Topoi*. 11 (1992), 27-43.; Smolensky, P. "On the proper treatment of connectionism." In: *Behavioral and Brain Sciences*, 11 (1988), 1-74.; van Gelder, T. J. "Compositionalality: a connectionist variation on a classical theme." In: *Cognitive Science*, 14 (1990), 355-384.

45. However, it is not clear to me that this reflexivity which allows a system to be self-regulating with respect to its own intentional states by itself can account for the qualia of human consciousness. Whatever the case, I think it is safe to say that reflexivity allows for self-awareness. I am therefore inclined to agree with Frankfurt when he says that self-consciousness involves immanent reflexivity, at least if one restricts the meaning of the term self-consciousness to being coextensive with self-awareness. I will use these two, as well as consciousness and awareness more generally, interchangeably, and ignore the question of qualia.

consciousness necessarily involves “a secondary awareness of a primary response.”<sup>46</sup> If the primary response is conceived simply as a lower-order cognitive process, consciousness involves a secondary awareness of the operations of a more primary cognitive process which performs its operations independently of the conscious evaluation.

### The Construction of a Self Out of a Fragment of Our Agency

*“I have done that,” says my memory. “I could not have done that,” says my pride, and remains inexorable. Eventually—memory yields.*

*-Nietzsche<sup>47</sup>*

Frankfurt’s theory is more in line with my account of the structure of those faculties which support our capacity for agency than most traditional views of the human soul, in so far as it recognizes that the characterizing essence of human agency lies more in the structure of our will than in our capacity to reason. But the manner in which he arranged the hierarchy between the different parts of this structure still falls prey to the traditional fallacy where conscious reasoning is assigned an erroneously independent and unwarrantedly authoritative position. But if it is in fact the case that consciousness arises as a result of the reflexive integration of the operations of more primary cognitive processes, then there is an important sense in which conscious reasoning is inseparable from, and dependent on, the internal principles of action which these primary processes embody. More simply, it would be the case that conscious deliberation only operates with reference to the representations and the determinations of the lower-order cognitive processes. As such, variations in the salience or vehemence of the determinations of one cognitive process would intrinsically affect the determinations at which a conscious deliberative process can arrive.

I think a short digression will make this claim somewhat clearer: Philosophers consistently exhibit a peculiar bias in favor of those conclusions at which we arrive during

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46. Frankfurt, “Freedom of the Will and the Concept of a Person.”

47. Nietzsche, F. “Beyond good and evil : prelude to a philosophy of the future.” New York : Vintage Books, 1989.

‘cool moments of deliberation,’ over those at which we arrive in the ‘heat of the moment.’ The most common justification appeals to the lack of time that is characteristic of these ‘hot’ moments, which implies that the conclusions of the deliberative process would have resulted in different behavior had the agent been allowed more time to reason. Another line of defense makes an appeal to the fact that normal deliberation can be influenced by abnormal affective states. The argument here is that the deliberative process is influenced by excessive emotional responses, or that the abnormal affective reactions to the ‘heat of the moment’ alter the normal course of reasoning. But this also begs the question as to why the affective states characteristic of ‘cool’ moments should be the standard for normal deliberative process. Being ‘cool’ is as much an affective state as any other, and the philosophers have not provided a reason to assume that correct deliberation only occurs under the influence of those emotions and not any others. It certainly does not seem obvious to me that in the ‘heat of the moment,’ it is not better to have one’s deliberation influenced by the affective states normal to *those* situations rather than those normal to ‘cool moments.’ Stress, arousal, anger, fear, infatuation, apathy, tranquility, satisfaction, etc., are all affective states that influence the way in which we deliberate—and we are probably rather content with that reality. It is surely not the case that we would prefer never to have our decision-making influenced by less than rational forces.

But the point is that our preferences are actually irrelevant on this matter. If conscious deliberation intrinsically only functions with reference to the operations of the lower-order cognitive processes, then the determinations at which we can arrive through conscious deliberation will intrinsically be influenced by the relative salience of the particular determinations of those lower-order processes upon which it operates. As McGeer and Pettit point out, any capacity for the self-regulation of a system’s intentional states is limited by virtue of the fact that one intentional state can only be evaluated with reference to another intentional state whose soundness is, at that instance of evaluation, taken for granted.<sup>48</sup> So the consistency of the outcome of our conscious deliberation will

48. McGeer & Pettit, “The Self Regulating Mind.”

irrevocably be threatened on two fronts. On the one side, it is possible that variations in the salience of the determinations of different lower-order cognitive processes cause variations in the relative weights assigned to them during conscious deliberation. On the other, the dictates of our conscious deliberation will depend on what cognitive process provides the intentional state which we take as the standard against which we evaluate the other intentional states when we engage in reflexive self-evaluation.

That is why Frankfurt's example of the unwilling drug addict is not very helpful; it presents us with an impossibly impoverished depiction of the psychology of an agent who is reflecting on his desires in a single context. If we imagine that same individual in a different context, perhaps in one where he normally does drugs, it is not implausible to assume perhaps he would fully endorse his desire to take the drug—indeed these kinds of dramatic reversals are not at all uncommon amongst chronic heroin users, to name one example,<sup>49</sup> or amongst people who have become sexually aroused. Ariel and Loewenstein showed that peoples' judgments, preferences, and their reports on how they would behave, are all dramatically affected by the state of their sexual arousal—even though their knowledge was not influenced.<sup>50</sup> For example, in both across-subject and within-subject comparisons, subjects at higher levels of sexual arousal, were much more likely to report being willing to have unsafe sex with a hypothetical partner than were subjects assigned to at lower levels of arousal, even though subjects in both groups were equally likely to report they knew the inherent risk of contracting a sexually transmitted disease from that partner. So, Frankfurt's account would commit us to making the odd concession that we would be dealing with a different person at different times; stranger still, in the case of the drug addicts, we would have to recognize that it is possible that these agents are at times free and at times not free by virtue of acting on the *same* desire.

I think enough evidence of the significant problems with Frankfurt's theory has been provided. Though compelling, there is simply no evidence that suggests that we have

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49. Bourgois, P. & Schonberg, J. *Righteous Dopefiend*. Los Angeles: California Series in Anthropology, 2009.

50. Ariel & Loewenstein. "The Heat of The Moment: The Effect of Sexual Arousal on Sexual Decision Making." In: *The Journal of Behavioral Decision Making*, 19 (2006), 87-98.

conscious access to many of the forces that determine how we behave such that we may carry out a comprehensive, reflexive self-evaluation that results in a view of the character of our agency that is accurate inter-temporally—or even at any given instant. Instead, I agree with David Velleman that this process of alleged self-definition is perhaps more a case of wishful thinking that results in self-deception.<sup>51</sup> I believe that what results from this process of reflective endorsement is not our true ‘self’, but rather a hopeful self-conception that is not representative the actual character of our agency.

The problem is that Frankfurt’s view, all desires, impulses, motives, inclinations, dispositions, reasons, or any other denomination for our internal principles of action, are external to the individual and are only internalized if the agent reflectively endorses them. But one could view it the other way as well; one could grant the prerogative to all the unreflective processes such that all their dictates would be internal to the agent until they were externalized by her consciousness. In other words, one could just as easily view consciousness as a usurper of one’s identity rather than its legitimate guardian (Nietzsche, for example, could certainly be read in this way).<sup>52</sup>

I think both positions are arbitrary and equally wrong. Philosophers sustain that consciousness is the sources of human agency, and I do not entirely disagree—I believe it is one of the sources of our agency. Yet I hope to have established that it is not the only source, nor the most powerful one. I claim that it is not the most legitimate source of our agency because it cannot take into account the dictates of all the other aspects of our agency at the same time, nor can we be sure that it gives their determinations sufficient weight. Ariely and Loewenstein’s experiment is a case in point: they conclude that “sexual arousal seems to narrow the focus of motivation, creating a kind of tunnel-vision where goals other than sexual fulfillment become eclipsed.”<sup>53</sup> And as I argued earlier, any bias in favor of those desires which we endorse in a ‘cool moment of deliberation’ over those which we endorse

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51. Velleman, David. “Self to Self.” *In Identification and Identity*. Cambridge: Cambridge University Press, 2005.

52. Nietzsche, “Beyond Good and Evil: the genealogy of morals.”

53. Ariely, D. & Loewenstein, G. “The Heat of The Moment: The Effect of Sexual Arousal on Sexual Decision Making.”

in 'the heat of the moment' is unwarranted. Thus, identification through reflexive self-evaluation will necessarily alienate us from aspects of our agency which not only *will* move to action at times, but will necessarily alienate us from aspects of our agency by which we would perhaps *want* to be moved to action in certain situations. But it is equally wrong to consider our self-consciousness an illegitimate source of agency.

I believe that the correct view is to consider ourselves as fragmented or disjointed agents—as beings endowed with multiple, highly interconnected sources of agency that are nonetheless not fully integrated with, and significantly independent of, each other. And although some integration results from reflexive self-evaluation, it is circumspect to what degree it can truly allow us unify our selves; in the end, it seems like it will always fail to fully integrate the determinations of all the sources of our agency. For this reason, one can only treat the dictates of reason as the dictates of one of the sources of agency; perhaps a source of agency that has unified many others, but they are nevertheless the dictates of a fragment of our agency. As such, the agent *qua* agent cannot be identified with those dictates to the exclusion of the rest.

However, this means that if we accept Frankfurt's theory concerning freedom of the will, we will have to acknowledge that either we rarely enjoy that kind of freedom, or that we are a collection of many different free agents, each one of which sporadically and unpredictably comes to govern the behavior of our bodies. Similarly, if we accept Korsgaard's theory of normativity, we have to acknowledge that we are thoroughly inconsistent in abiding by our own normative commitments. It is simply the case that any conception of ourselves at which we arrive through a process of reflexive self-evaluation will fail to be an accurate description of the character of our agency. We do not limit the exercise of our agency according to those constraints which we reflexively endorse—in fact, we do not even consistently endorse the same constraints!

So *are* we the kinds of agents that we would consciously like to be, as Frankfurt would like to believe? Is Korsgaard right in her claim that obligation is an inescapable reality of

our lives? Would it be right to say that human beings are the kind of agents who live within the limits we believe we have reason to respect? My answer is that to a certain extent, we *can* be, but whether we actually are can only be decided by evaluating all the aspects of our agency. Whether we *are* the kind of agents that we conceive ourselves to be is an empirical question—it is a question cannot be settled through introspection. As things stand, we do not yet understand the structure and functioning of the mind sufficiently well to allow us to conclude which of its many faculties is the ultimate determinant of our behavior, if ever such a faculty is to be discovered. It seems that we are just as ignorant regarding the causes of our own behavior as we are regarding the causes of the universe in general. Here, David Hume's observations regarding the latter phenomenon seem perfectly applicable:

We must be far removed from the smallest tendency to skepticism not to be apprehensive that we have here got quite beyond the reach of our faculties...we know not how far we ought to trust our vulgar methods of reasoning in such a subject... Were a man to abstract from everything which he knows or has seen, he would be altogether incapable, merely from his own ideas, to determine what kind of scene the universe [or in our case the mind] must be, or to give the preference to one state or situation of things above another. For as nothing which he clearly conceives could be esteemed impossible or imply a contradiction, every chimera of his fancy would be upon an equal footing; nor could he assign any just reason why he adheres to one idea or system, and rejects the others which are equally possible.<sup>54</sup>

Thus, I believe we can only settle this question about the character of our agency by observing our behavior, since only in practice are all the different aspects of our fragmented agencies allowed to express themselves. And if we sometimes act on desires which we wish were not a part of who we are, then so be it. It seems to me that Diderot was entirely right in his account of the difference between a human being and a clavichord: the sounds a clavichord makes depend exclusively on which keys are stricken by an external entity, whereas a philosopher can strike her own keys. But this leaves open the possibility that we

54. Hume, David. *Dialogues Concerning Natural Religion*. Cambridge: Hackett Publishing Company, 1980.

are many times not the composers of the music that we play, nor are we the interpreters. So perhaps my grandfather's skepticism on this matter was wiser than it seemed as I was growing up. Perhaps we would do well to follow his advice that the path one should take care to travel does not lead to self-discovery—but rather to self-acceptance.



# SINS AGAINST DEMOCRACY

DAVID MARCOU

John M. Shimkus is the Congressman representing the 19th District of Illinois. On March 25, 2009 in a hearing of the House Subcommittee on Energy and Environment, Representative Shimkus declared that “The earth will end only when God declares its time is over,” arguing against the need for concern about climate change. Whether or not you agree with Representative Shimkus, his comments contain the very best of our democracy. We can see the whole range of democracy in the proceedings of the debate and weighing of ideas that go on in our cathedrals of democracy every day. Representative Shimkus is a voice of the people, elected by everyday Americans to serve their interests and support their values in our political process. What is equally important however is that his voice is not the only voice. Every day and in a thousand different fashions we see the goals of the American people being articulated and debated, not only by our elected representatives, but in interest groups, lobbyists, our media institutions, in protests, and in literature<sup>1</sup>. They must discourse, debate, argue and persuade until some form of consensus is reached. The tapestry of discourse and dialogue in America is diverse and challenging for anyone seeking to bring order to our democratic system. This, however, should not discourage us from doing so, or attempting to do so. We should see the range of views and ideas as an opportunity to improve and refine our democratic system, not as an inhibitor. To bring order from chaos we need a mechanism to take the best qualities of discourse and distill them. This mechanism is deliberative democracy, the nature of which we will discuss here.

The specific claim that this paper will address is the content and form of this discourse. It is not a question of which voices we will accept nor one of limiting the subjects of

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<sup>1</sup> Dahl calls the variety of different governmental bodies “staggering” (Dahl 117), not only in the number of individual local or state governments, but unions, interest groups, and a thousand different organizations of every shape.

our conversations and decision making, but rather I want to raise the question of what reasons we will accept. It is a question of when we engage in political debate, what sorts of reasons we can and should we provide for the positions we support. The focal point of this examination will be part of the claims made by Amy Gutmann and Dennis Thompson in *Democracy and Disagreement*. Gutmann and Thompson advocate that in our democratic discourse we should include moral reasons into the process of justifying our positions.

*Deliberative democracy aspires to a politics in which citizens and their accountable representatives... are committed to making decisions that they can justify to everyone bound by them. This commitment entails the integration of substantive moral argument into the democratic process that manifest the equal political status of citizens. The political process... must be as morally defensible in their content as in their conditions.*<sup>2</sup>

They believe that if we want our politics to be as justifiable as possible, we both must and should include a method of solving and accounting for our moral nature and our moral disagreements<sup>3</sup>. In the debate that frames democracy, each voice is motivated by a particular set of values, and Gutmann and Thompson think we are better off including this in our democratic process.

There are issues with debating about values, specifically because of how differently each of us sees them. They claim two responses to this concern by first asserting the tool of deliberative democracy, which as we will see shortly, helps to account for these differences in a constructive manner. Their second response is the more important of the two: “A democratic theory that is to remain faithful to its moral premises and aspirations for justice must take seriously the need for moral argument within these processes and appreciate the moral potential of such deliberation.”<sup>4</sup> This defense has two parts. It establishes the

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2 Gutmann, Amy, and Dennis Thompson. *Democracy and Disagreement*. (Cambridge, Mass: The Belknap P of Harvard UP, 1996), p. 50.

3 When Gutmann and Thompson refer to morality, we can find symmetry when, now and later in this paper, I refer to the values we hold. Morality is a vision of what is right and wrong, which is fundamentally based on questions of what we value as individuals and a society.

4 Gutmann et al., p. 40.

necessity for moral discourse (a discourse about values), a way of saying that even if this process is hard, we should pursue it. The more interesting claim is that if we are to stick to our roots, we have to accept that our personal values can and should be debated. They find, and I agree, that our democratic institutions are founded on a particular set of values. If we could come together to debate and discover these concrete values, then we must concede that we can talk about other values in the same way.

I do not deny that we managed to agree on core democratic values. The formation of the United States Constitution saw many people, from many places, come together to agree on the values and rights that make Americans who they are. Gutmann and Thompson want us to say that if we have accomplished this task, why can we not use democracy and her institutions, the same set of rules and principles that helped us build the foundation of our nation, to debate and decide on how other values should motivate our politics. It is against this belief and claim that I will build my arguments. I will first develop a model of democracy and deliberation. Then, we will discuss how each of us fit into democracy as servant and master to the system. After discussing Gutmann and Thompson's particular views on moral disagreement and the merits of deliberation further, we will begin the principle critique of their views, ending by proposing possible alternatives and solutions. Before we understand morality in our democracy, we must have an understanding of how these hallowed institutions function.

Deliberative democracy is a manifestation of a democratic system that asks that its citizens accept a conception of government that appeals to the common good.<sup>5</sup> At its heart it relies on its citizens' capacity to engage in deliberation about the appropriate role of government and the right course of action. No reasonable application of deliberative democracy can expect every citizen in a modern state to debate over every issue that faces us. The issues are so complex, the positions so varied, the expertise needed so vast, that

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<sup>5</sup> This conception of the common good as the motivating force was deeply influenced by John Rawls, particularly *A Theory of Justice* and *The Law of Peoples*. The core contractualist claim is something that carries itself into deliberation and into the manifestation of just democratic will. Indeed, much of what I will claim here on fairness, humanity, and appropriateness was directed and guided by these two works.

such a feat would be well beyond us. What deliberative democracy asks, in the real world, is that those who exercise authority in our government, the elected representatives, conduct themselves in a particular fashion. It asks that when these individuals seek to justify their positions to their peers and the populace and to persuade others of the actions they desire, they must do so not merely on interests and principles that are unique to them or even their constituents. A valuable deliberative process seeks to reach decisions that all members would find acceptable, based on principles that all would find acceptable, and argued in a manner in which all would find acceptable—the greatest common denominator of views.

Deliberative democracy is the best alternative that civilization has had on how to govern itself. I believe that a just authority derives itself from the polity and their consent to be subject to the powers above them. Thus democracy is the only justifiable source of political power, and deliberation is the only way to give this power a defensible voice. I advocate that, within the framework of deliberative democracy, it is necessary for us to limit ourselves in a very particular way – specifically that we should not accept personal values as good reasons for political decisions.<sup>6</sup> The argument is that when we exercise the virtues of our deliberative system, we must do so very cautiously and why this caution should prohibit us from providing our individual values as reasons. Individual value based reasons are problematic in my view not only because they fail to meet certain standards of our deliberative discourse, but also because the decisions that can be justified with them are particularly harmful outside our idealized construct. I also believe that even when applied correctly, they do irreparable harm to the system of democratic deliberation itself. However, in order to understand how we might criticize the role these particular value justifications, we need to develop a sufficient conception of the appropriate role of a government that is based on the principles of deliberative democracy.

There are many different views of the systems of the governments we form, and it can be difficult, if not impossible, to determine which system best suits and serves humanity. The issue of resolving which system is most appropriate is compounded by the fact that even

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<sup>6</sup> Personal values are what we will come to refer to as civilian values later in this paper.

as there are a multitude of different political philosophies, there are a plethora of different cultures and traditions that must be accounted for. The task before anyone attempting to find the best form of government is simply put, functionally impossible. I believe that we will find the most satisfying path not in the courageous pursuit of absolute truths, but rather in the cowardly path of least resistance. We accomplish this by assuming not that there is some best form to be found, but in assuming that the best form of government is an absence of form. I believe that we can craft an image of government that is based on the barest of principles, but is flexible and resilient. We will briefly examine my vision of the role of government, and the role of citizens, within this deliberative democratic system.

To create an image of government, we must briefly distinguish between the fundamental duties of government and the incidental roles that government fills.<sup>7</sup> Although I do not envision a paternalistic government, the parent-child relationship can serve as a rubric here. A fundamental duty of parents is to create conditions for their children to grow into healthy independent adults. The parents' job is to insure the health and well-being of their child, but few would say that it is the fundamental duty of a parent to, for example, provide Band-Aids® for scraped knees. At the same time, we can see how under the core duties of care the parent might decide that it is their function to do just that.

We can see government as acting in a very similar way. The government's fundamental role is not to provide a legal system or police officers, Band-Aids® for societal ills. Instead, the government and those who guide it may see that in order for the society to grow and thrive under the democratic vision, it is necessary to provide such services. It is not the government's fundamental duty to build roads or provide healthcare; these are means to the common ends of a democratic governmental system – the enabling of democratic citizenship and the pursuit of the good life for its members. We can see how each parent has a certain fundamental duty to his or her child, so what then in the fundamental duty of

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<sup>7</sup> We should consider the expression fundamental in the most robust sense. John Hart Ely makes the observation “most fundamental-rights theorists start edging toward the door when someone mentions jobs, food, or housing: those are important, sure, but they aren't fundamental” (Ely 59). We can consider fundamental duties to enable things like welfare and unemployment benefits, but we cannot consider them to independently fundamental.

a democratic governmental system?

