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SOCRATES AND POLITICAL AUTHORITARIANISM

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1999



I officially declare that this dissertation is my own intellectual work.

Antony Hatzistavrou

SOCRATES AND POLITICAL AUTHORITARIANISM

In the recent literature (see, for example, R. Kraut *Socrates and the State*, D. Estlund 'Making truth safe for democracy') political theorists identify Socrates as a main advocate of political authoritarianism. Political authoritarianism as a theory of the legitimacy of political authority comprises the following basic tenets:

1. There are normative political truths.
2. Only some (and relatively few) know the normative political truths.
3. Only those who know normative political truths have a moral right (claim, entitlement) to rule and the rest have a moral reason to obey them.

Traditionally, defenders of democracy have tried to attack political authoritarianism by questioning the validity of either the first or the second of its basic tenets. Only recently have there been attempts to challenge the idea that the mere possession of political knowledge is not sufficient for the legitimacy of a particular person's authority. These attempts however do not challenge the conception that there is such a thing as a moral right (claim, entitlement) to rule correlated with a duty to obey.

The ascription of political authoritarianism to Socrates runs contrary to the current orthodoxy which views Socrates as the champion of individual autonomy and freedom. In the first part of my dissertation I defend the ascription of political authoritarianism to Socrates against the orthodox interpretation. But my argument differs from the recent attempts to credit Socrates with political authoritarianism in two important respects: a) I argue for an intrinsic connection between Socrates' political authoritarianism and his theory of knowledge; and b) I credit Socrates with a modified version of 3 according to which Socrates does not recognise a moral right to rule correlated with a duty to obey but merely holds the thesis that the political knowledge is the sole requirement he should satisfy to be appropriate for the task of ruling.

In the second part of my dissertation I examine what is wrong with the third tenet of political authoritarianism as traditionally formulated and argue for the superiority of Socrates' modified version. The fault with tenet 3 is that it is based on the assumption that there is a substantive right to rule correlated with a duty to obey. I argue that the right to rule is not an operative reason for action (or else it is not the grounds of a duty to obey), but it is merely a 'justification-right': by claiming that *A* has a right to rule we state that he has the appropriate qualifications for the task of ruling. In this way the legitimacy of political authority is dissociated from the duty to obey. Finally, I examine Socrates' modified version of 3 and argue that possession of knowledge is not the sole requirement a particular person should satisfy to be appropriate for the task of ruling.

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INTRODUCTION

In his article 'Making truth safe for Democracy' David Estlund writes:

There is a natural association between the ideas of *truth* and *knowledge* on the one hand, and on the other hand the idea of *expertise* and *authority*, and in turn *elite* and *power*. Socrates even argued, in an explicitly political context, that knowledge *is* power. He also held the distinct view that knowledge justifies power - that the wise have a special claim to rule. Socrates was no authoritarian, because he denied that anyone was wise in the requisite way. Consider, though, the authoritarian position that is barely kept at bay. Call it *Normative Epistemic Authoritarianism* (sometimes I shall use the simpler, name "authoritarianism"). It includes the following three tenets:

1. *The Cognitivist Tenet*: Normative political claims (at least often) are true or false.
2. *The Elitist Epistemic Tenet*: Some (relatively few) people know the normative political truth significantly better than others.
3. *The Authoritarian Tenet*: The normative political knowledge of those who know is a strong moral reason for their holding political power.

Socrates avoids authoritarianism by denying the second tenet...(Estlund (1993), p. 72)

Estlund makes two important claims. The first is a historical claim: according to Estlund, Socrates' philosophy has some authoritarian elements. The second is a philosophical claim: according to Estlund, there is a natural association between expertise and authority which can be exploited in arguments for political authoritarianism. My aim in this dissertation is to examine these two claims. That is, I will discuss a) the issue of whether Socrates is an authoritarian and b) the issue of the relation between political expertise and political authority.