We have gone over to some extent what I believe to be the greatest asset of deliberative democracy: the nature and results of the deliberation that occurs. If we can identify this as being the strength of deliberative democracy—its ability to create systems which all members can respect based on principles all have agreed to<sup>8</sup> – it seems that the fundamental role of democracy then is in part to embrace the base principles that make this possible, like the freedom of speech. It would then seem part of the fundamental role of a deliberative democracy is to protect the core values of the society that allow for its members to participate and grow as democratic citizens.<sup>9</sup>

There are many different views of what these core values are and to what extent we possess each of them. Some may claim, for example, that the right to free speech is absolute, and that no matter what the circumstances I should be able to say and communicate whatever I chose. Others may claim that in order for me to have a fair chance to participate as a democratic citizen I must necessarily have a certain amount of material wealth or education or healthcare. We should not be concerned with the extent or limitations of these rights; their content is not particularly useful. What we should realize about each of these core values is that each of them are rights that our democratic society have determined are instrumental to being democratic citizens. We have determined that at the very lowest level, in order for us as people to participate in our society and shape the types of decisions that our government makes, we must have these certain things.

We have reasoned that a deliberative democracy has two important features: a deliberative system, and a belief in the certain rights and values that enable democratic citizenship to occur. In these two sets of features, we have a convergence of elements that

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8 Dahl writes, “Although that process [of democracy and deliberation] cannot guarantee that all the members will literally live under laws of their own choosing, it expands self-determination to its maximum feasible limits” (Dahl 54). It is important that we not only live under laws that we endorse, but that we help to form.

9 In Federalist No. 37, Madison writes, “On comparing... these valuable ingredients of liberty we must perceive at once the difficult of mingling them together in their due proportions” (Madison 223). What he expresses in No. 37 is the tension between the powers of the State and those of the individual, and he identifies a strong democratic citizenry as the best way to maintain this balance. In the same sense, we get the best democracy when we have the best citizens we can.

should shape conditions where the democratic citizen can thrive. It then falls upon these individual citizens to determine what course they believe their democracy should take and develop reasons for why their government should act in such a way. In a sense we have different tiers of motivations at work in this deliberative democracy. We have the abstract entity of the government, which has the responsibility to create conditions for democratic citizenship. We also have the citizenry, which is both subject to and the composition of the government. To reconcile these two elements of each democratic citizen, it is useful to speak of each member of society as a citizen and civilian. When we engage in deliberative discourse with our peers on issues and choices that face our government, we are acting as the citizen. As a citizen, we are utilizing the types of freedoms and abilities that we are granted within our agreed set of core values.

Citizens are the ones on the soapbox, preaching to the crowds on why the government should or should not be doing what the government is or is not doing. To understand the citizen, we need to understand the reasons that we enter into a democracy and how this motivates the goals and values that the citizen holds. The fundamental reason that we restrain ourselves within the confines of the state or society is because we know in the end these sacrifices allow us more freedom overall. We desire this security and assistance because we believe that it will help us realize our vision of the good life. I chose to enter society so that I have the chance to accumulate the means to fulfilling my vision of the good life.<sup>10</sup> It is from these avenues that the citizen derives the values that motivate his political decision-making.

The first duty of the citizen, then, is to ensure that citizens themselves can exist. Insofar as we see the democratic system, and in our discussion the deliberative system, as a means to achieve the goals which we each share when we enter the society, we must make sure that the democratic system itself is strong and intact. However, the citizen has a secondary role: to insure we have the tools to find the good life. We enter into a society, or democracy,

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<sup>10</sup> Rousseau writes, "The problem is to find a form of association which will defend and protect the whole common force the person and goods of each associate" which we resolve by "the total alienation of each associate, together with all his rights, to the whole community" (Rousseau 191).

because we believe it will enable us to find the good life, not because we value democracy or society independently. The citizen must then value providing the means for the members of the society to pursue the good life. The citizen is the means by which we direct our government to give us the tools to find the good life. However, citizen is not the whole of the person; every member of society is also, in part, a civilian.

Before we were citizens, we were civilians, seeking the good life. The civilian exists in a similar capacity in all political systems because everywhere all persons seek the good life for themselves. It is the civilian within that initially committed himself to the democratic system and ceded part of his individual power to create circumstances that would enable the good life. . Conceptions of the good life vary from person to person and society to society. It is the responsibility of each civilian to pursue the good life in whatever way he sees fit.

Although there resides civilian and citizen in each member of a democratic society, we must carefully divide not only their values but also their natures. The civilian is a fundamentally selfish person, with a distinct vision of the good life that is separate from any other person's interests. It is not that the civilian is incapable of empathy or consideration; for example I may personally value charity as an important element of the good life. What is important is that the civilian's motivation is to find the civilian's good life, whatever that may be. The citizen is different because the citizen does not value any one person over another. The citizen cares as much about his ability to be a democratic citizen as he cares about his neighbor's ability to be a democratic citizen. The citizen values the purpose of the democracy, which applies to all, and the civilian values his vision of the good life, which applies only to him.

We can understand that people come together to form governments not because that government is in itself good. Rather, we form governments to try and serve our own ends. This is how we should begin to see the relationship between citizens, who constitute the strength and content of the democratic government, and the civilians, who are the ones this government serves.

We are not just citizens nor are we just civilians; thus our reasons and values intermingle. How do our civilian perceptions of the good life play into our reasoning, our politics, and our discourse? The fundamental democratic values of our society form one set of reasons while the second set is personal, namely the individual values of the civilian. For example, one might claim that his vision of the good life requires all people to have faith in the divine, which is based on personal values, without a direct appeal to the core principles of our democratic society. What role do these moral reasons play in our deliberative society? To what extent do the civilian and the citizen intermingle in function? To answer this fundamental concern, we will use the arguments put forth by Amy Gutmann and Dennis Thompson in their work *Democracy and Disagreement* to frame the discussion of need for moral deliberation.

Gutmann and Thompson ask the question: “If moral arguments are essential to justify the foundations and results of democracy, then why should they not also be essential within the ongoing process of democracy?”<sup>11</sup> If we believe that we could debate about the values that founded our democracy, why should we not debate about the values that could guide it further? They believe that by using deliberation, we answer moral questions on moral terms, a uniquely satisfying way of resolving these issues.<sup>12</sup> Gutmann and Thompson go over four causes of moral disagreement: a scarcity of resources, insufficient generosity, incompatible values, and misunderstanding values.

On one hand, it seems that there are questions about resource distribution. Is it moral to have a few super-rich people, while the majority is poor? Is it fair to tax the wealthy differently than other economic groups? Gutmann and Thompson argue, “The hard choices that democratic governments make in these circumstances should be more acceptable even to those who receive less than they deserve if everyone’s claims have been considered.”<sup>13</sup> The government needs strong reasons to justify resource distribution, and these reasons are stronger when put in terms of deliberative discourse.

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11 Gutmann et al., p. 40.

12 Gutmann et al., p. 41.

13 Gutmann et al., p. 41.

The second element of these questions of resources is the issue of human generosity. They claim moral disagreement occurs is because we are not generous enough with the resources we have. Moral deliberation provides a solution: “by creating forums in which citizens are encouraged to take a broader perspective on questions of public policy,”<sup>14</sup> we can encourage them to think more on the value of their fellow man. Charity becomes a natural inclination when people value others like they do themselves.

Another major area of moral disagreement identified by Gutmann and Thompson is incompatible values. They think our lack of knowledge of the values of others and the incompatibility of some moral values demand a solution only deliberation can provide. Each of us has a certain set of values, and sometimes these values clash. Sometimes, there is middle ground on moral issues, and we can combine our visions. However, some moral issues are beyond compromise. If these values are beyond compromise, what is the use of discourse? Gutmann and Thompson have claimed that merely discussing these issues contributes to our ability to respect and understand contrary views. They think that refining the dialogue between separate parties “can begin to isolate those conflicts that embody genuinely moral and incompatible values on both sides”<sup>15</sup> which will allow us to bargain and settle conflicts easier. These sorts of benefits also appeal to the next notion that Gutmann and Thompson introduce. The idea of misunderstanding other sets of morals or values is also closely linked to the conception of incompatible values. Our ignorance of each other’s views can lead to moral disagreement where there need not be if we had a better grasp on the values of our peers.

Gutmann and Thompson believe there are also significant pragmatic reasons that our society should embrace value-based reasoning in public discourse. They think that other avenues to settle moral disagreements are insufficient; without discourse, we cannot even begin to approach or appeal to agreed-upon truths.<sup>16</sup> They also believe that the judiciary and the legislature are generally insufficient in the status quo to address the breadth and

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14 Gutmann et al., p. 42.

15 Gutmann et al., p. 43.

16 Gutmann et al., p. 44.

depth of moral disagreement. They remind us that “moral deliberation, however imperfect it may be, is already present in public life in many different forms”<sup>17</sup> and needs to be harnessed in the best way possible, namely through deliberation. Altogether, Gutmann and Thompson give us a vision of deliberation on values as being not only possible, but also necessary and inevitable. What is more, we should desire this deliberation because it lets us shape our political decisions even more adeptly.

Here we arrive at the crux of my concern—how civilian values can interact in the deliberative system. My belief is that the inclusion of these personal or civilian values as reasons in the political discourse has unacknowledged difficulties, and even if these barriers did not exist, the overall result of including these types of reasons in the value constellation of the State would cause undue harm. In the simplest terms, I believe that if we include our personal values in the political discourse, we do harm to each other and to our democratic institutions themselves.

The values that we as a civilian hold and use to form our conception of the good life are fundamentally different from those that the citizen holds and uses to guide our democratic institutions. The first difference is one of purpose; the fundamental values of the society are, like our civilian values, a means to an end. The fundamental values are means to the end of a democratic life. Our civilian values are means to an end of a good life. I believe this is an important and powerful distinction.. These two sets of values both shape our behavior and the decisions we make as well as help us justify courses of action. However, fundamental values are fixed and shared among all citizens, whereas civilian values are subject to a far greater amount of variety.

The second difference is the source of values that we exercise. The fundamental values are in part shaped by society, by our forefathers and our founders. We need look no further than the guiding documents of American democracy to see how our current understanding of foundational values is shaped by the society around us. What sets our foundational values apart from their civilian peers is that our foundational values are additionally shaped and

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17 Gutmann et al., p. 47.

sourced in a distinct purpose. They are based on a better-defined image of the democratic life or the democratic citizen. While we may disagree on the nuances, what constitutes the democratic person is clear. We want a citizen to be able to participate in the deliberative system, to provide and understand good reasons, and to help shape our system. Our civilian values are markedly different because they are given to us not by necessity of democratic involvement, but by external actors and personal realization. I have already conceded that some of our conceptions of the foundational values of our democratic societies come from external sources, from leaders and teachers; so, what is the important difference we have arrived at?

Essentially, civilian values are based on exclusively personal experiences and teachings, either by strong societal forces or individual learning. Some values are too costly for us to learn on our own; these values society teaches us because they are linked to democratic citizenship. Gutmann and Thompson eagerly acknowledge this point as the primary source of moral disagreement. They note, “moral conflicts can be understood and experienced by one person appreciating the competing claims of more than one fundamental value, and therefore struggling internally to resolve the conflict.”<sup>18</sup> The standard of acceptable moral disagreement should not exclusively apply to fundamental value debates. It extends into commonly held conceptions of right and wrong that may or may not be commonly understood. These other values are not as closely linked to the fundamental values that help to drive the engines of our democracies.

Modern democratic societies are heterogeneous not only in belief system, but also in a laundry list of other factors that might influence how one sees the world. We can look to environment as an important factor in shaping the types of values one is likely to have. The perspective that we derive of self and the environment in which we interact is invaluable to how we assess our values. Indeed, this claim seems so natural that it scarcely requires anything beyond assertion. Even in my certainty, I will readily concede that I could be wrong, and it would still be insignificant for my claims. More important than the

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18 Gutmann et al., p. 24.

content of our values is the nature of our perception of those values, which is necessarily individual. How long have laborers and philosophers been trying to answer the question “what is good?”<sup>19</sup> To edge into the absurd: would identical twins, raised in identical homes, living identical lives, be able to agree on the meaning of happiness? Even if we believe that we agree on a term or expression of a value, to what extent are we actually agreeing, and to what extent is our agreement empty?

I think that the deeply personal nature of experience-driven civilian values makes it extremely difficult for us to say that we can gain the type of common language and shared sense of purpose that deliberation seems to require of us. If our civilian value reasons can never truly be understood, then what is the use of value discourse at all? Can it not also be concluded then that value discourse over our fundamental values is equally empty? However, we have already seen how fundamental values are substantially different. They have a common purpose, which makes them more substantial and accessible. We cannot test what is ‘good,’ but we certainly can evaluate to see if someone has the capacity for free speech.<sup>20</sup>

I would posit then that the real danger of our inability to agree on the nature of civilian values is the instability it creates. We would need some sort of coherent image of the good life to allow us to treat civilian values the same as fundamental values in political discourse. I think the complications we might face arise when other parties either in our own time or later must interpret these principles. The number of transitions of authority, culture, and beliefs that even young nations have undergone should make us wary of putting any faith in principles that cannot be clearly defined or that lack guidance.

Let us assume, however, that not only can we understand each other when we speak of civilian values, but that we can discuss them and make decisions which would seem consistent with the guidelines set forth by the demands of deliberative democracy.

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<sup>19</sup> Again, we might see the aforementioned hubris in seeking to determine what sort of good life is most desirable, or what the actual role of government is, and instead resolving to accept a system where we answer neither of these questions in a satisfying manner and simply say, “let citizens figure it out for themselves.”

<sup>20</sup> The obvious response to this is the question of if we, as a society, were to develop a standard of fairness that was verifiable in the way that we might see freedom of speech as being verifiable.

Even in these circumstances we need to ask if we can accept the decisions found. We are motivated by civilian values to find paths and choices that affirm our beliefs and principles and, at heart, affirm us as people. Our visions of the good life are not just goals to be attained, but intimately linked to our sense of sense and self worth. We risk this when we include civilian reasoning in our moral discourse.

When the State or society rules on questions of civilian values through the deliberative process, they are electing not only to affirm certain types of values as integral to living the good life, but are also implicitly (or perhaps explicitly) rejecting others sets of values. The process of deliberation is good for a few things; it is good for giving the decisions that we guide our government to do a sense of justice and defensibility. It is good because the process leads us to consider the choices we make in such a way that respects the dignity of our fellow man. It works because citizens utilize it with a specific set of values in mind and a specific aim. The system of deliberation, however, is not suited to comfortably pass judgment on methods of the good life.

One scenario where we might ask the deliberative system to help guide our judgment in a moral context is healthcare and the distribution of resources within our healthcare system. Obviously the amount of energy we can devote to the care of any one person or the curing of any one disease is finite, hence the issue of inadequate resources. There is also the need to determine if one utile of energy being used in one area is as valuable or justifiable as in others. We could spend one million dollars on new machinery for detecting cancer, or we could spend that same million providing for more emergency room doctors. It seems clear that we need some method of deciding questions like these, and to Gutmann, Thompson, and others, we do this by using value reasons, particularly civilian values, as justification. If we expend our resources on the cancer-detecting machinery, we are consuming the opportunity cost of not spending money elsewhere. We are saying that it is more important that individuals who may have cancer be given a better chance at a longer life, that some element of this type of living should be valued over the types of benefits we

would get from making sure emergency room doctors are better rested and better funded. We might even suggest to fund curing the common cold, saying that the small amount of suffering of which each victim is relieved is greater than the amount of suffering that remains by not spending our resources elsewhere.

Gutmann and Thompson believe that the deliberative system gives us adequate guidance to answer these questions and that formulating reasons in a reciprocal nature and having consensus built represent adequate justification. Insofar as these decisions may be seen as political, then the method, and I agree. What I struggle to see is whether this is even the realm of politics. There is not adequate justification to draw this right into the deliberative process at all, or at the very least, to allow the government to decide in terms of civilian values. Is morality really something that can, or should, be decided by committee? One might claim that the government is not passing judgment on a concept of morality but rather the democratic system responding to the needs of its citizens. This type of claim, and the claim that the government has the authority to condone a certain vision of the good life, is highly problematic.

At its heart, when the deliberative process is applied to questions of morality and derives a result that is internally consistent with the standards of deliberation, the result is not merely a suggestion. We cannot forget the nature of authority that is assigned to deliberation. Deliberation and the results of deliberation remain sources of trust and truth. If deliberation speaks on questions of morality, or specifically on questions of civilian value and their moral worth, it does so with power. We can see the application of moral deliberation as giving strong directives on the nature of the good life, and perhaps even explicitly forbidding certain models; however, why should it be problematic that we use the tools at our disposal to enforce a certain model of living?

One objection is one rooted in the question of from where this right is derived. It is understandable, and perhaps defensible, that a stable and finite society might wish to enforce certain models of the good life. However, we must recall that the responsibility of

government is to shape conditions for the pursuit of the good life as a citizen. By permitting the government to make judgments on the good life, we are allowing it to functionally deny individuals in the present the capacity to pursue some models. The government is also limiting the capacity of future participants in the society to live a different conception of the good life. Deliberation is based on the idea that we provide reasons that others would find acceptable; is it possible for us to access reasons from unborn children or future immigrants to our society? Perhaps, but future actors are denied the capacity to give their consent or accept the reasons we are giving now.

This claim can be countered on a few counts. It can be challenged by invoking the virtue of revision; we may pass laws consistent with current views of the good life and, if necessary, revisit them and debate their merits in the future. Further, it might be possible that even if the letter of the law encourages certain models of the good life, it does not prevent discourse from occurring elsewhere. However, I believe that the authority which deliberation carries stymies debate because citizens would be in essence questioning the foundation of their democratic society, the status quo. Grossly immoral laws persist because their existence alone lends credence to their advocacy; we need look no further than examples like slavery, Jim Crow, and opposition to the enfranchisement of women as examples of status quo being accepted without debate.<sup>21</sup>

Perhaps the barriers that stifle discourse and debate can be overcome in a sufficiently developed society, one that is careful to educate and inform its population.<sup>22</sup> The greatest harm I see is related to the individuals who are on the losing side of these deliberations based on civilian values. We have seen that deliberation demands that we provide and accept reasons that are in essence agreeable to everyone. I may provide reasons that 99% of us come

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21 Ely discusses the necessity of clearing obstructions to open deliberation. "Perspective is critical, and one whose continued authority depends on the silencing of other voice may well in all good faith be able to convince himself that a reason a more objective observer would label inadequate is in fact compelling" (Ely 107). His comments should encourage us to be wary of individual's capacity for seeing reasons and values in such a way to suit their own purpose – and that purpose can be simply to affirm the status quo.

22 It seems that the barriers to successfully deliberating are high enough already to assume this is a plausible circumstance. When Rousseau writes that "Liberty, not being a fruit of all climates, is not within the reach of all people" (Rousseau 250) he is reminding us that democracy is not easy and is suited best to a reasonably wealthy modern people.

to accept but there are always holdouts; this is a situation that Gutmann and Thompson accept when they invoke our incompatible values as a source of moral disagreement. What happens to those who have values that simply cannot be accepted by the whole and who, as a matter of course, find themselves excluded?

On one hand, society is telling these individuals that they must revise their vision of the good life, that somehow their perception of what it takes to be a full and happy person is inadequate or incorrect. Again we face an issue of authority – the deliberative system is strong, but not perfect, and the strength of the system is in the acceptance of the difficulty of determining just what is right or wrong. Deliberation and its results are not absolute cure-alls, and the essence of deliberation is the consideration of many different possible views. To rule certain views out is antithetical to the purpose of this methodology of government and justice.

A potent warning of the potential for this sort of result can be found in the issue of gay marriage. Deliberation about gay marriage should dismiss the types of reasons that are obviously flawed, including notions of homophobia and discrimination. Other types of appeals though, like the value of family structures, can find broad support and persuade many while remaining consistent with the ideas of deliberation. Let us imagine that the deliberative system were put into effect, and most, although not all, participants came to accept a vision of the good life that prohibited gay marriage. Once more we cast questions over from where this right to shape values comes, but more importantly is how a decision of this manner affects those who saw their values dismissed as impossible or incompatible.

In the example of gay marriage we can see the profound effects of political choices motivated by civilian morality. Denying a person the right to marry as they see fit, and for reasons that do not apply to them, robs them of autonomy and human dignity. Our society affirms the value of marriage as a celebration of love and companionship, elements of personal happiness to which we can all relate. By denying a homosexual person the capacity to marry in a way that could affirm them as people is denying their capacity to live a good

life at all. It is telling them that who they are at the core of their being is not compatible with the type of good life their society values for all people – implicitly excluding them from the category of people altogether. This is a dramatic example, but it illustrates how denying access to certain methods of the good life is limiting the real expression of the humanity of those who would want to pursue that vision. If the question then emerges “can we ever condemn a vision of the good life,” we can respond by appealing to the fundamental values of our society. The duty of the citizen is to ensure each of us has the ability to be active citizens and the capacity to pursue the good life. Some visions of the good life, such as neo-Nazism, misogyny, etc., must essentially deny these freedoms to some members. The government can step in when it can be demonstrated that one’s vision of the good life robs another of their capacity to be citizens and to pursue their own civilian values.

Even if we were to accept that moral discourse was not only possible but internally just for ourselves and others and that the authority itself was legitimate, I would still be concerned about using civilian values in our deliberative discourse. I believe that using civilian values to shape the choices made by citizens, who are primarily guided by the instrumental and fundamental values of a state, is an unacceptable risk. Doing so undermines the authority of the deliberative system and diminishes its capacity to fulfill its primary duty. The strength of the deliberative system can be found in two core pillars: its willingness to concede that many views have merit rendering attempts to determine the best values empty, and its attentiveness to the duty of promoting democratic citizenship. I believe that including civilian values in the deliberative discourse weakens both.

When the deliberative system attempts to assign certainty to uncertain principles or terms, it diminishes the authority of the process and organization itself. In these circumstances, the citizen, the deliberative system, and the government itself are endangering their integrity by assigning importance and value where none is due or certain. We are certain of the values that guide the citizen because we understand their purpose in clear notion of goal fulfillment. But when deliberation passes judgment on civilian values, it

is investing itself and the authority it holds in that decision. We have shown how some values—the fundamental values—are integral to citizenship and civilian life; these are the vital organs of the body politic. To assign comparable merit to other values, no matter how certain you may be of their existence and form, begs us to question the source of that information. Using civilian values to shape citizen's decisions is inviting non-instrumental or non-fundamental reasons into the pantheon of reasons that the society had previously agreed were valuable in a very particular way.

Bringing reasons and values created by the civilian persona into comparable status with the fundamental values of the society endangers not only the reputation of the deliberative process, but muddles deliberation's mission. In a chicken-egg type phenomenon, the same persons who would use deliberative democracy to find justified value statements of the civilian nature require a deliberative system untouched by the types of claims they desire to make. In a bare deliberative system, where the only values are the fundamental citizen values, the focus of the government and the citizen is to promote democratic citizenship to the fullest extent. However, as soon as these citizens are asked to value not just the fundamental democratic values that form good citizens, but other sets of values, they must by necessity be distracted from their task. Now they are asked to balance "rightness" as an open-ended value against directed values like freedom of speech.

When civilian values intrude on the grounds of democracy and citizenship, they hurt the system's capacity to progress and heal itself. Those who would wish to include civilian values in the canon of instrumental values must then swallow two harms. Firstly, they are preventing their citizenship from pursuing an unsullied goal of democratic citizenship. The second harm that they must accept is that they are denying future generations the capacity to critique and evaluate the values that they are imposing. The inclusion of these values is a breach of the original covenant we agreed to when entering society to pursue our vision of the good life. We agreed to enter this system without civilian values clotting the picture, and we should provide this option to all those that followed us, and respect those that proceeded

us who protected these values.

Even if we accept that the system could execute the inclusion of civilian values flawlessly, we should still reject this option. A democracy is just because it embraces many different voices, and it thrives because of these differences. If we operate from the initial view that morality and values are fundamentally inconsistent, we should not seek to unify them under the umbrella of the power of the government. It robs the democracy of too much; it robs it of the nobility of the many voices and causes it to stagnate. Few today would look at the values that guided civilian life a thousand years ago and view that life as desirable for themselves. Few would look back five hundred, or even a hundred years ago, and affirm those values. We value democracy by valuing it not for today or tomorrow, but forever; we value democracy by not setting it against the tide of history, but casting it with the river of humanity and allowing it to follow the current.

If we chose to neuter democracy of its purity, we cast ourselves under the throws of a government no more legitimate than a kingship, and this kingship is not the benevolent dictator or philosopher-king. It is a tyrant, of the past over the present, of the dead over the living. Even if the future citizens can challenge our morals and remove our values from the pantheon of democratic values, we do them and ourselves a disservice by weakening the chain of continuity. To add our values to the core of democracy is an act of heresy. Adding civilian values is not just misguided and difficult to justify; it is vandalism of democracy itself. No matter how deeply we believe in the principles that we want to contribute to our future and society, by adding to democracy we insult it.

Gutmann and Thompson make the case that we need a means of mediating moral disagreement and that deliberation is that tool. This assertion was contested on three separate levels. Firstly, we cannot truly understand the moral reasons that others provide. Secondly, even if we can understand these reasons, the consequences of acting on moral reasons can serve to deny the ability of some to pursue their vision of the good life, denying them the respect that deliberation and democracy should permit them as human beings. Lastly, even

in a system where we understand each other and our decisions respect basic principles of justice, we diminish the uniqueness and strength of the values that enable democracy to occur when we include civilian values alongside them. The need for us to have some means to alleviate the pressure caused by moral disagreement still remains. Further, Gutmann and Thompson's claim that moral discourse is necessary to give moral affirmation to the decisions our government sponsors must be addressed.

If the first concern is where these deliberations go when we remove them from the political discourse, the answer is relatively straightforward: into the popular discourse. The function of adding these civilian value debates to the political dialogue is the notion that our beliefs on the good life are deserving of consideration by others. We seek to persuade others to model our vision of the good life so that they too might lead such a life. The question here then, is not where do they go, but why they had to be conducted in the deliberative system in the first place. If I am compelled to remove my values from the political dialogue, does this rob me of the capacity to pursue persuasion elsewhere? Hardly. If I consider the actions of my peers to be immoral, I am welcome to tell them as such. I am even welcome to phrase my condemnation in the same format that deliberation takes. Let us imagine that I consider atheism to be an important component of the good life and that I feel that all people would benefit by being atheist. I can still discuss the merits of atheism with my Jewish friends. I might even discuss the merits of atheism in terms of universal acceptability, in the language of deliberation. I can find like-minded peers and fund campaigns of such discussions, and I can try to persuade all members of society that the government, as an important element of democratic citizenship, should provide resources for such campaigns. There is still the ample room for a dialogue about morality and values to occur outside of the political realm. Perhaps the more interesting question is what happens when two values find themselves in conflict, without the possibility of peaceful resolution. Here, we must answer in two ways. Why is it the concern of a government that rejects the universalisability and absoluteness of values to provide recourse in these situations? Why should we seek to

resolve irresolvable value discussions if we believe there to be no true resolution? I believe the burden is on the citizen within each of us to approach such circumstances knowing full well that the outcome may not be what we want and accept this as a celebration of democracy. The second response is that if these value sets are so opposed to each other that violence is inevitable, that restraint and debate is impossible, then the government has legitimate cause to intervene. Violence and the threat of violence in one's place of living and community would inhibit democratic citizenship, and this is a barrier which democracy cannot accept. The government can and should step in.

The second question is the more complex of the two; where does the moral affirmation of our decisions come from if not from moral discourse? We should not seek the affirmation of civilian values on decisions couched in the values of the citizen, as the highest moral claim that a democracy can make is avoiding the need for acceptance in terms of civilian values. Gutmann and Thompson claim we should “agree that democratic institutions are not justified unless they generally yield morally acceptable results”<sup>23</sup> – that our quest for justifiable decisions must seek the highest level of affirmation and that we can only attain this by adding moral affirmation. But why does this contribute to the acceptability of the decisions we make? These moral reasons, couched in civilian values, are difficult to include. They harm more than they heal, and ultimately they are an insult to democracy itself. If we enter our democracies and societies with the goal of freeing ourselves, we satisfy the demands of that freedom by satisfying and paying homage to the tools and terms of the contract. We affirm the standards of democracy not by the standards that we develop for each other but by affirming the standards of democracy itself. If we want to seek morally acceptable results, we should not try to imbue our decisions with our values, but we should try to invest our decisions with the values that permit democracy to occur. If democracy is the tool to allowing us to pursue to good life, we do each other and ourselves the greatest service possible by maintaining and strengthening that tool.

My goal in this work has been to caution against the inclusion of our personal

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23 Gutmann et al., p. 40.

values in the deliberative process of our democracies. I have warned against the difficulty of doing so and the dangers we face by ruling on questions of the good life. Gutmann and Thompson want us to account for the moral disagreement found in our society, a fair request. They want to invest our politics with more authority to make rulings that we will find more acceptable. I believe their respect for deliberation leads to their desire to see it be used to the greatest extent possible to help guide our actions. I too believe in deliberation, but I believe that we need to restrain ourselves. Democracy and deliberation were not built for the purpose of guiding us into the good life. It is against the nature of these institutions both in terms of the reasons they were founded, and they are ill-suited to answer these sorts of questions. To exercise the tools of political deliberation to answer questions of the good life, of right and wrong, of morality, is straining the limits of what it can accomplish, and this straining must inevitably weaken the whole of these institutions. We must recognize that the greatness of democracy and deliberation are in the emptiness of both, in their hesitation and inability to make moral claims, and that we serve ourselves best by allowing these institutions to remain bare and skeletal.



# AFRICAN SOLUTIONS FOR AFRICAN PROBLEMS?

THE PHILOSOPHY, POLITICS AND ECONOMICS OF AFRICAN PEACEKEEPING IN DARFUR AND LIBERIA

ELYSE LIPMAN

The dream of Africa's 53 sovereign states to form a United States of Africa was first conceived by Dr. Kwame Nkrumah of Ghana more than fifty years ago. Since then, Africa has struggled to overcome a history of conflicts, which have ravaged individual countries and reflect the continued exploitation of Africa by the international arena. In response, many African leaders have proclaimed the need for "African solutions to African problems," calling on African states to take personal responsibility for preserving peace and stability. In principle, the long-held dream of a united Africa involves a transformation of the continent from a series of post-colonial fragments divided by arbitrary borders into a unified state that could play a powerful role in global affairs.

Although parts of Africa continue to suffer from conflicts, African organizations have come to play an increasingly important role in mediating internal disputes. One such institution is the African Union, which attempts to achieve continental stability and solidarity. At the same time, eight Regional Economic Communities (RECs) have emerged across the continent with the aim of creating common markets for their respective regions. These communities are recognized by both the AU and the UN and exist under separate regional treaties.

The development of continental and regional organizations provides two alternatives to addressing African conflicts. Among the RECs, the Economic Community of West African States (ECOWAS) first attempted conflict resolution in the 1990s in reaction to the First Liberian Civil War. More recently, the African Union's involvement in the Darfur region of Western Sudan represents the institution's first peacekeeping attempt to bring political and economic stability to the continent. An analysis of these two case studies

reveals the obstacles faced by each institution and provides important implications for their potential success in addressing future conflicts.

### The First Test of Continental Peacekeeping: The African Union and the Darfur Conflict

Today, the African Union most directly reflects the pan-African ideals first expressed by Nkrumah and embodied in the Organization of African Unity (OAU). On July 9, 2002, African leaders established the AU with the aim “to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States.”<sup>1</sup> At its inception, the objectives of the AU’s leading institutions aspired to accelerate the political and socio-economic integration of the continent, to promote and defend African common position in the international arena, to achieve peace and security within Africa, and to promote democratic institutions, good governance and rule of law. According to the Constitutive Act of the AU, the African leaders recognized the need to “build a partnership between governments and all segments of civil society” in order to “take up the multifaceted challenges that confront our continent and peoples in light of the social, economic and political changes taking place in world.”<sup>2</sup> Today, the AU boasts a series of administrative councils, including a Pan-African Parliament and a Peace and Security Council, as well as a continental economic program outlined in the New Partnership for Africa’s Development (NEPAD)<sup>3</sup>. Although still in its infancy, the African Union reflects significant achievements in the evolution of continental institutions.

The African Union’s involvement in Darfur represents the institution’s first peacekeeping effort. Since 2003, violent conflicts between Government forces and rebels

1 African Union. The Constitutive Act. 2003. African Union. 7 Dec. 2008 <[http://www.africa-union.org/About\\_AU/Constitutive\\_Act.htm](http://www.africa-union.org/About_AU/Constitutive_Act.htm)>

2 African Union. African Union Mission in Sudan. Communiqué of the Seventeenth Meeting of the Peace and Security Council. Addis Ababa, Ethiopia, 2004. 7 Dec. 2008 <[http://64.233.169.132/search?q=cache:v00YeZAAuNAJ:www.africa-union.org/News\\_Events/Communiqu%C3%A9s/Communiqu%C3%A9%2520\\_Eng%252020%2520oct%25202004.pdf+Darfur+AU+ceasefire+mandate&hl=en&ct=clnk&cd=2&gl=us&client=safari](http://64.233.169.132/search?q=cache:v00YeZAAuNAJ:www.africa-union.org/News_Events/Communiqu%C3%A9s/Communiqu%C3%A9%2520_Eng%252020%2520oct%25202004.pdf+Darfur+AU+ceasefire+mandate&hl=en&ct=clnk&cd=2&gl=us&client=safari)>.

3 [www.african-union.org](http://www.african-union.org). 2003. African Union. 7 Dec. 2008 <<http://www.africa-union.org/root/au/index/index.htm>>.

from the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM) have ravaged the Darfur region of Western Sudan. Although the Sudanese government publicly denies its support of the Janjaweed forces<sup>4</sup>, evidence of government financial and military assistance to the militia continues to emerge<sup>5</sup>. While the reported numbers vary, it is evident that tens and possibly hundreds of thousands of Darfur civilians<sup>6</sup> have been killed and many more driven from their homes as a result of the violence. With evidence of these massive atrocities, the UN has described Darfur as one of the worst humanitarian crises in the world. The United States has gone even further, declaring the situation to be genocide.<sup>7</sup>

The African Union's particular interests in Darfur relate to the regional dimension of the conflict. Although the Darfur insurgency is often framed as an internal Sudanese crisis, the conflict involves regional political, social and military relationships. The connections between Darfur and the crises occurring in Chad, the Central African Republic (CAR), and Libya are essentially a manifestation of Zaghawa politics.<sup>8</sup> Referred to as either Zaghawa or nomadic Bideyat, the Zaghawa ethnic group includes many powerful leaders in the Darfur insurgency, as well as in the Chadian government under Idriss Déby. Throughout the Chadian Civil War, Zaghawa groups dispersed across the Sudanese border to reorganize their strategies. In addition, Libya began to support Zaghawa-led opposition groups, as Chad became a battleground for major confrontations between Libya and the West. In 2003, when the Darfur threat first emerged, the Sudanese government viewed the insurgency as primarily a Zaghawa upheaval and blamed Déby for instigating a reaction from Arab and

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4 Janjaweed militiamen refer to members of predominantly nomadic tribes, who have long come into conflict over Darfur's water and land resources with settled farmers. For more information on the historical and religious roots of the Janjaweed and the rebel groups associated with the Darfur conflict, see: <<http://slate.msn.com/id/2104210>>.

5 "Darfur's Real Problem." Washington Post 3 June 2005: A22. Washingtonpost.com. 2008. 7 Dec. 2008 <<http://www.washingtonpost.com/wp-dyn/content/article/2005/06/02/AR2005060201666.html>>.

6 "No Power to Protect: The African Union Mission in Sudan." Refugees International. 9 Nov. 2005. 7 Dec. 2008 <<http://www.refugeesinternational.org/policy/in-depth-report/>>.

7 Refugees International. <<http://www.refugeesinternational.org/policy/in-depth-report/>>.

8 Roland Marchal, 2007 "The Unseen Regional Implications of the Crisis in Darfur", in: *Darfur and the Search for Peace*, Alex de Waal (ed.), Justice Africa 175.

other Chadian tribes who had relocated in Darfur.<sup>9</sup> Thus, the Darfur conflict incorporates the interests of many competing regional leaders. For this reason, the African Union addresses the Darfur conflict as a threat to the continent's security and stability.

The African Union first responded to the conflict in Darfur by facilitating peace talks in 2004. On April 8th of that year, the Government of Sudan and the two rebel movements signed the Humanitarian Ceasefire Agreement, thereby agreeing to cease hostilities and allow humanitarian assistance into Darfur.<sup>10</sup> Following this ceasefire, the newly formed AU Peace and Security Council organized the African Union Mission in Sudan (AMIS) to oversee the peace agreement. By the end of the summer of 2004, AMIS consisted of 465 personnel from 10 African countries, who were accompanied by a small Protection Force.<sup>11</sup>

A closer analysis of the official mandate reveals both the expectations for and the limitations faced by AMIS forces in Darfur. Primarily, the main tasks of the mission included observing, monitoring, and reporting violations of the April Ceasefire Agreement to a Ceasefire Monitoring Commission, which included representatives of the Parties and international staff.<sup>12</sup> The AMIS Protection Force was not permitted to intervene in conflict between the parties, and was only able to fire in self-defense if directly threatened. Regarding civilian protection, the mandate states that AMIS may “protect civilians whom it encounters under imminent threat and in the immediate vicinity, within resources and capability.” At the same time, the mandate emphasizes “the protection for the civilian population is the responsibility for the Government of Sudan.”<sup>13</sup> In practice, AMIS forces did not hold the authority or the resources to actively intervene to protect citizens. Without the mandate to physically intervene, the African Union forces essentially remained a symbol of military

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9 Marchal, 178.

10 “Humanitarian Cease Fire Agreement on the Conflict in Darfur.” Peace Agreements Digital Collection: Sudan. 6 May 2004. United States Institute of Peace. 7 Dec. 2008

11 “African Union Mission in the Sudan.” AMIS. 2006. African Union. 7 Dec. 2008 <<http://www.amis-sudan.org/>>

12 AMIS <<http://www.amis-sudan.org/>>.

13 African Union Mission in Sudan. Mandate <[http://64.233.169.132/search?q=cache:v00YeZAAuNAJ:www.africa-union.org/News\\_Events/Communiqu%C3%A9s/Communiqu%C3%A9%2520\\_Eng%252020%2520oct%25202004.pdf+Darfur+AU+ceasefire+mandate&hl=en&ct=clnk&cd=2&gl=us&client=safari](http://64.233.169.132/search?q=cache:v00YeZAAuNAJ:www.africa-union.org/News_Events/Communiqu%C3%A9s/Communiqu%C3%A9%2520_Eng%252020%2520oct%25202004.pdf+Darfur+AU+ceasefire+mandate&hl=en&ct=clnk&cd=2&gl=us&client=safari)>.

presence and insufficiently impacted the violence of the conflict.

The weak authority of the AMIS forces is evident in the entire rhetoric of the mandate. Throughout the mandate, the African Union “requests” for the warring parties to abide by the Ceasefire Agreement, and “further urges” them to cooperate with AMIS personnel. In addition, the mandate repeatedly calls on the Sudanese Government “to take all steps required to bring the attacks against civilians to an end and to bring to justice all perpetrators of human rights violations.”<sup>14</sup> Moreover, the rhetoric of the mandate reveals that the African Union held little leverage over the warring parties. Thus, although AMIS represents the first peacekeeping effort of the AU, it entered the conflict without the necessary authority to enforce and ensure peace.

In addition to its initially minimal size, a weak mandate, and inadequate logistical resources, the AMIS mission was further inhibited by continuous violations of the Ceasefire Agreement on both sides of the conflict. Although the government of Sudan has always publicly denied any connection to the Janjaweed militia, evidence continues to emerge that reveals otherwise. Among its numerous accounts, the AU’s Ceasefire Commission reported an attack on Umm Zoor market by Janjaweed militias in collaboration with Government soldiers on July 16, 2005, resulting in the death of at least three innocent civilians.<sup>15</sup> In a telegraph to an Australian newspaper, Mohammed Hamdan, who had been identified by Human Rights Watch as a Janjaweed commander, admitted to receiving weapons and vehicles from the Sudanese government and openly accused President Omar al-Bashir himself of issuing orders. These provisions directly breached the UN Resolution 1556, which was issued along with the Ceasefire Agreement in July 2004, and required Sudan’s regime to disarm Janjaweed militias and bring its leaders to justice.<sup>16</sup>

Beyond violating peace agreements with rebel forces, the Sudanese government

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14 African Union Mission in Sudan Mandate

15 African Union. Ceasefire Commission. CFC Ceasefire Violation Report Number 96/05 Alleged GOS Attack on Umm Zoor Market on 16 Jul 05. El Fashar, Sudan, 2005. 7 Dec. 2008 <<http://www.africa-union.org/DAR-FUR/Reports%20of%20the%20cfc/96-05.pdf>>.

16 Nima El-Bagir, and Uri Al-qura. “Sudan Government armed us, says Militia Leader.” The Age [Southern Sudan] 13 Mar. 2008. [theage.com.au](http://www.theage.com.au). 7 Dec. 2008 <<http://www.theage.com.au/news/world/sudan-government-armed-us-says-militia-leader/2008/03/12/1205126007282.html>>.

further prevented the AU from establishing peace within Darfur by manipulating politics within the AU itself. As a powerful country in Eastern Africa, Sudan holds an important position within the African Union administrative system. In particular, Sudan has actively attempted to secure the Chairman position for President al-Bashir. Traditionally, the annual election of this position is granted to the president of that year's AU summit host country. In 2006, however, during the AU Summit at the Sudanese capital of Khartoum, President Denis Sassou-Nguesso of the Republic of Congo was declared chair of the organization. As a compromise, the AU Committee promised Sudan the chairman position in 2007, regardless of accusations against Bashir and the situation in Darfur.<sup>17</sup> Still, member states remained concerned that electing the Sudanese President would damage the credibility of the AU both within Africa and abroad. In support of this perspective, Human Rights Watch argued Sudan should not be given the AU presidency unless the government disarmed the Janjaweed militias, facilitated the return of displaced Darfurians, and brought those involved in war crimes to justice.<sup>18</sup> As it turns out, Sudan's quest for the leadership position has since been rejected, preventing President al-Bashir from further manipulating AU policies and AMIS forces in Darfur.

Although it has failed to secure the top position of the AU leadership, the Sudan government employs its position within the AU to protect President al-Bashir and other top Sudanese officials from international criticism. In particular, the African Union has publicly expressed concern over war-crimes charges against members of the Sudanese government. As the International Criminal Court was preparing what turned out to be an indictment of President Bashir as a war criminal, attacks against peacekeeping forces by Janjaweed and government forces increased, threatening the level of security for AU troops.<sup>19</sup> In addition to invoking this pressure on AU forces, Sudanese officials appealed to sentimental relationships within the AU by arguing that an indictment of the head of

17 "AFRICA: Sudan welcomes Sassou-Nguesso's election as AU head." IRIN news. Dec. 2008. UN Office for the Coordination of Humanitarian Affairs . 7 Dec. 2008 <<http://www.irinnews.org/report.aspx?reportid=57901>>.

18 IRIN news. <<http://www.irinnews.org/report.aspx?reportid=57901>>

19 AU Warning over Sudan 'charges.'" BBC News: Africa. 12 July 2008. BBC. 7 Dec. 2008 <<http://news.bbc.co.uk/2/hi/africa/7503803.stm>>.

state represents a violation of Sudanese sovereignty.<sup>20</sup> With this rhetoric, Sudan appealed to the African Union's foundation as a continental organization based on African solidarity. Thus, the AU cannot feasibly support the ICC's indictments of Sudan's president without the threat of politically alienating African leaders.

Although the Government of Sudan has failed to respect AMIS forces, it still refers to its cooperation with the AU in justifying its opposition to UN intervention. As the situation in Darfur gained international attention, the Sudanese government declared the pan-African ideal of finding "African solutions to African problems" and refused to allow non-African troops to enter the country.<sup>21</sup> As a compromise, the United Nations agreed to shift responsibility for resolving the Darfur conflict to the newly established African Union. While this solution at first appeared promising, the AU forces struggled to maintain security and peace. In May 2006, along with signing the Darfur Peace Agreement, the Sudan Government agreed to a joint UN-AU force to mediate the conflict. Despite this declaration, the Khartoum government continued to promote the ability of the AU to solve the crisis, calling for the extension of the AMIS mandate throughout the next two years. Once again, the government of Sudan effectively postponed the intervention of UNAMID forces by emphasizing pan-African ideals and manipulating politics within the AU.<sup>22</sup>

After intensive diplomacy efforts by the international community to pressure the Government of Sudan and its allies in the UN Security Council, the UN finally established a joint UN-AU peacekeeping operation on July 31, 2007. The introduction of the combined UNAMID tactic poses interesting possibilities for solving the conflict in Darfur. On the one hand, the UNAMID forces receive better logistical support from the international community and can draw from numerous sources to employ more troops. At full strength, the UN claims that UNAMID will have almost 20,000 troops, from both

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20 "AU Warning over Sudan charges" <<http://news.bbc.co.uk/2/hi/africa/7503803.stm>>

21 "New Efforts to End Sudan Crisis." BBC News: Africa. 23 August 2004. BBC. 7 Dec. 2008 <<http://news.bbc.co.uk/2/hi/africa/3589396.stm>>.

22 United Nations. UN Security Council. Security Council Authorizes Deployment of United Nations-African Union 'Hybrid' Peace Operation in Bid to Resolve Darfur Conflict. New York, New York: UN Department of Public Information, 2007. 7 Dec. 2008 <<http://www.un.org/News/Press/docs//2007/sc9089.doc.htm>>.

African and non-African countries, and will operate on a budget of \$1.7 billion for the fiscal year 2008-2009.<sup>23</sup> Moreover, the new forces have been granted a stronger mandate. In addition to continuing to monitor violations of the Darfur Peace Agreement, Chapter VII of the Security Council's charter authorizes UNAMID to take all necessary action within its capabilities to: (i) prevent armed attacks and disruption of implementation of the Ceasefire Agreement, and (ii) protect civilians under threat of violence without prejudice to the responsibility of the Government of Sudan. On the political dimension, the charter established a joint African Union-United Nations mediation team to continue efforts for peace by promoting the respect for human rights and the rule of law.<sup>24</sup>

Despite the promising expectations of its mandate, UNAMID has only achieved modest gains for improving the situation in Darfur. Although the visible presence of UNAMID has improved the breadth and quality of civilian protection on some levels, rebel groups and the Sudanese army have continued to attack civilians and humanitarian forces. Moreover, the full deployment of UNAMID troops has been repeatedly hampered by a lack of cooperation from the Government of Sudan. Initially, the Sudanese government postponed signing the Status of Forces Agreement (SOFA) governing the AU-UN mission for six months after the UN authorized the force. Worse still, the government's approval of SOFA has yet to bring about actual enforcement. Rather, the Government of Sudan has obstructed the full deployment of UNAMID forces with a multitude of bureaucratic and logistical hurdles.<sup>25</sup> Thus, despite the expansive mandate and more logistical support, the joint AU-UN peacekeeping mission continues to face many of the same political obstacles as the original AU forces.

The African Union's involvement in the Darfur crisis exemplifies the first attempt

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23 "Darfur - UNAMID - Background." UNAMID: African Union/United Nations Hybrid Operation in Darfur. 2008. UN Peace and Security Section of the Department of Public Information. 10 Dec. 2008 <<http://www.un.org/Depts/dpko/missions/unamid/background.html>>.

24 "August 2007 Darfur/Sudan." Security Council Report. Aug. 2007. UN Security Council. 10 Dec. 2008 <[http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.3041197/k.1777/August\\_2007\\_BRDaruSudan.htm](http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.3041197/k.1777/August_2007_BRDaruSudan.htm)>.

25 Fowler, Jerry, and John Prendergast. Keeping Our Word: Fulfilling the Mandate to Protect Civilians in Darfur. Washington, DC, 2008. Save Darfur. 2008. 10 Dec. 2008 <[http://darfur.3cdn.net/35b2008acd4c9385ae\\_3qm6bhv3u.pdf](http://darfur.3cdn.net/35b2008acd4c9385ae_3qm6bhv3u.pdf)>.

by a continental institution to mediate a regional conflict. Although the AU represents a colossal effort to assume responsibility for the continent's stability, its willingness to undertake peacekeeping missions appears to far surpass its capacities. As an alternative, Regional Economic Communities provide another approach to addressing regional conflicts. In particular, ECOWAS' intervention in the Liberian Civil War represents the first attempt by a regional organization to secure peace.

### Regional Mechanism for Conflict Resolution: A Look at ECOWAS' Intervention in Liberian Civil War

In May 1975, 15 West African countries formed The Economic Community of West African States (ECOWAS) as part of the Treaty of Lagos. At its inception, ECOWAS aimed to promote economic trade, national collaboration, and monetary synchronization for the growth and development of West Africa.<sup>26</sup> In addition to the goals of achieving an economic and monetary union, this treaty also states ECOWAS' mission to establish a West African parliament, an economic and social council, and an ECOWAS court of justice to address the West African political sphere. Ultimately, ECOWAS aspires to completely integrate national economies of member states, which in turn should help raise the living standards of its people and secure stability in the region by promoting relations among member states.<sup>27</sup>

Early in its development, ECOWAS leaders recognized that peace and security were necessary preconditions for sustainable economic cooperation. Initially, the Member States signed a Protocol Relating to Non-Aggression (PNA) in April 1978, which stated they would refrain from using force against one another and turn instead to a Committee of the Authority of State and Government to solve disputes. Although this represented a major

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26 ECOWAS in Brief. 14 Apr. 2007. Discover ECOWAS. 8 Apr. 2009 <[http://www.comm.ecowas.int/sec/index.php?id=about\\_a&lang=en](http://www.comm.ecowas.int/sec/index.php?id=about_a&lang=en)>

27 African Union. Profile: Economic Community of West African States (ECOWAS). 8 Apr. 2009 <<http://www.africa-union.org/root/au/reces/ECOWASProfile.pdf>>

effort towards ensuring peace at the political level, this treaty failed to address the various insurgent movements that continued to spill across borders and cause unrest in the region.<sup>28</sup> Subsequently, West African leaders signed a Protocol Relating to Mutual Assistance on Defense (PMAD) in May 1981 as a collective defense treaty. Under this agreement, armed threat against any Member State, whether activated from outside or engineered from internal conflict, constitutes a threat to the peace and security of all Member States.<sup>29</sup> In response, this protocol calls for a non-standing military force, composed of soldiers from member nations, to provide mutual military aid and assistance.<sup>30</sup> The ECOWAS mechanism thus declares each member states' commitment to uphold human rights, democracy, and the rule of law, while providing the necessary protocol to intervene in regional conflicts.

West African leaders first realized that ECOWAS should adopt conflict resolution mechanisms in reaction to the First Liberian Civil War. The war, which lasted from 1989 to 1996, destroyed the lives of 200,000 Liberians and further displaced millions as refugees in neighboring countries.<sup>31</sup> Although tension in Liberia stemmed from a variety of complex issues, the conflict officially began when Charles Taylor led a small group of trained rebels in an attempt to overthrow President Samuel Doe. Doe, a member of the Krahn ethnic group, had seized power through a bloody military coup in 1980. His rule marked the end of the 133-year period of political domination by the Americo-Liberian True Whig Party, which had originated when freed American slaves came to settle in Liberia. Under Doe, members of the Krahn ethnic group dominated top government positions, causing conflict with Americo-Liberians and other Liberian ethnic groups.<sup>32</sup> As President, Doe consolidated his power by suppressing political participation and vehicles for expression of

28 Habiboullah Bakhoum. ECOWAS as Regional Peace Broker. 9 Apr. 2009. <[http://74.125.93.104/search?q=cache:MRFBkBkDTaAJ:www.bmlv.gv.at/pdf\\_pool/publikationen/sorting\\_out\\_the\\_mess\\_ecowas\\_regional\\_peace\\_broker\\_h\\_bakhoum.pdf+PMAD+address+various+insurgent+movements&cd=1&hl=en&ct=clnk&gl=us&client=safari](http://74.125.93.104/search?q=cache:MRFBkBkDTaAJ:www.bmlv.gv.at/pdf_pool/publikationen/sorting_out_the_mess_ecowas_regional_peace_broker_h_bakhoum.pdf+PMAD+address+various+insurgent+movements&cd=1&hl=en&ct=clnk&gl=us&client=safari)>

29 <http://www.africa-union.org/root/au/recs/ECOWASProfile.pdf>, Adougaye Appendix A pg 372

30 BBC News: Africa. 17 June 2004. "Profile: Ecomog." 8 Apr. 2009 <[http://news.bbc.co.uk/2/hi/africa/country\\_profiles/2364029.stm](http://news.bbc.co.uk/2/hi/africa/country_profiles/2364029.stm)>

31 Global Security. 27 Apr. 2005. Liberia – First Civil War – 1989-1996. 8 Apr. 2009 <<http://www.globalsecurity.org/military/world/war/liberia-1989.htm>>

32 Public Broadcasting Society. 2009. Online NewsHour: Liberia's Uneasy Peace; Post-1980 Timeline. 8 Apr. 2009 <[http://www.pbs.org/newshour/bb/africa/liberia/post1980\\_timeline.html](http://www.pbs.org/newshour/bb/africa/liberia/post1980_timeline.html)>

dissent.<sup>33</sup> Throughout his regime, the US State Department accused Doe of fraudulent elections, as well as repeated human rights abuses and corruption.<sup>34</sup>

On December 24, 1989, Charles Taylor, who came from both native and Americo-Liberian descent, launched an offensive from the Ivory Coast with his guerilla army known as the National Patriotic Front of Liberia (NPFL). The Armed Forces of Liberia (AFL), under Doe's command, responded with a brutal counterinsurgency campaign, ravaging villages and killing innocent civilians.<sup>35</sup> As opposition against Doe escalated, Prince Yeduo Johnson broke off from the NPFL to form his own rebel faction known as the Independent National Patriotic Front of Liberia (INPFL).<sup>36</sup> As the conflict remained unresolved, the emergence of other smaller rebel groups reflected the collapse of all peaceful democratic measures to resolve the conflict of interests and political demands.<sup>37</sup>

The internationalization of the crisis occurred as violence increased between Doe's army and Taylor's guerilla rebel force. As the scale of destruction expanded, law and order within the country diminished, leading to indiscriminate killings of civilians, refugees, and even foreigners. In addition, Charles Taylor sought external support for his plans to overthrow Doe's government. While the Ivory Coast was the initial base to build his army, Taylor also turned to Libya and Burkina Faso for major funding and material support. At the same time, the mass relocation of refugees from Liberia to neighboring countries contributed largely to the internationalization of the crisis.<sup>38</sup> Thus, from the outbreak of the war, the Liberian conflict involved movement across borders and reflected international politics.

With the Liberian state structure collapsing and the crisis infecting neighboring states, ECOWAS recognized the need for a sub-regional solution to achieve regional stability. In

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33 M.A. Vogt (ed.). *The Liberian Crisis and ECOMOG: A Bold Attempt at Regional Peace Keeping*. Lagos, Nigeria: Gabumo Publishing. 1992. Pg. 31.

34 PBS. *Online NewsHour: Liberia's Uneasy Peace; Post-1980 Timeline*.

35 Human Rights Watch Report. June 1993. Volume 5, Issue No. 6. *Waging War to Keep the Peace: Te ECOMOG Intervention and Human Rights*. 8 Apr. 2009 <<http://www.hrw.org/legacy/reports/1993/liberia/#2>>

36 Vogt. Pg. 47.

37 Colonel Festus B. Aboagye. *ECOMOG: A Sub-Regional Experience in Conflict Resolution, Management and Peacekeeping in Liberia*. Accra, Ghana: Sedco Enterprise. 1999. Pg. 43.

38 Vogt, Pg. 56-57

execution, ECOWAS aimed to improve the situation from three approaches. Primarily, ECOWAS declared a military provision to implement an immediate ceasefire between the warring factions. The ECOWAS Monitoring Group (ECOMOG) was to be comprised of military contingents from member states, totaling 4,000 troops. In addition, ECOWAS sought to provide social provisions for the resettlement of all refugees. Third, a Standing Mediation Committee (SMC) was established to schedule peace talks between Doe's administration and the rebel groups and to help facilitate the formation of a broad-based government.<sup>39</sup> From the beginning, the ECOWAS regional approach to conflict resolution aimed to stabilize both the situation on the ground as well as to mediate peace between the warring political leaders.

By the end of August 1990, ECOMOG had acquired an intervention force of roughly 2,600 troops from Nigeria, Ghana, Sierra Leone, and The Gambia. Notably, this number only accounts for about 65% of the SMC's estimated number; still, as Taylor continued to refuse to partake in peace efforts, ECOWAS declared it necessary to deploy its force.<sup>40</sup> Under the command of the Ghanaian general Arnold Quainoo, ECOMOG ground, naval and air forces concentrated in Sierra Leone in preparation for the intervention.

The SMC's decision to intervene in the Liberian conflict represented an historic attempt by a regional organization to address conflict resolution. In contrast to the traditional UN peacekeeping model, ECOMOG entered the crisis without a ceasefire agreement in place. In fact, at the time, the UN and the US, which had formerly colonized Liberia, did not sanction ECOWAS' decision to intervene and declared the crisis an internal Liberian problem.<sup>41</sup> Thus, ECOMOG's role surpassed that of a peace-keeping force. Instead, the ECOMOG military had to fight its way into Liberia in order to enforce a peace that was not supported by a comprehensive ceasefire.

The development of ECOMOG as a vehicle for peace enforcement is evident in the evolution of its mandate. The ECOWAS Standing Mediation Committee officially

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39 Aboagye. Pg. 58.

40 Aboagye. Pg. 143.

41 Aboagye. Pg. 61.

established ECOMOG in Banjul, The Gambia, on August 7, 1990. At its inception, ECOMOG's mandate included aid for refugees to escape safely to neighboring countries, evacuation of foreign nationals, and efforts to restore law and order. Specifically, the mandate stated that the force would (1) maintain and monitor the ceasefire, (2) protect life and property, (3) maintain essential services, (4) provide security to the Interim Administration, (5) observe elections, and (6) conduct normal police duties.<sup>42</sup> Although the rhetoric of ECOMOG's initial mandate conceived the operation as a peacekeeping effort, the troops immediately encountered opposition from Taylor's NPFL, who refused to recognize the ceasefire and resisted ECOMOG's invasion.<sup>43</sup> Thus, the neutral tone of this mandate quickly proved irrelevant to the situation on the ground.

ECOMOG's initial politico-military effort was further undermined following the arrest and massacre of President Doe by the INPFL in September 1990. In addition to fueling Taylor and other rebel movements, the massacre infuriated Doe's party and challenged ECOMOG's assertion as a neutral force.<sup>44</sup> As hostility escalated, the SMC issued a revised ECOMOG mandate in the Yamoussoukro Accords on October 1, 1990, which expanded ECOMOG objectives to include peace enforcement activities. In addition to continuing humanitarian assistance and monitoring of the fighting on the ground, ECOMOG's new objectives included the encampment and removal of weapons from warring factions.<sup>45</sup> Under this mandate, ECOMOG troops were deployed to rebel camps to ensure the disarmament and collection of weapons. In August 1996, the Abuja Accords further endorsed ECOMOG troops to disarm the warring parties. These accords sanctioned ECOMOG troops to monitor the borders and entry points by land, sea, and air to control the transportation of arms and ammunition.<sup>46</sup> At the same time, ECOWAS

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42 E.T. Dowyaro. Institute for Security Studies – South Africa. Monograph No 44: Boundaries of Peace Support Operations. Feb 2000. ECOMOG Operations in West Africa: Principles and Praxis. 8 Apr. 2009 <<http://www.iss.co.za/pubs/monographs/no44/ECOMOGPraxis.html>>

43 Adekeye Adebajo. Liberia, Sierra Leone, and Guinea-Bissau. Boulder, CO: Lynne Rienner Publishers, 2002. Pp. 52

44 Aboagye. Pg. 85.

45 Dowyaro. ECOMOG Operations in West Africa: Principles and Praxis

46 Aboagye. Pg. 124

organized meetings and peace conferences with Taylor and the other rebel leaders in efforts to promote ceasefire and ensure disarmament.

With the commencement of disarmament, ECOMOG gained the necessary authority to prevent further violence and restore stability in Liberia. In addition, the announcement to enforce disarmament earned ECOMOG respect from Liberians and the international community. By February 1997, a total of 28,829 fighters of an estimated 33,000 had been disarmed<sup>47</sup>, returning a sense of hope and relief to the situation and encouraging thousands of Liberian refugees to return home. Moreover, key international players, including the US, EU, and international NGOs, showed their support for ECOMOG by increasing funding and helping to facilitate the peace process.<sup>48</sup>

Following the successful disarmament campaign, ECOMOG focused on preparing for the upcoming presidential elections. Under the supervision of UN officials, ECOMOG operations included monitoring voter registration, establishing adequate voting sites, and securing ballot boxes to ensure accurate counting.<sup>49</sup> On August 19, 1997, Charles Taylor was elected into office as President of the new Government of Liberia. Although Taylor's ability to revitalize the country after years of violent civil war remained to be seen<sup>50</sup>, his election marked a major accomplishment in ECOWAS' mission to establish peace in the region. The military force of ECOMOG, in combination with the social and political provisions as facilitated by the ECOWAS institution, had essentially reinstated an operative state structure in Liberia.

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47 John Laband (ed.). *Daily Lives of Civilians in Wartime Africa; From Slavery Days to Rwandan Genocide*. Westport, CT: Greenwood Press. 2007. Pg. 209.

48 Dowyaro. *ECOMOG Operations in West Africa: Principles and Praxis*

49 Aboagye. Pg. 133-135

50 Although Taylor won the 1997 elections by a staggering majority of 75.3% of the vote, he continued to battle insurgent opposition during his presidency. Unfortunately, Taylor used his position of power to profit from illegal trade with rebels in neighboring Sierra Leone. In exchange for diamonds stolen from Sierra Leone's mines, Taylor supplied the country's rebels with weapons, which were then used to kill civilians in the rebel's opposition movement. Taylor has since been accused of war crimes by the United Nations. For more information, see: <[http://news.nationalgeographic.com/news/2003/07/0725\\_030725\\_liberiataylor\\_2.html](http://news.nationalgeographic.com/news/2003/07/0725_030725_liberiataylor_2.html)>.

## Analysis

In principle, the widespread phrase “African solutions for African problems” calls on African leaders to direct their political will in order to resolve their own conflicts, rather than continuing to rely on external intervention and aid. Stemming from the radical ideas of Dr. Kwame Nkrumah of Ghana, this vision has most recently been rekindled by Colonel Muammar Qaddafi. At the African Union Summit held at the beginning of 2009, Colonel Qaddafi, who has ruled Libya for four decades, became the new African Union chairman. In supporting the transformation of Africa into a single unified state, Qaddafi proposes immediate unity and the establishment of a single currency, army and passport across the entire continent.<sup>51</sup>

Although Qaddafi intends to promote his agenda of creating a United States of Africa, dissenting voices question the feasibility of African unity and debate if such a movement would benefit the continent given the political realities of the time. While an integration of economies and a political union of African states could come to play a powerful role in global affairs, African leaders recognize the difficulties in securing the stable and peaceful environments necessary for progress. Given the realistic limitations of African governments, the slogan “African solutions to African problems” could be detrimental if it leads to self-inflicted isolation from valuable donor countries that might otherwise offer assistance to Africa in its development.<sup>52</sup> Clearly, genuine external supporters of Africa may become weary if faced with unnecessary criticism and skepticism from those they intend to assist. At the same time, the slogan protects African governments from international criticism on human rights violations and political corruption. To the citizens of Africa, as well as many African leaders, cooperation and assistance from the international community remains essential for African improvement.

Despite these reservations, the principle of adopting responsibility for stability and

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51 Lydia Polgreen. *The New York Times*. 2 Feb. 2009. Dakar. “Qaddafi, as New African Union Head, Will Seek Single State.” *NYTimes.com*. 8 Apr. 2009 <[http://www.nytimes.com/2009/02/03/world/africa/03africa.html?\\_r=1](http://www.nytimes.com/2009/02/03/world/africa/03africa.html?_r=1)>

52 Chris Fomunyoh. *AllAfrica.com*. Opinion. 9 Feb. 2005. “Africa: African Solutions to African Problems: A Slogan Whose Time Has Passed.” 8 Apr. 2009 <<http://allafrica.com/stories/200502090005.html>>

peace on the continent remains an African ideal. Following such disasters as the 1994 genocide in Rwanda, during which the international community stood by and watched as hundreds of thousands of Tutsis and moderate Hutus were massacred by Hutu extremists, it has become clear that African countries cannot always rely solely on external forces to resolve conflict. Even when the UN and powerful countries like the US have decided to intervene in African crisis situations, individual countries are often unwilling to commit troops.<sup>53</sup> In order to achieve true, lasting stability, Africa must strengthen its capacity to respond to internal crisis and develop mechanisms to prevent differences of opinion from escalating into armed conflict.

The development of the African Union and sub regional organizations such as the Economic Community of West Africa reflect both the desire for and necessity of establishing African cohesion and solidarity. In searching for homegrown solutions for Africa's developmental and political problems, the AU and ECOWAS represent two initiatives that offer supra-regional mechanisms to conflict resolution. While each institution provides separate benefits and suffers from its own shortcomings, an analysis of their attempts to mediate internal conflicts offers insight into how African institutions can enhance their peacekeeping capacities. Although each case remains unique to the history and environment of the region, a comparison of the successes and failures by each peacekeeping operation reveals important implications for addressing future conflicts. Overall, from philosophical, political, and economic perspectives, the regional approach as seen in ECOWAS' intervention in Liberia proves more effective at securing peace.

The initial objectives as stated at the times of establishment of the African Union and ECOWAS reflect the philosophical ideals upon which each institution is based. The birth of African Union in July 2002 marked a monumental event in the institutional evolution of the continent.<sup>54</sup> At its foundation, the AU grew from the Organization of African Unity, which formed in response to the Independence movement in the 1950s. As the wave of

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53 Fomunyoh. "Africa: African Solutions to African Problems: A Slogan Whose Time Has Passed."

54 African Union. 2003. "African Union in a Nutshell." 8 Apr. 2009 <[http://www.africa-union.org/root/AU/AboutAu/au\\_in\\_a\\_nutshell\\_en.htm](http://www.africa-union.org/root/AU/AboutAu/au_in_a_nutshell_en.htm)>

colonization ended, the OAU continued the liberation struggle by providing an effective forum for Member States to defend the interests of Africa collectively. More recently, with the onset of the globalization era, the priorities of African leaders have shifted towards accelerating economic and political unity across the continent. The African Union, in essence, represents another step in efforts to establish a United States of Africa. Within this ideal, AU leaders aim to promote political and socio-economic integration between governments and all segments of civil society.<sup>55</sup>

In contrast to the AU, ECOWAS developed primarily from solid economic relationships. In the early 1970s, leaders of West African states recognized that intra-regional integration would improve economic development within the region as well as allow for greater integration into the global economy. At its core, ECOWAS was formed in response to the increase in irregular migration within the region.<sup>56</sup> With a history of trade and shared culture, intra and inter-country movement occurred often throughout West Africa in response to economic and political factors. As the West African countries struggled to develop after Independence, the effects of depressed economies, macro-economic adjustment programs, and population pressure led to diverse patterns of urbanization and immigration.<sup>57</sup>

At the Lagos Conference in May 1975, West African leaders addressed the issues of irregular migration as posing the single greatest obstacle to creating a West African trade bloc. Subsequently, one of the main objectives of the ECOWAS treaty aimed to abolish “the obstacles to the free movement of persons, services, and capital.”<sup>58</sup> Article 12 declared that within the course of fifteen years, a Customs Union among the Member States would eliminate all customs duties on trade between Member States, as well as establishing a common tariff on all goods imported into the region.<sup>59</sup> In addition, the treaty declared

55 African Union. “African Union in a Nutshell.”

56 Richard Alkali. AllAfrica.com. 7 Feb 2008. Abuja. “West Africa: ECOWAS – Its Formations and Achievements.” 8 Apr. 2009 <<http://allafrica.com/stories/200802070412.html>>

57 Alkali. “West Africa: ECOWAS – Its Formations and Achievements.”

58 Vogt. Treaty of the Economic Community of West African States (ECOWAS). Article 2(d). Appendix, pg. 6.

59 Vogt. ECOWAS Treaty. Article 12. Appendix, pg. 14.

freedom of movement within the Community, referring to citizens of the Member States as “Community citizens.”<sup>60</sup> In these protocols, the goals of ECOWAS to establish monetary and economic union stemmed from the practical experiences of West African citizens.

Notably, neither the African Union nor ECOWAS included the responsibility of peacekeeping in declaring its initial objectives. For the African Union, Darfur represented an opportunity for the continental institution to cement its authority as a peacekeeping force. In conjunction with the pan-African ideals of establishing “African solutions for African problems,” the AU responded to Darfur in hopes of fulfilling its ideals of continental peace and security. In contrast, ECOWAS decided to intervene in the Liberian crisis because West African leaders viewed regional stability as a necessary precondition for their economic programs.

The initial motivations to get involved in each conflict relate to the connections between the different ideals of continental and regional organizations and the specific obstacles faced by each. Primarily, as a continental institution, the African Union remains too removed from any specific ground conflict. Without direct ties to the immediate situation, the Member States of the AU lack the necessary incentives to provide funding and resources for a peacekeeping operation. At the same time, the AU suffers from the limitations of neutrality. In essence, the AU can never effectively intervene and mediate conflict because it simultaneously claims to represent all African states. In the case of Darfur, as the Sudanese government maintained a functioning state structure, the Khartoum regime continued to represent itself within the AU, which essentially prevented the AU from taking an aggressive stance against Sudanese officials.

The AU’s broad ideological goal to unite all African states undermines its capacities as a peacekeeping force. In the situation in Darfur, the AU struggled to mediate peace and remained dependent on the Ceasefire Agreement. Although the Sudanese Government and major rebel groups agreed to cease hostilities, the Ceasefire Treaties remained superficial agreements. As the warring factions continuously violated the terms and conditions of the

60 Vogt. ECOWAS Treaty. Article 27. Appendix, pg. 24.

treaties, the Sudanese government refused to engage in negotiations for peace. At the same time, the AMIS mandate restricted the forces from interfering in the ongoing conflict. Thus, without legitimate peace efforts, the status of AMIS as a peace-keeping force proved ineffective.

As evident in the Darfur case, undertaking peacekeeping responsibilities actually further complicates the ideological goals of the AU. With the intervention in Darfur, the AU set a precedent for further conflicts, promising to address civil conflicts and ongoing civil wars. While the belief of relying on African solutions for African conflicts is ideal, the involvement of the African Union in the Darfur conflict challenges the practicality of this noble goal.

From a political perspective, the AU lacks the necessary political support of its Member States to conduct peacekeeping operations. Most importantly, the bureaucracy of the institution prevents efficient action in response to conflicts and crises. On the one hand, the organization of the Assembly, the supreme organ of the AU, allows for annual election of the Chairman and only meets itself once a year.<sup>61</sup> With such high turnover of leadership, it remains difficult to agree on basic decisions regarding in which conflicts to intervene. Moreover, as seen in the Darfur example, powerful states can manipulate the AU administration to their benefit. Since the outbreak of violence in Darfur, the Sudanese government has publicly promoted pan-African idealism and supported the presence of AU troops in order to prevent the involvement of international powers. While Sudan claims to support the African Union as the continent's chief political institution, it uses its position within the institution to manipulate policy decision and protect the country's top officials from international criticism. Thus, Sudan's ability to manipulate the AU for its own benefit uncovers crucial weaknesses in the institution's political structure.

Even if the AU could establish a bureaucratic structure that better prevented corrupt African leaders from manipulating the system, the AU would still struggle to generate the necessary economic resources to engage in peacekeeping operations. In Darfur, the AMIS

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61 African Union. Profile: Economic Community of West African States (ECOWAS).

mission suffered from poor logistical planning and lacked trained personnel, funds, and experience in intervening to protect civilians. Although the official AMIS mandate called for an initial force of 5000 troops, the AU entered Darfur with only 500 personnel in August of 2004. By July 2005, AMIS forces were increased by about 3,300 troops, with a budget of \$220 million.<sup>62</sup> Although the AU forces eventually grew to roughly 7,000 troops, they remained largely ineffective, lacking the equipment and funding to protect civilians and themselves.

The African Union continuously struggles to generate funds both for its continental programs and activities, as well as for the basic operations of its various organs. Although Member States are expected to pay dues in accordance with their country's GNP, they only finance the AU's operational budget. Moreover, as many Member States suffer from their own national poverty issues, many partners fail to meet their commitments on time.<sup>63</sup> Without consistent funding from Member States, the African Union relies completely on external donations. As a continental institution based on broad ideals, very few incentives exist for Member State leaders to provide resources that otherwise would contribute to their own country.

In contrast to the African Union, ECOWAS represents an alternative regional institution based on economic incentives and coordinated political goals. Compared to the AU's decision to enter Darfur, ECOWAS leaders were motivated to intervene in Liberia because they believed it would benefit them directly. Notably, West African leaders were initially hesitant to interfere and feared intervention would disrespect state sovereignty.<sup>64</sup> At the same time, West African leaders recognized that peace and stability would be necessary for future economic growth. With the intervention into Liberia, ECOWAS set a precedent

62 African Union Mission in the Sudan." AMIS. 2006. African Union. 7 Dec. 2008 <<http://www.amis-sudan.org/>>

63 Dr., Maxwell M. Mkwezalamba, Commission for Economic Affairs. African Union. 29 May 2006. Addis Ababa, Ethiopia. "Statement on the Occasion of the Opening of the Meeting of Governmental Experts on Alternative Sources of Financing the African Union. 8 Apr. 2009 <<http://74.125.93.104/search?q=cache:dtHx8x7s1TEJ:www.africa-union.org/root/UA/Conferences/Mai/EA/29mai/WELCOME%2520STATEMENT%2520%2520Alternative%2520source%2520of%2520funding.pdf+African+Union+member+states+budget&cd=1&hl=en&ct=clnk&gl=us&client=safari>>

64 Bakhoun. ECOWAS as Regional Peace Broker.

that prioritized regional stability over individual state sovereignty. In this way, the ideals of ECOWAS shifted to address the political and economic realities of the West African region.

The most important effect of ECOWAS' philosophy regarding regional stability became evident with the crisis of Liberia's Civil War. As the Liberian state structure collapsed, ECOWAS recognized its responsibility to act as the necessary vehicle for building peace. Notably, in contrast to the situation in Darfur, there was no effective Government in Liberia whose "sovereignty" was endangered by ECOWAS intervention. Still, to maintain some sense of neutrality, ECOMOG originally entered Liberia as a peacekeeper with the intent to monitor a cease-fire. However, hostility from the NPFL instantly required ECOMOG soldiers to use force to fight their way in, and ECOMOG troops were compelled to fight first for their own survival.<sup>65</sup> Subsequently, ECOMOG's mandate was quickly revised to include more aggressive policies of peace enforcement. Unlike the AMIL forces in Darfur, ECOMOG recognized peace-keeping efforts would not be effective in such an unstable environment.

In addition to taking action against the warring factions, ECOMOG forces actively worked to end the conflict by removing arms and ammunition from rebel camps. At the same time, ECOWAS organized meetings with Taylor and other rebel leaders to negotiate peace. To the extent that the Liberian crisis threatened the security of the state, as well as the surrounding region, these proposals were crucial. The external security force worked to restore confidence in the proposed peace plan and made it possible to implement the peace process as outlined in the agreements.<sup>66</sup> With the combined efforts on the ground and at the political level, ECOWAS provided the necessary security and assistance for the peaceful election of Taylor in July 1997, thus reinstating Liberia's operative state structure. Essentially, ECOWAS recognized the instability of the Liberian conflict and the need to act as a vehicle of peace enforcement. In the end, ECOWAS fulfilled its role as the leading regional body by adopting responsibility for ensuring regional peace and stability. Unlike

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65 Dowyaro. ECOMOG Operations in West Africa: Principles and Praxis.

66 Aboagye. Pg. 58

the AU efforts in Sudan, which failed to address the instability and corruption of the Khartoum government, ECOWAS improved the political situation in Liberia by helping to restore a stable state structure.

The successes and failures of the AU and ECOWAS reveal the connection between each institution's ideals and the political and economic realities of Africa. While the symbolic value of the African Union should not be discounted, the AU lacks the capacity to offer the most feasible or effective mechanisms for conflict resolution in Africa. As a continental institution, the broad ideals of the AU do not accurately reflect the relationships among its Member States. ECOWAS, on the other hand, developed as West African leaders grew to appreciate the economic benefits derived from regional unity and cooperation. Having established their interests in regional stability, Member States feel motivated to support ECOWAS programs and activities. In this way, the institution's ideological objectives for regional unity reflect and promote the existing economic and socio-political relationships in West Africa.

As a mechanism for conflict resolution, ECOWAS' political structure promotes regional cooperation on matters of peace and security. As noted above, in establishing ECOWAS, the West African leaders signed a Protocol Relating to Non-Aggression (PNA) in April 1978, which called for disputes to be settled by a Committee of the Authority. However, as insurgent movements continued to threaten regimes internally, a Protocol Relating to Mutual Assistance on Defense (PMAD) was signed in May 1981 that created a non-standing military force to be used to render mutual military aid and assistance to a member state.<sup>67</sup>

Later, as ECOWAS engaged in its first regional conflict in Liberia, the ECOMOG command structure developed in conjunction with these ideals of mutual regional assistance. At its inception, the ECOMOG states had varying military capabilities, with the small Ghanaian army regarded as the most professional and the Nigerian forces offering the most resources and troops. In coordinating the contributing Member States, ECOMOG initially

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<sup>67</sup> Bakoum. ECOWAS as Regional Peace Broker.

diversified its command structure so that Nigeria became the major supplier of men and materials, Ghana provided the force commander, and all of the five original ECOMOG countries held some command positions.<sup>68</sup> However, after the initial peacekeeping effort into Liberia failed, Nigeria stepped up as the dominant leader of ECOMOG. Under a strong Nigerian leadership, decision-making became much more efficient, enabling ECOMOG to develop into the peace enforcing force that proved necessary to address the conflict in Liberia.<sup>69</sup>

Today, the current administrative structure of ECOWAS continues to provide a model for regional politics. At the top, the Authority acts as the supreme body of the Community and is composed of heads of state and government of Member States. Similar to the AU's Assembly, the Authority meets at least once a year under the leadership of the Chairman, who is elected annually. Although the Authority determines the final decisions for ECOWAS, the Council of Ministers approves the community budget and nominates Secretariat officials, who run the day-to-day administration.<sup>70</sup>

Since the experience in Liberia, ECOWAS' Mechanism for Conflict Prevention, Management, Resolution and Security has developed to address regional problems. At the Abuja Summit in August 1999, ECOWAS aimed to institutionalize structures and processes that would promote negotiations and collective responses to regional security issues.<sup>71</sup> A Mediation and Security Council, with a rotating membership of nine member states, was established to oversee ECOMOG operations. All Council decisions require a two-thirds majority and must include a strong political component when intervening in regional conflicts.<sup>72</sup> The Council also strongly promotes conflict prevention by holding

68 Herbert M. Howe. *Ambiguous Order: Military Forces in African States*. Boulder, CO: Lynne Rienner Publishers. 2001. Pg. 137-138.

69 Howe. Pg. 139

70 Ntuma, L. L. (n.d.). Chapter 15: Institutional Similarities and Differences: ECOWAS, ECCAS, and PTA. In *Regional Integration and Cooperation in West Africa; A Multidimensional Perspective*.

71 L. L. Ntuma (n.d.). Chapter 15: Institutional Similarities and Differences: ECOWAS, ECCAS, and PTA. In *Regional Integration and Cooperation in West Africa; A Multidimensional Perspective*. R. Lavergne (Ed.). 2007. 2 Apr. 2009. <[http://74.125.47.132/search?q=cache:MRFBcBkDTaAJ:www.bmlv.gv.at/pdf\\_pool/publikationen/sorting\\_out\\_the\\_mess\\_ecowas\\_regional\\_peace\\_broker\\_h\\_bakhom.pdf+ECOWAS+PNA&hl=en&ct=clnk&cd=4&gl=us&client=safari](http://74.125.47.132/search?q=cache:MRFBcBkDTaAJ:www.bmlv.gv.at/pdf_pool/publikationen/sorting_out_the_mess_ecowas_regional_peace_broker_h_bakhom.pdf+ECOWAS+PNA&hl=en&ct=clnk&cd=4&gl=us&client=safari)>

72 Howe. Pg. 170.

informal meetings to encourage peaceful negotiations and establishing four observation zones to signal potential of conflicts throughout the region.<sup>73</sup>

ECOWAS also offers a more realistic model for peace operations from an economic perspective. For both the AU and ECOWAS, general funding remains a major obstacle for each institution's development. However, since ECOWAS remains more solidly based in economic ties, its Member States share strong incentives to generate funds for ECOWAS operations. With the basic principle of regional progress, ECOWAS fundamentally requires the collective effort of all individual member states. In his analysis of ECOMOG, Lieutenant Colonel Aboagye uses the average GDP and military strength to determine the level of contribution by each member state that would satisfy ECOMOG operations. Using data for Nigeria, Ghana, and Sierra Leone, Aboagye reveals that had member states contributed between 8-10% of their armed forces, ECOMOG would have fulfilled the troop requirements for the Liberian intervention.<sup>74</sup> Although Aboagye's analysis remains a hypothetical calculation, his findings prove that a self-sustaining military force is a feasible possibility in West Africa. By promoting the principles of regional stability through a rotational political structure and collective economic reforms, the establishment of ECOWAS and the success of ECOMOG demonstrate the benefits of regional institutions as practical mechanisms for addressing conflict.

### Conclusions

This paper has attempted to compare and analyze two approaches to maintaining peace in Africa. On the one hand, the African Union offers a continental model that attempts to promote African Unity in order to elevate Africa within the global hierarchy. In contrast, ECOWAS represents a regional body that focuses primarily on economic and monetary union. Overtime, both institutions have come to recognize the importance of regional stability as a precondition for implementing larger programs. By analyzing the first

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73 African Union. Profile: Economic Community of West African States (ECOWAS).

74 Aboagye. Pg. 145

attempt by each institution to intervene in regional conflicts, this paper offers insights into potential models for peacekeeping in Africa.

In searching for an “African solution to Africa’s problems,” ECOWAS provides a more effective model for securing peace and stability. Primarily, ECOWAS developed as a result of political, economic, and social relationships that have developed overtime. Inter- and intra-migration, combined with a collective West African history and culture, led to trade patterns that helped to cultivate mutual interests. As ECOWAS attempted to expand regional trade networks, the Liberian crisis quickly revealed to Member States the importance of peace as a necessary precondition for economic progress. From the beginning, ECOWAS Member States shared personal incentives to ensure regional stability. As a result, the philosophy, politics, and economics that ECOWAS developed remained consistent with its original goal of promoting regional coordination for progress.

An analysis of ECOMOG’s experience in Liberia brings to light the dilemmas of peacekeeping. Initially, ECOWAS formed in coordination with the Cold War principles of the UN and OAU that promoted national sovereignty and emphasized non-interference among Member States. Based on these principles, peace operations operated on a cease-fire agreement between warring parties and a neutral peacekeeping force.<sup>75</sup> However, as the realities of conflicts have continuously challenged political stability and economic progress, greater initiatives have proven necessary for establishing peace.

As a beneficial contribution to international peacekeeping, the ECOMOG model offers important implications for peace operations in Africa. In the case of the Liberian crisis, the development of ECOWAS from a peacekeeping force to a vehicle for peace enforcement represented a pragmatic response to the realities of the conflict. Most importantly, the ECOMOG experience reveals the importance of understanding the underlying issues of a conflict and the dynamics necessary to achieve stability. For any peace operation, in order to maintain peace, peace must already have been established. Thus, in addressing regional conflicts in Africa, sustainable peace requires both initial peace enforcement and ongoing

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75 Dowyaro. ECOMOG Operations in West Africa: Principles and Praxis.

peacekeeping activities.

# PROTECTED VALUES, RANGE EFFECTS, GUILT, AND TRADEOFF DIFFCULTY IN MORAL DECISION MAKING

CHRISTOPHER W. POLIQUIN

## 1) Introduction

“Protected values” (PVs) are values that people believe can not be traded for any benefit. Often PVs take the form of moral prohibitions against actions. Someone might believe that it is never acceptable to cut old growth forest no matter how great the benefits, hence the value (utility) that one gets from preserving old growth forests is protected from tradeoffs with other values. Another example is stem cell research. No matter how many lives such research might save, some people believe that it is never acceptable to destroy human embryos. Hence, the value of human embryos is protected from tradeoffs with other values and goods. This phenomenon is sometimes described as an unwillingness to trade “sacred values” for secular ones<sup>76</sup>. When a good is protected it is impossible to draw an indifference curve representing the tradeoffs that can be made for other goods since “the marginal rate at which one good can substitute for another is infinite”<sup>77</sup>.

Decision theory assumes that people are able to make tradeoffs so that in comparing two or more options a loss on one dimension can be compensated for by a gain on another dimension. If people are serious about having protected values then it becomes impossible to compare the expected utility of options in a cost-benefit analysis since such utility is infinite. Willingness to pay measures that allow for the expression of PVs can not measure the benefits of a public policy even if only one person has a protected value for the good in question. Baron and Leshner (2000) write, “if we try to find the average willingness to pay more taxes (say) in order to save a forest, and if some people say that the forest has infinite

76. Amos Tversky and Eldar Shafir. Choice under conflict: The dynamics of deferred decision. *Psychological Science*, 3(6):358–361, 1992.

77. Jonathan Baron and Sarah Leshner. How serious are expressions of protected values? *Journal of Experimental Psychology: Applied*, 6:183-194, 2000.

value, then the average will be infinite, regardless of what others say”<sup>78</sup>. Thus, protected values have implications for contingent valuation methods like those used to assess the value of environmental damages after the Exxon Valdez oil spill<sup>79</sup>.

Beattie (1988) writes that people may not make tradeoffs because they are either unable or unwilling to do so. For example, people may claim that they are unable to reliably compare something like an increase in the probability of cancer with a decrease in the probability of osteoporosis, but evidence from Beattie (1988) suggests that despite finding such comparisons difficult, people’s judgments are often consistent and reliable. With respect to moral issues, people with protected values are presumably better described as being unwilling rather than unable to make tradeoffs since moral prohibitions are often expressed as lexical rules such as “thou shalt not kill.”

Research by Baron and Leshner (2000) on protected values shows that “PVs are strong opinions, weakly held”<sup>80</sup>. They asked people if tradeoffs would be acceptable for a variety of scenarios as a way of identifying protected values. In instances in which people thought something should never be allowed they asked subjects to imagine counterexamples of when tradeoffs would be acceptable. Asking people to imagine scenarios in which tradeoffs would be acceptable is an effective way of reducing the expression of protected values<sup>81</sup>. This means that some protected values are exaggerated expressions of moral rules that perhaps result from a lack of imagination in thinking of cases in which ignoring rules would be acceptable.

If protected values can be challenged successfully then “apparent PVs might not always preclude the use of valuation measures in cost-effectiveness analysis, or negotiated agreement on controversial issues”<sup>82</sup>. The work of Baron and Leshner (2000) was specifically concerned with the seriousness of expressions of protected values. This paper deals with

78. Baron and Leshner. How serious are expressions of protected values?

79. Richard T. Carson, Robert C. Mitchell, Michael Hanemann, Raymond J. Kopp, Stanley Presser, and Paul A. Rudd. Contingent valuation and lost passive use: Damages from the Exxon Valdez oil spill. *Environmental and Resource Economics*, 25:257–286, 2003.

80. Baron and Leshner. How serious are expressions of protected values?

81. Baron and Leshner. How serious are expressions of protected values?

82. Baron and Leshner. How serious are expressions of protected values?

valuation measures and protected values by asking subjects to make rather than imagine potential tradeoffs.

Even if people are willing to make tradeoffs, valuation measures such as conjoint analysis or willingness to accept (WTA) might not accurately reflect people's underlying preferences. In decision theory the principle of invariance implies consistency so that the importance of a dimension in a tradeoff does not vary with the method used or the description of the options<sup>83</sup>. Violations of descriptive and procedural invariance have led some researchers to argue that preferences are “not simply read of from some master list, [but] are constructed in the elicitation process”<sup>84</sup>. Beattie (1988) argues that procedural or descriptive variance does not imply true preferences do not exist. Instead, she argues that true preferences are stable but may be distorted in the elicitation process with different methods of elicitation creating different distortions.

When making tradeoffs, judgments may be affected by the stimulus range so that the rate of substitution between two goods depends on the range of values presented, holding the response mode constant. Range refers to the size of the interval between the minimum and the maximum value of the stimulus. For example, subjects could make judgments for stimuli values of 10, 20, and 30, or over a larger range, such as 5, 20, and 35. Some biases documented by Kahneman and Tversky (1984) can be corrected for in the elicitation process, but in the case of range effects no such corrections are possible because it is impossible to present stimuli independent of range<sup>85</sup>. Beattie (1988) looked for range effects and found that subjects behaved normatively. Weights for dimensions in a rating task were unaffected by range when the range did not provide meaningful information, and were affected by range when the stimulus range was meaningful (as in the case of grading students or evaluating job applicants). Her research suggests that subjects' estimated preferences are not biased by range. The scenarios used by Beattie (1988) in her

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83. Daniel Kahneman and Amos Tversky. Choices, values, and frames. *American Psychologist*, 39:341–350, 1984.

84. Tversky, Amos, Sattath, Shmuel, and Slovic, Paul. Contingent weighting in judgment and choice. *Psychological Review*. 95(3): 371-384, 1988.

85. Beattie. Perceived differences in tradeoff difficulty.

range effect studies, however, did not involve moral issues. In Experiment 1 of this study, I find that there is a significant interaction between protected values and stimulus range, which suggests that contingent valuation may not be a reliable barometer of preferences in the presence of protected values.

In Experiment 2, I look at the implications of protected values for decision difficulty and guilt feelings. I find that relying on moral rules makes judgment easier for subjects with PVs, and that subjects with PVs anticipate feeling guiltier than those without PVs about making tradeoffs between protected goods and money. I also find that protected values make people less attentive to the monetary dimension of these tradeoffs, and that increasing the amount of money does less to alleviate guilt about making tradeoffs for people with PVs.

## 2) Experiment 1

The goal of experiment 1 was to test for biases in eliciting preferences using two tasks: choice and matching. In a choice task, a subject chooses among options that have fixed values for all attributes. In a matching task, a subject specifies a value for an attribute that would make him indifferent between options. For example, a choice task for evaluating two cars would have subjects specify which vehicle they prefer based on data about miles per gallon and price. A matching task, however, might ask subjects to specify the price of one car that would leave them indifferent between alternatives with different fuel efficiencies.

The matching task in this experiment was used to test for range effects. Range refers to the size of the interval between the maximum and minimum values of a stimulus, and range effects refers to the effect that a change in the interval has on elicited preferences. The stimuli in this experiment were amounts of five goods that were shown to be frequently protected in previous studies<sup>86</sup>. There were five scenarios about public policy choices that entailed making tradeoffs, and subjects specified the amount of one good (e.g., money) that would be needed to compensate for a loss in another (e.g., unpolluted water). I found range

86. Baron and Leshner. How serious are expressions of protected values?

effects for subjects with protected values. The choice task in this experiment asked subjects to decide whether a tradeoff was acceptable or left them indifferent. Some subjects saw the values they had entered in the matching task as the attribute values for the choice task.

This experiment also confirmed that protected values are often overgeneralizations of moral rules<sup>87</sup>. Subjects who say that an action is never acceptable often change their mind when given specific scenarios asking them to make tradeoffs. Subjects with protected values are more likely to change their mind doing the choice task.

## 2.1) Method

Eighty-three subjects completed an online questionnaire for \$3. Of those eighty-three, seventy-six produced usable data. 73.68% of these subjects were female, the youngest participant was twenty-five and the oldest was seventy-two. The median and mean age were both forty-three.

The questionnaire first presented subjects with five actions in random order on separate screens and asked them to indicate when the action would be acceptable. The situations were (percentage with PV in parentheses)<sup>88</sup>:

- Dropping a nuclear bomb on a civilian population (40.79%).
- Using stem cells from fertilized embryos to grow human organs in chimpanzees for transplants (17.11%).
- Dumping waste from a factory into a river (72.37%).
- Forcefully sterilizing women for population control (52.63%).
- Not prosecuting a business that is almost certainly discriminating against blacks and women (60.53%).

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87. Baron and Leshner. How serious are expressions of protected values?

88. Sex is not a significant determinant of protected values. Comparing the number of PVs for males and females using Fisher's Exact Test for Count Data,  $p = .287$

## Possible Responses for Each Action

<i>This is acceptable...</i>		
A1	Always	(0.536%)
A2	When the benefits are great enough	(10.789%)
A3	When it prevents more of the same thing	(2.895%)
<i>This is unacceptable because...</i>		
U1	I cannot imagine any instances in which this is acceptable.	(48.684%)
U2	Even though the benefits may be great enough to justify it people can not recognize these cases so it is best not to do it.	(11.579%)
U3	It is unacceptable as a general rule though we can make exceptions under some circumstances.	(25.526%)

Table 1: For each action, subjects chose the first statement that applied from the above list. The percentage of times each statement was endorsed in experiment 1 is shown in parentheses.

## Tradeoffs by Scenario

Scenario		
Nuclear Bomb	Foreign civilian lives	Your country's soldier's lives
Stem Cells	Embryos destroyed	Lives saved
Pollution	Species saved from extinction	Jobs lost at a factory
Sterilization	Proportion of population sterile	Increase in GDP per capita
Discrimination	Cases of discrimination not prosecuted	Dollars saved

Table 2: The goods used for tradeoffs in each of the five scenarios.

As in Baron and Leshner (2000), subjects could choose from the options listed in Table 1 for each action and were asked to select the first that applied, the table also shows the percentage of times each statement was endorsed.

Subjects were considered to have a protected value for an action only when they responded (U3) "I cannot imagine any instances in which this is acceptable." Seven subjects had no protected values and two had protected values for all actions. The mean number of

protected values for the five cases was 2.43 and the median was 3.

Subjects were then given scenarios that entailed making tradeoffs for a range of values. The goods for the tradeoffs in each scenario are shown in Table 2. Tradeoffs were elicited using two methods: a choice task and a matching task. In the choice task subjects were asked to indicate whether a tradeoff was acceptable, not acceptable, or left them indifferent. An example of the choice task for a factory dumping waste into a river is shown in Figure 1. In the matching task subjects were presented with the same scenarios but asked to provide the quantity of something else that would make the tradeoff acceptable or to indicate that no tradeoff would ever be acceptable. An example of the matching task for the dropping of a nuclear bomb on a civilian population is shown in Figure 2.

### Choice Task Example

<p>The following scenario asks you to make tradeoffs between 75, 100 and 125 jobs being eliminated and 4 species becoming extinct.</p> <p>A factory has been dumping waste into a nearby river, which if continued will result in the extinction of rare plant and animal species found nowhere else. The factory could be forced to install cleaner dumping technology that would prevent the extinctions, but would need to eliminate jobs in order to pay for the improvements to the plant.</p>	
<i>Species Extinctions Prevented</i>	<i>Jobs Eliminated</i>
<b>4</b>	<b>100</b>
<p>Is the above tradeoff acceptable?</p> <p>Yes</p> <p>No</p> <p>Indifferent</p>	

Figure 1: An example of the choice task for a factory dumping waste into a river. The number in the right cell varied over either a small or a large range. See Table 2 for the goods used in each scenario.

### Matching Task Example

The following scenario asks you to make tradeoffs between 75,000; 300,000 and 525,000 foreign civilians being killed and your country's soldiers being killed.

The nuclear bombings of Hiroshima and Nagasaki during World War II raised the moral issue of whether it is acceptable to drop a nuclear bomb on a civilian population in order to stop a war that would likely cause a large number of fatalities. Imagine that your country is involved in a prolonged and bloody conflict. You are faced with the decision of whether to drop a nuclear bomb that would kill civilians but prevent the death of your country's soldiers. How many of your own country's soldiers would need to be saved in order to justify killing 300,000 civilians?

Enter -1 (negative one) if this is never acceptable.

Figure 2: An example of the matching task for the scenario of dropping a nuclear bomb on a civilian population. The boldfaced number varied over either a small or large range. See Table 2 for the goods used in each scenario.

The ordering of the tasks was randomized and subjects were given either a small or large range of values for all scenarios over which to make tradeoffs. The midpoint of the range for each scenario was the same but the small range deviated 25% from the midpoint while the large range deviated 75% from the midpoint. Subjects could see the range of values they would be presented with at the beginning of each task. Those who were given the matching task before the choice task saw the values they had entered in the former as the tradeoff values for the latter. So a subject that did the matching task first for the pollution scenario and said it would be acceptable to lose 400 jobs to save 2 species would then see these same values in the choice task. Subjects who either did the choice task first or were never willing to make tradeoffs saw a series of default values for the tradeoffs in the choice task.

## 2.2) Results

Section 2.2.1 shows that people with protected values are less willing to make tradeoffs with the protected good, but are more likely to change their apparent values after being presented with a plausible scenario that challenges them to make tradeoffs. Section 2.2.2 argues that protected values result in under-sensitivity to stimulus range. Section 2.2.3 shows that the ordering of the tasks did not affect responses to the matching task, meaning that subjects did not use the default values presented in the choice task as an anchor for their judgments.

### 2.2.1) Unwillingness to make tradeoffs and apparent values

Subjects were allowed to not answer in the matching task by indicating that tradeoffs between two goods would never be acceptable. Under scarcity, such a position is impractical, but this is exactly what is implied by protected values and not surprisingly subjects with PVs for a given scenario are significantly more likely than subjects without PVs to say that tradeoffs would never be acceptable.<sup>89</sup>

The choice and matching tasks challenged subjects' expressions of PVs by giving them the opportunity to make tradeoffs. A protected value becomes unprotected when responses to the choice or matching task are inconsistent with the idea that something is never acceptable. For example, if a subject with a protected value for "dumping waste from a factory into a river" agreed to allow pollution once seeing the scenario, then that value is now unprotected. The results of this study are similar to those found by Baron and Leshner (2000) when they asked subjects to imagine potential scenarios in which tradeoffs would be justified. Baron and Leshner (2000) found that apparent PVs became unprotected in 10% of cases in which a subject could imagine a potential counterexample scenario. In this study, the scenarios resulted in 17.44% of apparent PVs becoming unprotected for the choice task and 3.33% becoming unprotected for the matching task for an overall average

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89. Calling accepting a tradeoff a "success" and testing the equality of the means from a binomial distribution,  $p = 2.2 * 10^{-16}$

of 10.38%. One possible explanation for the difference between the choice and matching task is that the instructions for the matching task reminded people of their values by giving them the option of saying that tradeoffs would never be acceptable (see Figure 2). This is equivalent to simply rejecting all tradeoffs, but subjects may not have made that connection in the choice task.

Figure 3 shows the mean proportion of subjects with and without PVs that changed their apparent values for each scenario. A subject without a PV changes his apparent values when he says an action would be acceptable, but then refuses to do the matching task or accept any tradeoffs in the choice task 3. Subjects with PVs are more likely to act in ways that contradict their initial judgments than subjects who initially say that tradeoffs would be justified. This reversal in apparent values supports the claim of Baron and Leshner (2000) that PVs are unreflective over-generalizations of moral prohibitions.

### Changes in Apparent Values After Scenarios

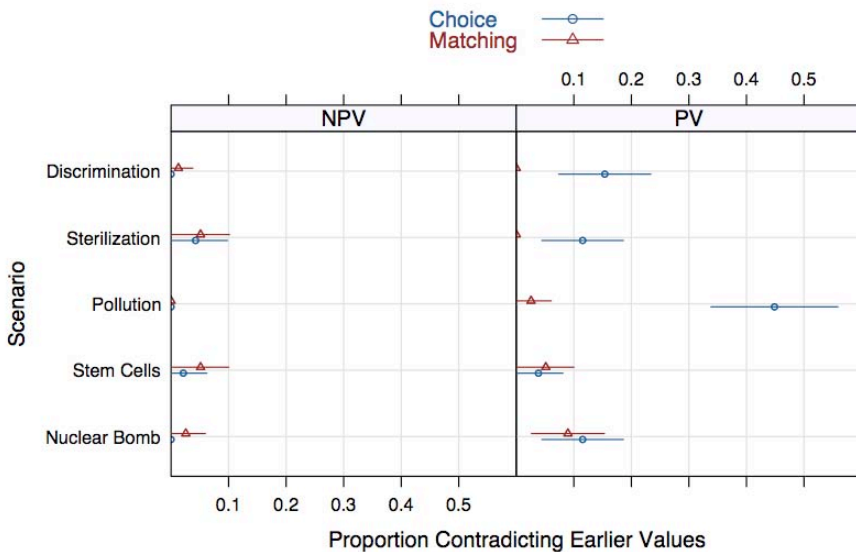


Figure 3: The PV condition includes subjects who responded that tradeoffs would never be acceptable (U1 in Table 1) for the scenario on the y-axis, and the NPV condition includes subjects who said the actions

would be acceptable either always, when the benefits are great enough, or when the action prevents more of the same (A1-A3 in Table 1). Points represent the mean proportion of subjects whose answers contradicted the statements they endorsed broken down by task. The lines are 95% confidence intervals. The difference in the mean proportions across all scenarios and tasks between the PV and NPV groups is significant at the 1% level ( $p = 5.447 \times 10^{-13}$ ).

### **2.2.2) Range Effects**

Subjects with protected values were less sensitive to stimulus range. Normatively, the amount of  $y$  needed to compensate for a loss of  $x$  should be increasing in  $x$  so that the function representing the marginal rate of substitution is positive. If  $x$  is species extinctions and  $y$  is dollars, and one believes that biodiversity is of positive value, then a loss of 5 species should require greater compensation than a loss of 1 species. Figure 4 shows this in graphical terms for a hypothetical, linear indifference curve. The matching task revealed three points along the indifference curve by asking subjects to enter the amount of  $y$  needed to compensate for a loss of  $x$  (where  $x$  increased for each of the three points). Thus, the ratio of each subject's last response to the first response should be larger in the large stimulus range condition because there was a larger increase in the bad (lives lost, species extinctions, cases of discrimination not prosecuted, etc.).

## Normative Model for Tradeoffs

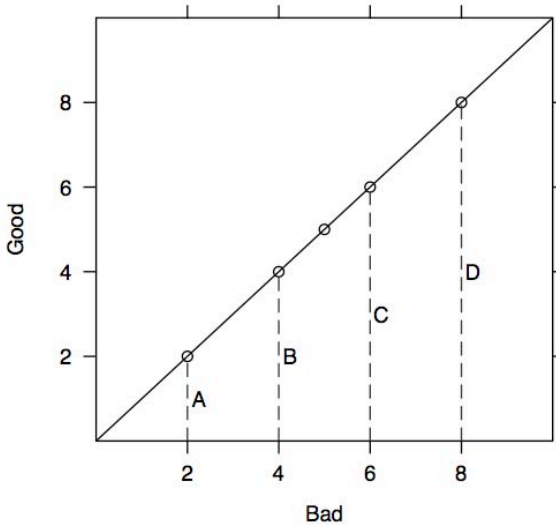


Figure 4: If the rate of substitution between two goods is greater than 0, then the indifference curve is monotonic and the ratio of D to A should be larger than the ratio of C to B. Unlike subjects with NPVs, subjects with PVs do not make this adjustment.

The results of a mixed model regression using protected values and the range condition to predict the ratio of two values on the indifference curve are shown in Table 3. This analysis only includes subjects who completed the tasks since the ratio of responses is not meaningful for subjects who said tradeoffs would never be acceptable. P-values are not reported since a meaningful calculation of the degrees of freedom is not possible for mixed effects models, and the distribution of the parameter estimates does not converge to a normal distribution<sup>90</sup>. Normatively, the coefficient on the large range condition should be positive since a larger stimulus range should result in a larger ratio. This is what was found. The positive coefficient on having a protected value is expected and indicates that

90. R.H. Baayen, D.J. Davidson, and D.M. Bates. Mixed-effects modeling with crossed random effects. *Journal of Memory and Language*, in press, 2008.

subjects with protected values thought more compensation should be needed for a loss in a protected good than subjects without protected values. If subjects with protected values that made some tradeoff adjust to range in the same way as subjects without protected values, then there should not be a significant interaction between protected values and range. The interaction between stimulus range and having a protected value, however, is significant. This shows that subjects with PVs do not adjust for the change in stimulus range. This effect can be seen in Figure 5, which shows the density distribution of ratios for all scenarios for subjects with and without PVs. In the case of subjects without protected values (NPV), the peak of the distribution changes between the small and large range conditions, but there is only a minor change in the distribution for subjects with protected values (PV).

### Range Effects and Protected Values

Linear mixed model fit by REML			
RANDOM EFFECTS:			
Groups	Name	Variance	Std. Dev.
Subject	(Intercept)	$7.1789 \times 10^{-21}$	$8.4728 \times 10^{-1}$
Scenario	(Intercept)	$2.7723 \times 10^{-2}$	$1.6650 \times 10^{-1}$
Residual		1.1855	1.0888
Number of obs: 126, groups: Subject, 62; Scenario, 5			
FIXED EFFECTS:			
	Estimate	Std. Error	t value
(Intercept)	0.6095	0.1588	3.837
PVtrue	2.0894	0.6527	3.201
LargeRange	1.0148	0.2038	4.980
PVtrue:LargeRange	-2.8954	0.7828	-3.669
CORRELATION OF FIXED EFFECTS:			
	(Intr)	PVtrue	LargeRange
PVtrue	-0.180		
LargeRange	-0.580	0.147	
PVtrue:LargeRange	0.159	-0.826	-0.265

Table 3: Effects of protected values and range on tradeoffs in the matching task. The analysis only includes

subjects that completed the task since ratios are not meaningful for subjects with protected values who said tradeoffs would never be acceptable.

## Subjects with Protected Values do not Adjust for Range

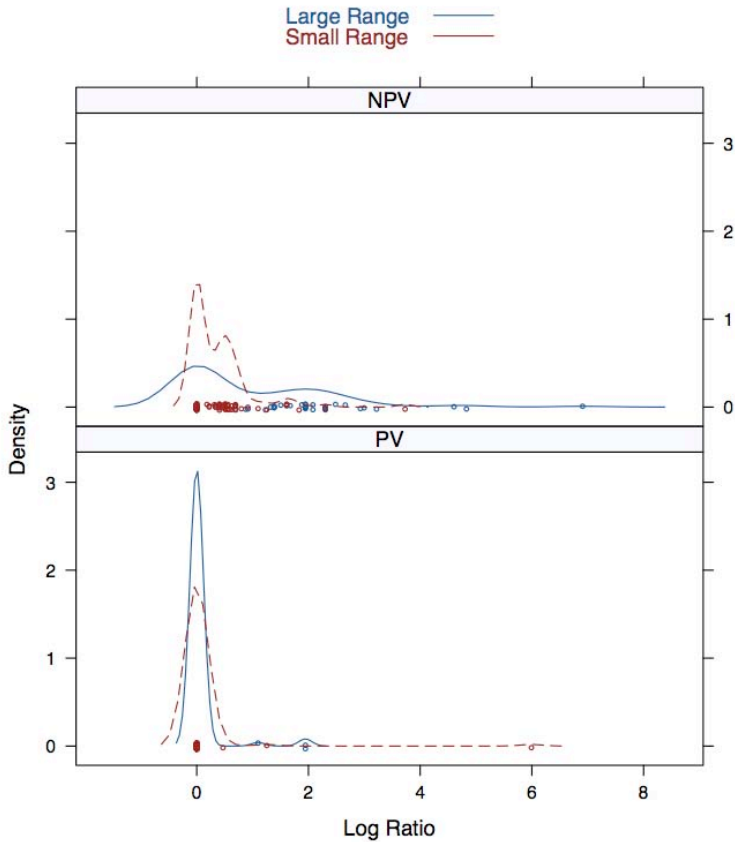


Figure 5: Subjects with PVs do not make the same adjustment for range as subjects with NPVs. Normatively the distribution should shift to the right for the large range condition so that a larger stimulus range implies a larger ratio. The curve is a density graph created using a gaussian kernel.

### 2.2.3) Anchoring

Subjects who did the choice task first, and were therefore presented with the default values for tradeoffs, did not provide answers in the matching task that were significantly closer to the defaults than subjects who did the matching task first. Thus, there does not appear to be an anchoring effect in which the ordering of the tasks influences responses to the matching task. Table 4 shows the results of a mixed model regression using protected values and the task order to predict the magnitude of the difference between the default values for the choice task and subjects' responses to the matching task.

#### Anchoring and Task Order

Linear mixed model fit by REML			
RANDOM EFFECTS:			
Groups	Name	Variance	Std. Dev.
Subject	(Intercept)	0.0000	0.0000
Scenario	(Intercept)	$6.7557 \times 10^{-9}$	$8.2193 \times 10^{-5}$
Residual		16.728	4.0899
FIXED EFFECTS:			
	Estimate	Std. Error	t value
(Intercept)	9.76171	0.56180	17.376
ChoiceTask	-0.21342	0.75694	-0.282
PVtrue	1.44205	1.91341	0.754
PVtrue:ChoiceTask	0.06818	2.51160	0.027
CORRELATION OF FIXED EFFECTS:			
	(Intr)	PVtrue	LargeRange
ChoiceTask	-0.742		
PVtrue	-0.294	0.218	
PVtrue:ChoiceTask	0.224	-0.301	-0.762

Table 4: Effect of task ordering on the mean difference of subjects' responses from the default values. ChoiceTask is a dummy variable that takes a value of 1 if the subject did the choice task prior to the matching task. The ordering of the tasks did not affect responses to the matching task.

### 3) Experiment 2

The goal of experiment 2 was to investigate the determinants of decision difficulty, guilt, decision avoidance, and methods of decision making in moral choices, and their relation to protected values. Only a choice task was used and the stimuli in this experiment were amounts of money and amounts of eight goods, some of which were shown to be frequently protected in previous studies<sup>91</sup>. There were eight scenarios about public policy choices that entailed making tradeoffs. Subjects decided whether some amount of money justified a loss in another good (e.g., education), then answered questions about how they chose, the difficulty of the decision, guilt feelings, and their desire to delegate decision-making authority to a third party.

People with protected values are more likely to use moral rules to make decisions, which make decisions easier for them, but not for people without protected values. People with protected values anticipate that they would feel guiltier about making a tradeoff that sacrificed a non-monetary good for money. Protected values do not affect people's desire to delegate decision-making to a third party. The choices of people without protected values are not affected by decision difficulty and their certainty about making the right choice, but the choices of people with protected values are.

#### 3.1) Method

One hundred and ten subjects completed an online questionnaire for \$5. Of those one hundred and ten, ninety-six produced usable data. Due to experimenter error, forty-two of these subjects produced unusable data for two of the survey questions. 65.96% of the subjects were female, the youngest participant was 23 and the oldest was 81<sup>92</sup>. The mean age was 44.59 and median age was 44.

As in Experiment 1, the questionnaire first presented subjects with eight actions in random order on separate screens and asked them to indicate when the action would be

91. Baron and Leshner. How serious are expressions of protected values?

92. Sex is not a significant determinant of protected values. Comparing the number of PVs for males and females using Fisher's Exact Test for Count Data,  $p = .2018$

acceptable by choosing a response from Table 1. The situations were (percentage with PV in parentheses):

- Deciding not to enforce laws against child labor in sweatshops (71.28%).
- Eliminating special education programs (37.23%).
- Dumping waste from a factory into a river (76.60%).
- Forcefully sterilizing women for population control (41.49%).
- Not prosecuting a business that is almost certainly discriminating against blacks and women (63.83%).
- Not inspecting food that may be contaminated with salmonella or melamine (79.79%).
- Reducing funding for foreign aid programs that fight malaria (14.90%).
- Euthanizing patients in a permanent vegetative state against the wishes of their families (29.79%).

Zero subjects had no protected values and three had protected values for all actions. The mean number of protected values for the eight cases was 4.15 and the median was 4. Subjects were then given a scenario for each action that entailed making tradeoffs between the bad, non-monetary good, (e.g., children in sweatshops, deaths from malaria) and money for a range of three values. Subjects either had a small range, which varied 25% around the midpoint or a large range, which varied 75% around the midpoint, and either the amount of money or the amount of the bad (but not both) varied between subjects. Subjects were asked to consider the tradeoffs one at a time for each of the three values and were then presented with the questions in Table 5.

### **3.2) Results**

Section 3.2.1 shows that people with protected values tend to use moral rules for making decisions, whereas people without protected values favor cost-benefit analysis.

Section 3.2.2 shows that moral rules combined with protected values make judgments easier and that the difficulty of making a decision is decreasing in the absolute value of the difference in importance of the two dimensions of the tradeoff. Section 3.2.3 shows that people with PVs feel less guilty about not making tradeoffs and more guilty about making tradeoffs when the gain is money than people without PVs. Guilt about making a tradeoff for subjects without PVs is decreasing in the compensation from doing so, but this is not true of subjects with PVs. Section 3.2.4 shows that subjects with PVs are not less willing to delegate decision making to someone who may not share their values but that decision difficulty is related to decision aversion.

### **3.2.1) Methods of Decision Making**

Subjects with protected values are more likely to use moral rules when making decisions about tradeoffs than subjects without protected values. Subjects without PVs are more likely to use cost-benefit analysis. A test of the equality of the proportions of subjects with and without PVs who endorsed the use of moral rules for decision making across all scenarios found a significant difference at the 1% level ( $p < 2.2e-16$ ). This was also true comparing the proportions of subjects with and without PVs who used cost-benefit analysis across all scenarios ( $p < 2.2e-16$ ). Figure 6 shows the methods of decision making that subjects with and without PVs endorsed broken down by scenario (these are the responses to Q6 in Table 5).

## Experiment 2 Questionnaire

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Q1 Is the above tradeoff acceptable?

- Yes
- No
- Indifferent

Q2 How difficult is it to compare the two alternatives (**Expected Deaths of Children** and **Money Saved**)?

Q3 How sure are you that you would make the right decision?

Q4 In principle, how important is avoiding the first issue (Expected Deaths of Children)?

Q5 In principle, how important is the second issue (Money Saved)?

Q6 Which of the following best describes how you made your decision?

- I used a moral rule
- I considered the costs and benefits of the tradeoff
- I used my intuition
- I chose randomly
- None of the above

Q7 How guilty would you feel making this tradeoff knowing that **75, 000 children would be expected to die from malaria?**

Q8 How guilty would you feel about *not making the tradeoff* knowing that the **\$3, 600, 000** would have benefitted people either directly or by being spent on other programs?

Q9 To what extent would you prefer that someone who may or may not share your values make the decision instead of you?

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Table 5: The questions for each scenario, using “Reducing funding for foreign aid programs that fight malaria” as an example. Q7-Q9 were measured on a five-point scale, Q2-Q5 were measured on a seven-point scale and based on Experiment 7 in Beattie (1988). The boldfaced text changed between scenarios and/or with the range of values presented.

## Methods of Decision Making

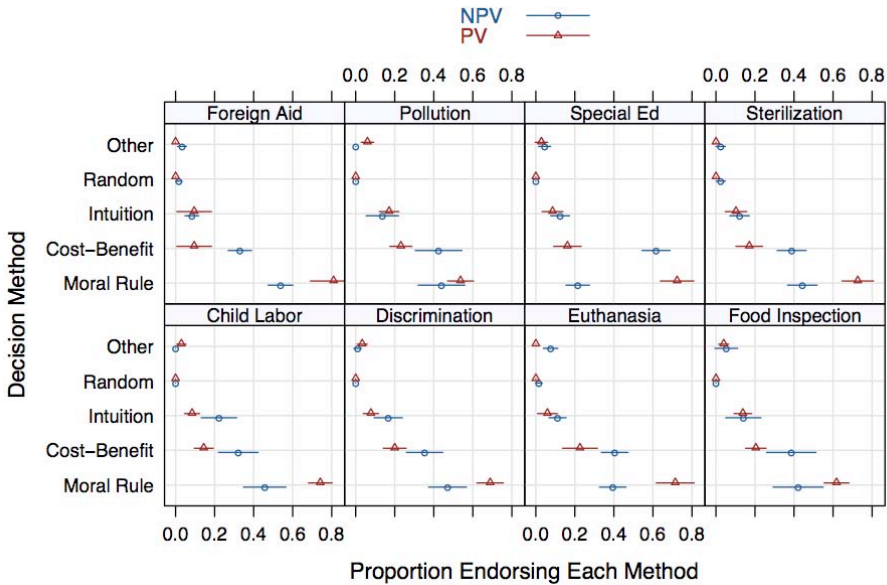


Figure 6: Subjects with PVs are more likely to use moral rules when making decisions. Subjects without PVs are more likely to endorse the use of cost-benefit analysis. The two groups do not differ significantly in their use of other methods. Points are the proportion endorsing each method and the lines represent 95% confidence intervals.

### 3.2.2) Decision Difficulty

Moral rules make decisions easier for people with protected values. This finding is expected since it should be easier to apply rules to make decisions than to evaluate the specifics of each tradeoff. Subjects without protected values, however, do not appear to benefit from the use of moral rules. Beattie (1988) found that whether a decision was considered to be a moral choice was a significant predictor of difficulty but that the direction of the effect varied between subjects. She hypothesized that “perhaps moral decisions are easy for some subjects because they have developed rules for dealing with them; while moral decisions represent true dilemmas for other subjects.” A possible explanation of Beattie’s

(1988) finding is that moral decisions are less problematic for people with protected values whereas moral choices are dilemmas for people without protected values.

Decisions are easier when one dimension of the tradeoff is considered more important than the other. To test this hypothesis I constructed two composite variables from the importance ratings (Q4 and Q5 in Table 5): the first being the absolute value of the difference in the importance ratings (*absDiffImportance*) and the second being the product of the ratings (*MultipliedImportance*). People find it more difficult to evaluate whether a tradeoff is acceptable when the two dimensions are close in their level of importance (*absDiffImportance* is small). Note that the combined level of importance has less of an effect than the relative importance. This can be seen in Table 6 from the fact that the coefficient on the product of the importance ratings (*MultipliedImportance*) is smaller than the coefficient on the absolute value of the difference in those ratings (*absDiffImportance*). Thus, a tradeoff in which one cares little about both dimensions (*MultipliedImportance* is small) might still be difficult if the two are close in importance (*absDiffImportance* is small). This result is also consistent with the finding of Beattie (1988) that “difficult decisions do not always involve alternatives that one cares deeply about.”

Table 6 shows the results of a mixed effects model using subjects’ ratings of importance of the dimensions of the tradeoff, protected values, and the use of moral rules as determinants of mean decision difficulty. Subjects rated the difficulty of the tradeoffs using a seven-point scale and provided three ratings for each scenario because each scenario had three different levels for one dimension of the tradeoff. These self reported ratings of decision difficulty are significant predictors of the log time it took subjects to decide whether the tradeoff was acceptable which lends credibility to the measure.

## Rules, Protected Values and Decision Difficulty

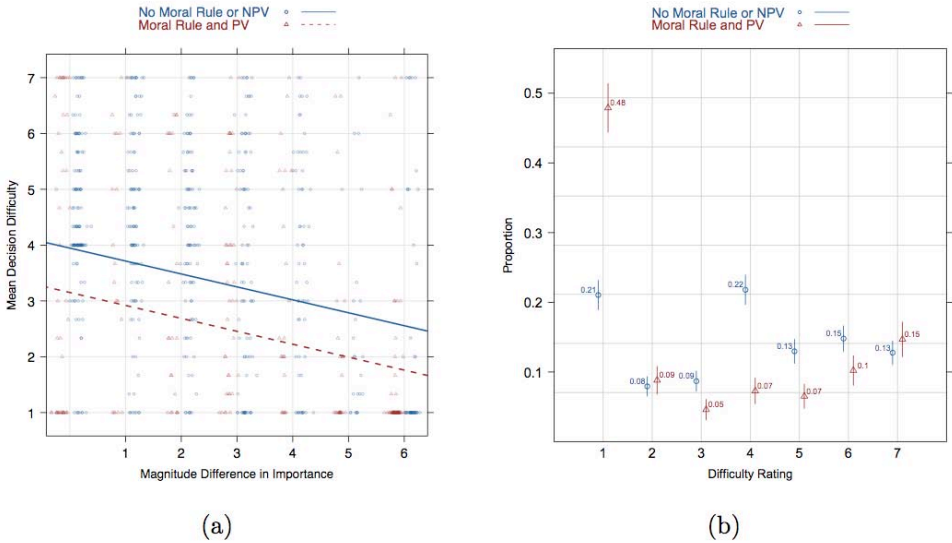


Figure 6: Subjects with PVs that use moral rules find decisions easier than subjects who either do not have a PV or do not use rules.

(a) The points on the graph have been jittered along the x-axis to make the number of points easier to see. Each point is the difference in importance and the mean difficulty of the scenario for that subject (each subject has three difficulty ratings per scenario, one for each value in the range).

(b) A dot-plot showing the proportion of each difficulty rating for subjects with moral rules and PVs versus those without both. Lines are 95% confidence intervals.

## Decision Difficulty

Linear mixed model fit by REML						
RANDOM EFFECTS:						
Groups	Name	Variance	Std. Dev.			
Subject	(Intercept)	1.369294	1.1702			
Scenario	(Intercept)	0.047786	0.2186			
Residual		1.990471	1.4108			
Number of obs: 752, groups: Subject, 94; Scenario, 8						
FIXED EFFECTS:						
		Estimate	Std. Error	t value		
(Intercept)		3.826540	0.298811	12.806		
absDiffImportance		-0.181114	0.042777	-4.234		
MultipliedImportance		0.025524	0.007075	3.608		
PVtrue		0.168829	0.169742	0.995		
MoralRuleTrue		-0.122815	0.180984	-0.679		
Badvaries		-0.237132	0.271815	-0.872		
MoralRuleTrue:PVtrue		-0.785795	0.236225	-3.326		
CORRELATION OF FIXED EFFECTS:						
	(Intr)	absDImp	MltImp	PVtrue	MRtrue	Badvar
absDImp	-0.603					
MultImport	-0.704	0.636				
PVtrue	-0.161	-0.077	-0.078			
MRuletrue	-0.029	-0.291	-0.183	0.346		
Badvar	-0.374	0.041	0.053	-0.006	-0.012	
MRtr:PVtr	0.107	0.027	0.048	-0.662	-0.660	-0.004

Table 6: Decision difficulty as a function of importance, protected values, and moral rules. Notice that the product of the importance ratings (MultipliedImportance) has less of an effect than the relative importance (absDiffImportance). Difficult decisions are not necessarily those in which both dimensions are of high importance. MoralRuleTrue is a dummy variable valued at 1 if the subject used a moral rule to make her decision. PVtrue is a dummy variable valued at 1 if the subject had a

PV for the scenario. Badvaries is a dummy variable valued at 1 if the non-monetary good (e.g., child labor, pollution, deaths) — as opposed to money — varied between scenarios. The insignificance of the Badvaries coefficient suggests that it does not matter which dimension of the tradeoff varies between cases.

### **3.2.3) Guilt and Decision Making**

Subjects with protected values and subjects that made choices using moral rules say they would feel guiltier about making tradeoffs that entailed a loss in a protected good than those without protected values. Furthermore, the more important subjects rated the lost good, the more anticipated guilt they had about making tradeoffs. These results are presented in Figure 9 and Table 7.

The guilt levels of subjects with protected values are insensitive to the gain from making a tradeoff. Subjects without protected values feel slightly less guilty about making tradeoffs as compensation from doing so increases, but this is not the case for subjects with protected values. Guilt is decreasing in the importance of money, meaning that compensation does more to alleviate guilt about tradeoffs when money is of high importance. These results are presented in Table 8.

## Guilt and Importance of Non-Monetary Good

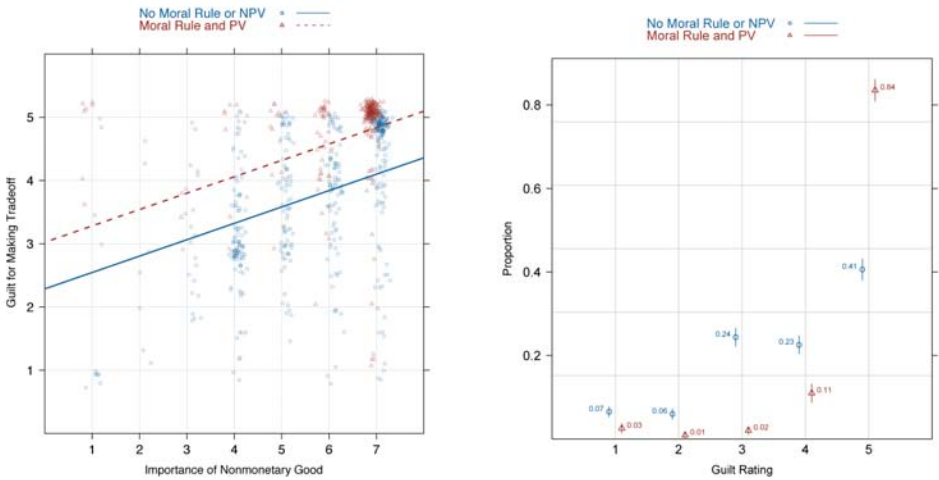


Figure 8: Subjects with PVs that used moral rules to make decisions have higher levels of anticipated guilt about a loss of the non-monetary (protected) good. There are separate, significant level effects for both PVs and moral rules. These effects are given in Table 7.

- (a) The points on the graph have been jittered along both axes to make the number of points easier to see. Points represent mean guilt and the importance of the nonmonetary good for each subject.
- (b) A dot-plot showing the proportion of each guilt rating for subjects with moral rules and PVs versus those without both. Lines are 95% confidence intervals.

## Guilt Due to Loss of Non-Monetary Good

Linear mixed model fit by REML					
RANDOM EFFECTS:					
Groups	Name	Variance	Std. Dev.		
Subject	(Intercept)	0.339654	0.582798		
Scenario	(Intercept)	0.007352	0.085744		
Residual		0.470500	0.685930		
Number of obs: 752, groups: Subject, 94; Scenario, 8					
FIXED EFFECTS:					
		Estimate	Std. Error	t value	
	(Intercept)	2.54978	0.15400	16.557	
	PVGoodImportance	0.22302	0.02288	9.749	
	PVtrue	0.24644	0.08199	3.006	
	MoralRuleTrue	0.40394	0.08884	4.547	
	Badvaries	-0.08665	0.13499	-0.642	
	PVTr:MRTr	0.04205	0.11473	0.367	
CORRELATION OF FIXED EFFECTS:					
	(Intr)	PVGImp	PVtr	MRtr	Badvar
PVGImport	-0.773				
PVtrue	-0.118	0.116			
MrlRITrue	0.061	-0.324	0.359		
Badvar	-0.374	0.066	-0.009	-0.022	
PVTr:MRTr	0.091	0.052	-0.666	-0.661	-0.003

Table 7: Subjects with protected values and those who use moral rules have higher levels of guilt about making tradeoffs in which there is a loss in a protected good. Guilt is increasing in the rated importance of the non-monetary good for each scenario (PVGoodImportance, Q4 in Table 5).

## Guilt and Compensation

Linear mixed model fit by REML							
RANDOM EFFECTS:							
Groups	Name	Variance	Std. Dev.				
Subject	(Intr)	0.3581562	0.59846				
Scenario	(Intr)	0.0055146	0.07426				
Residual		0.5031511	0.70933				
Number of obs: 1416, groups: Subject, 59; Scenario, 8							
FIXED EFFECTS:							
		Estimate	Std. Error	t value			
(Intercept)		2.732998	0.170065	16.070			
MoneyGain		-0.099499	0.033012	-3.014			
PVtrue		0.004271	0.114752	0.037			
MoralRuleTrue		0.338577	0.066175	5.116			
PVImportance		0.272911	0.018929	14.417			
MoneyImportance		-0.056768	0.015152	-3.747			
MoneyGain:PVTrue		0.099747	0.046211	2.159			
PVTrue:MoralRuleTrue		-0.026622	0.088174	-0.302			
CORRELATION OF FIXED EFFECTS:							
	(Intr)	MnyGn	PVtr	MoralRt	PVImp	MImport	MyG:PVt
MoneyGn	-0.389						
PVTrue	-0.273	0.581					
MoralRtrue	-0.052	0.026	0.217				
PVImport	-0.636	-0.007	-0.056	-0.266			
MImport	-0.472	0.003	-0.011	0.129	0.133		
MGn:PVtr	0.279	-0.714	-0.819	-0.013	-0.002	0.004	
PVtr:MRtr	0.057	-0.016	-609	-0.609	0.032	0.062	0.033

Table 8: The guilt from making a tradeoff that entails an increase in a bad (e.g., child labor, pollution, discrimination) is decreasing in the amount of compensation (MoneyGain) from making the tradeoff for subjects without protected values. This is not the case, however, for subjects with protected values (see the MoneyGain:PVTrue interaction). Thus, people with protected values do not appear to feel better about tradeoffs as the benefits of the tradeoffs increase.

### 3.2.4) Decision Aversion

Previous studies<sup>93</sup> found that people are less likely to make choices when the tradeoff is perceived as difficult. In this study, accepting a tradeoff is a change from the status-quo. Subjects with protected values are less likely to say that a tradeoff is acceptable if they think the choice is difficult or they are unsure about their ability to make the right decision. The behavior of people without protected values is consistent with decision theory: their willingness to accept tradeoffs was not influenced by the perceived difficulty of the decision. These effects, however, were small in comparison to the effect that moral rules had on choice. The results of a mixed effects probit regression using ratings of difficulty, certainty, protected values, and moral rules to predict the acceptance of tradeoffs is shown in Table 9.

## Guilt and Importance of Non-Monetary Good

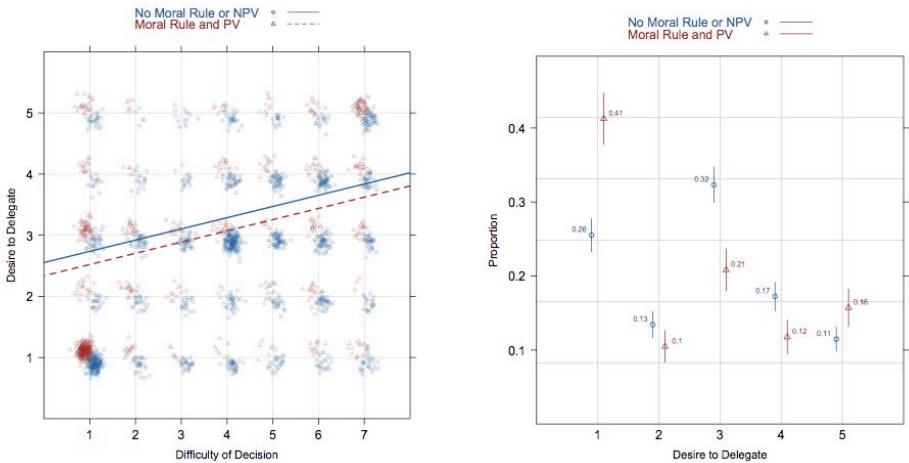


Figure 9: Desire to delegate decision making is increasing in the difficulty of the decision, but is not significantly affected by protected values or moral rules.

(a) The points on the graph have been jittered along both axes to make the number of points easier to see. Points represent a single guilt and difficulty rating.

(b) A dot-plot showing the proportion of each rating for subjects with moral rules and PVs versus those without. Kimberly M. Sawers. Evidence of choice avoidance in capital-investment judgments. *Contemporary Accounting Research*, 22(4):1063–1092, 2005.; Tversky and Shafir. Choice under conflict: The dynamics of deferred decision.

without both. Lines are 95% confidence intervals.

Subjects were asked how much they would prefer someone else, who may or may not share their values, make the decision (Q9 in Table 5). Protected values did not affect desire to delegate. The desire to delegate decision making authority to a third party is increasing in the perceived difficulty of the decision (Q2 in Table 5) and decreasing in the level of certainty (Q3 in Table 5) about making the right choice. This finding is consistent with previous research on decision avoidance which has found that people are less likely to make choices when the tradeoff is perceived as difficult<sup>94</sup>. The use of moral rules appears to reduce desire to delegate, though this effect is only significant at the 10% level. Believing that a tradeoff is a moral choice may make people less willing to delegate decision-making because there is a risk that the delegate will not share and honor the values of the principal.

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94. Sawers. Evidence of choice avoidance in capital-investment judgments.; Tversky and Shafir. Choice under conflict: The dynamics of deferred decision.

## Choice, Difficulty, Certainty and Protected Values

Linear mixed model fit by REML							
RANDOM EFFECTS:							
Groups	Name	Variance		Std. Dev.			
Subject	(Intr)	1.04874		1.02408			
Scenario	(Intr)	0.19779		0.44474			
Number of obs: 2256, groups: Subject, 94; Scenario, 8							
FIXED EFFECTS:							
		Estimate	Std. Error	z value	Pr(>  z )		
(Intercept)		-0.30340	0.34523	-0.879	0.3795		
Difficulty		-0.04028	0.03318	-1.214	0.2248		
PVtrue		0.68600	0.48337	1.419	0.1558		
Certainty		-0.01233	0.04177	-0.295	0.7678		
MoralRuleTrue		-1.81230	0.15354	-11.803	<2 x 10 <sup>-16</sup>		
PVtrue:Difficulty		-0.10221	0.05863	-1.743	0.0813		
PVtrue:Certainty		-0.12985	0.06624	-1.960	0.0500		
PVTrue:MoralRuleTrue		-0.52079	0.27274	-1.909	0.0562		
CORRELATION OF FIXED EFFECTS:							
	(Intr)	Difficulty	PVtr	Crtnty	MrlRtr	Dff:PVtr	Crtn:PVt
MoneyGn	-0.614						
PVTrue	-0.403	0.366					
MoralRtrue	-0.722	0.398	0.410				
PVImport	0.030	-0.018	-0.032	-0.202			
MImport	0.272	-0.468	-0.804	-0.164	0.022		
MGn:PVtr	0.374	-0.215	-0.853	-0.527	0.125	0.478	
PVtr:MRtr	-0.044	0.039	-0.110	0.141	-0.469	0.155	-0.124

Table 9: Results of a mixed effect probit regression using ratings of difficulty, certainty, protected values, and moral rules to predict the acceptance of tradeoffs. Decision theory says choices should depend on outcomes and not the difficulty of the decision. People with protected values, however, appear to be influenced by factors such as certainty and difficulty. The interaction between protected values and difficulty is significant at the 10% level and the interaction between protected values and certainty is significant at the 5% level.

## Decision Aversion

Linear mixed model fit by REML								
RANDOM EFFECTS:								
Groups	Name	Variance	Std. Dev.					
Subject	(Intercept)	0.7729096	0.879153					
Scenario	(Intercept)	0.0039482	0.062835					
Residual		0.8043268	0.896843					
Number of obs: 2256, groups: Subject, 94; Scenario, 8								
FIXED EFFECTS:								
	Estimate	Std. Err	t value					
(Intercept)	2.468145	0.182088	13.555					
Difficulty	0.183336	0.013026	14.075					
MultipliedImportance	0.004498	0.002156	2.087					
Certainty	-0.101702	0.016596	-6.128					
MoralRuleTrue	-0.108989	0.063781	-1.709					
PVtrue	-0.066546	0.074413	-0.894					
LargeRange	0.176465	0.190709	0.925					
MoralRuleTrue:PVTrue	-0.058823	0.088063	-0.668					
LargeRange:PVTrue	0.036960	0.085209	0.434					
CORRELATION OF FIXED EFFECTS:								
	(Intr)	Dffelt	MImp	Crtnty	MrlRtr	PVtr	Rng	MRtr:PVtr
Difficulty	-0.418							
MltImp	-0.240	-0.195						
Certainty	-0.574	0.435	0.048					
MRITrue	-0.052	0.002	-0.030	-0.161				
PVTr	-0.159	-0.008	-0.012	-0.001	0.278			
Range	-0.498	-0.022	0.030	-0.012	-0.032	0.104		
MRtr:PVtr	0.062	0.049	0.057	-0.015	-0.633	-0.578	0.018	
Rng:PVtr	0.0111	0.014	0.001	0.001	0.073	-0.454	-0.233	-0.114

Table 10: Results of a mixed effect regression using ratings of difficulty, certainty, protected values, and moral rules to predict desire to delegate decision-making authority to an unspecified third party. Protected values are not significantly related to a desire to delegate

#### 4) Conclusion

Experiment 1 focused on the implications of protected values for valuation measures. The amount of a good (e.g., money) needed to compensate for an increase in a bad (e.g., pollution) ought to be increasing in the magnitude of the increase in the bad. For example, the greater the amount of pollution, the more compensation people should need to be left indifferent. People without protected values behave in a manner consistent with this reasoning, but people with protected values who agree to tradeoffs are insensitive to stimulus range. They do not adequately increase the amount of compensation needed for an increase in a bad. This suggests that matching tasks which ask people what is needed to compensate for a loss may not be able to reflect the preferences of people with protected values. Consistent with previous work on protected values<sup>1</sup>, people with PVs may not always realize the implications of their preferences until presented with examples of potential conflicts and tradeoffs. People without protected values do not reverse their preferences when presented with tradeoffs. As can be seen in Figure 3, the percentage of subjects without PVs who appeared to reverse their preferences was not significantly different from zero for any scenario. Thus, protected values appear to be unreflective.

Experiment 2 focused on protected values and their relationship to tradeoff difficulty, guilt, decision aversion, and the use of moral rules. People with protected values are more likely to use rules to make decisions and decisions are easier for people with protected values who use rules. This is presumably because it is easier to apply rules to solve decision problems than to evaluate the costs and benefits of each tradeoff. Thus, moral and ethical decisions do not necessarily imply a high level of conflict. Decisions are harder when two attributes in the tradeoff are close in importance. Judgments of decision difficulty do not increase substantially in the combined importance of the two dimensions, which implies that difficult decisions are not always those we care deeply about. People with protected values anticipate feeling guiltier about making tradeoffs that require them to sacrifice a protected good. This suggests that protected values are strong opinions, and that the holders

1. Baron and Leshner. How serious are expressions of protected values?

of protected values feel differently about the goods they want to protect from tradeoffs. The willingness of many subjects with protected values to make tradeoffs in experiment 1, however, supports earlier research<sup>2</sup> which concluded that protected values are frequently unreflective and overgeneralized. Protected values do not affect people's desire to delegate decision making to a third party. This result did not support my hypothesis that people with protected values would be less willing to delegate because delegation involves a risk of a loss in a protected good due to the chance that the delegate will not honor the values of the principal. Consistent with previous research<sup>3</sup>, decision avoidance is increasing in decision difficulty.

Although people with protected values are more likely to use moral rules, the two are not perfectly correlated. As Table 6 shows, some subjects with PVs endorsed cost-benefit analysis and some subjects without PVs endorsed the use of moral rules. Future research could focus on the link between values and methods of decision making. Under what circumstances do people switch methods, and how do they explain their choices? The most effective valuation measure for a tradeoff may depend on the methods of decision making that people are likely to use.

Like previous studies on protected values, I focused on moral issues. Protected values, however, may also affect tradeoffs that people would not describe as moral dilemmas, such as preferences for different economic systems. Another outstanding question is how protected values change over time, and whether values tend to go only from protected to unprotected. Evidence from this study suggests that unprotected values do not become protected by considering tradeoffs. 79.79% of subjects in this study had a protected value for not inspecting food that may be contaminated with salmonella or melamine. This percentage, however, may be sensitive to recent reports of contamination. If PVs are highly sensitive to current events then they should not be thought of as deeply held values and beliefs, as this

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2. Baron and Leshner. How serious are expressions of protected values?

3. Sawers. Evidence of choice avoidance in capital-investment judgments.; Tversky and Shafir. Choice under conflict: The dynamics of deferred decision.

study and others<sup>4</sup> already suggest. Future research could also examine how emotions affect the expression of PVs. This study investigated how PVs affect guilt feelings, but not how emotions such as anger may influence PVs.

Protected values should be challenged during the preference elicitation process because they are often unreflective. People's values must be challenged repeatedly in order to get a reliable measure of their seriousness. Using matching tasks to measure rates of substitution is probably less successful than using choice tasks, which result in people more readily agreeing to tradeoffs. Caution is necessary, however, because many PVs became unprotected only for the choice task, which raises the question of what these subjects' true preferences were. The issue of protected values should not be dodged when determining rates of substitution just to avoid the challenges of dealing with inconsistent and extreme views because valuation measures should try to be both accurate and precise.

## 5) Scenario Text

### 5.1) Experiment 1

*Dropping a nuclear bomb on a civilian population.* The nuclear bombings of Hiroshima and Nagasaki during World War II raised the moral issue of whether it is acceptable to drop a nuclear bomb on a civilian population in order to stop a war that would likely cause a large number of fatalities. Imagine that your country is involved in a prolonged and bloody conflict. You are faced with the decision of whether to drop a nuclear bomb that would kill civilians but prevent the death of your country's soldiers.

*Destroying human embryos.* Suppose that cloning technology and human stem cells could be used to grow organs in chimpanzees that would then be used for transplants in humans. The project would entail the destruction of fertilized embryos but could also save lives.

*Polluting a river.* A factory has been dumping waste into a nearby river, which if continued

4. Baron and Leshner. How serious are expressions of protected values?

will result in the extinction of rare plant and animal species found nowhere else. The factory could be forced to install cleaner dumping technology that would prevent the extinctions but would need to eliminate jobs in order to pay for the improvements to the plant.

*Forced sterilization for population control.* Developing countries have high birth rates. This makes it difficult for these countries to raise their standards of living because children do not work yet still must be provided for. Some countries, such as China, have implemented policies to limit population growth, resulting in higher per capita incomes (how much on average a person makes in a year) for the poor and a strengthening economy. One guaranteed way to decrease birth rates is to forcefully sterilize women after they have one child. This policy is controversial.

*Discriminating on the basis of race or gender.* Employment discrimination against blacks and women harms these groups and society as a whole. Imagine that the Justice Department has recently announced it will not prosecute some companies that are almost certainly discriminating on the basis of race and gender in order to save money.

## **5.2) Experiment 2**

*Child labor in sweatshops.* The government must spend money on enforcement in order for laws against sweatshops that use child labor to be effective. If less money is spent on enforcement, it becomes less likely that people who violate the law will be caught and punished. This means that employers will have a greater incentive to hire children illegally. Thus, cutting funding for enforcement will save money but result in an increase in the number of children employed in sweatshops. Imagine that you are responsible for making budget decisions but did not have to change your personal values in order to be given this job.

*Special education.* Imagine that the department of education in your state is facing a tight budget because of an unexpected increase in students and the poor economy. The department wants to ensure that resources are used as efficiently as possible. You are responsible for making budget decisions but did not have to change your personal values in order to be given this job. The cuts will significantly reduce the quality of education for students with special needs.

*Polluting a river.* A factory has been dumping waste into a nearby river, which if continued will result in the extinction of rare plant and animal species found nowhere else. The factory could be forced to install cleaner dumping technology that would prevent the extinctions but would need to temporarily close in order to make improvements to the plant. This would result in a loss of income for both workers and the business owners. The alternative is to preserve the jobs at the plant and allow the species extinctions.

*Forced sterilization for population control.* Developing countries have high birth rates that make it difficult to raise the standard of living because children do not work but must be provided for. Some countries, such as China, have implemented policies to limit population growth. These policies have resulted in higher per capita incomes (the average amount of money a person makes in a year) for the poor and a stronger economy. One guaranteed way to decrease birth rates is to forcefully sterilize women after they have one child. Imagine that GDP per capita is currently \$2,000 and you are faced with the following trade of.

*Discriminating on the basis of race or gender.* Employment discrimination against blacks and women limits the job opportunities and salaries of these groups. Imagine that the Justice Department has recently announced it will not prosecute some companies that are almost certainly discriminating on the basis of race and gender in order to save money. Imagine

that you are responsible for budget decisions but are not expected to change your personal values as a result of being assigned this job.

*Food inspections.* The Food and Drug Administration (FDA) is the government agency responsible for ensuring the accurate labelling and safety of all non-meat and non-alcoholic food products in the United States. The FDA's 2009 budget for monitoring food safety is \$662,000,000. The more money that is spent on food inspections, the less likely it is that people will die of food-borne illnesses such as salmonella or melamine contamination. Imagine that you are responsible for budget decisions but are not expected to change your personal values as a result of being given this job. You must consider the below tradeoffs between saving money and some increase in the number of expected deaths from contaminated food.

*Anti-malaria programs.* The President's Malaria Initiative is a five-year foreign aid program to fight malaria in 15 African countries. In sub-Saharan Africa, at least 1 million children under the age of 5 die each year from malaria. Imagine that you are responsible for budget decisions related to this program but are not expected to change your personal values as a result of having this job. You must consider the following tradeoffs between saving money and some increase in the number of deaths from malaria.

*Euthanasia for people in a permanent vegetative state.* Patients in a permanent vegetative state (PVS) have almost no chance of ever regaining consciousness. They have no high level brain functioning but can move their eyes, exhibit sleep/wake cycles, and do not require extensive life support equipment. Nevertheless they are expensive to keep alive. One way to reduce high health care costs would be to refuse treatment to these patients even when their families request it and instead euthanize them painlessly. Imagine that you are responsible for evaluating policies to reduce health care expenditures but did not have to change your personal values to take this job. For the purpose of this scenario assume that these patients

have absolutely no chance of recovery. Consider the following tradeoffs between euthanizing patients against the wishes of their families and saving money.