Estlund's ascription to Socrates of some authoritarian elements challenges the current orthodoxy in Socratic scholarship. According to the orthodox view, Socrates is a liberal thinker and supporter of moral

autonomy. Socrates' 'liberal' views are usually contrasted with the extremely authoritarian and anti-democratic views of Plato. This account of Socrates' political theses and the contrast with Plato owes much to Popper. In his *The Open Society and its Enemies*, Popper condemned Plato as an enemy of open society and praised Socrates as its champion. The short account of some current views about Socrates' political views I provide in chapter 4 shows how influential Popper's interpretation remains.

I will challenge this orthodox interpretation of the character of Socrates' political views. I will argue that Socrates is an authoritarian (and as much an enemy of open society as Plato). According to the interpretation of Socrates' philosophy, I will advance Socrates is committed to the three authoritarian tenets Estlund distinguishes.

There are two problems, however, with Estlund's account of the basic tenets of political authoritarianism. Firstly, if we read the two first tenets as premises for the third¹, we need a further premise in order for the argument to get going. This premise is that there is no strong moral reason for respecting people's moral and political autonomy. For, if there are strong moral reasons to respect people's moral and political autonomy, then, even if Estlund's cognitivist tenet and elitist epistemic tenet hold, his authoritarian tenet may remain unsupported. This is why I will distinguish another authoritarian tenet, namely, that there are no strong moral reasons for respecting people's moral or political autonomy.

Secondly, it is not clear what the moral reason for the political experts' being in authority is to which Estlund refers to in his authoritarian tenet. As I will argue in chapter 5, the authoritarian tenet

¹ As David Copp does in his response to Estlund's paper (see, Copp, (1993), p. 107).

should be understood as stating that those who have political expertise have a moral right or a moral claim to authority.

So, I will assume that political authoritarianism includes four main tenets:

- 1) There are normative political truths.
- 2) Only some (relatively few) people may know these normative political truths.
- 3) There is no strong moral reason for respecting people's political and moral autonomy.
- 4) Those who know the normative political truths have a moral claim or right to be in authority.

4) is problematic. But the problem of 4) is not a special problem for political authoritarianism. According to 4) the political experts are supposed to have a moral right to be in authority. In this respect 4) reflects what I call in chapter 5 'the common conception of the legitimacy of political authority' according to which a particular person's authority is legitimate if that person has a right to be in authority. And this right to be in authority is correlated with a duty of the subjects to obey. This means that the moral right to be in authority is a 'typical' right and provides the justificatory grounds for duties. I argue that the right to authority is not correlated with any duties and that the common conception of the legitimacy of a particular person's authority is mistaken. This is the second main conclusion of my dissertation.

My dissertation is divided into three parts. In the first part of my dissertation I discuss Socrates' views about the political art. I focus in particular on the kind of knowledge Socrates believes that the political expert should possess. The main conclusion of the first part is that

Socrates is committed to the first three tenets of political authoritarianism.

In the second part of my thesis, I focus on the fourth tenet of political authoritarianism and examine the issue of whether the right to be in authority is a 'typical' moral right correlated with a duty to obey. I provide a detailed analysis of 'typical' moral rights and conclude that the right to rule is 'task-justification right' which does not constitute justificatory grounds of other people's duties.

In the third part of my thesis I examine the issue of whether Socrates believes that the right of political experts is a 'typical' right and can be thus credited with the mistaken fourth tenet of political authoritarianism. I argue that it is problematic to ascribe to Socrates the fourth tenet of political authoritarianism. This does not mean however that Socrates is not an authoritarian. He believes that the sole requirement a particular person should satisfy for his authority to be legitimate is possession of high-level moral knowledge. According to Socrates, a particular person's authority is legitimate even though that person may not have the consent of the governed. I conclude the third part of my dissertation by suggesting that consent and expertise are jointly sufficient for legitimate authority.

In discussing Socrates' views I will not deal with the 'Socratic problem'. The Socrates of this dissertation is the Socrates of Plato's early dialogues.

Part A

Socrates on the political art

CHAPTER ONE

SOCRATES' CONCEPTION OF THE POLITICAL ART - GENERAL CHARACTERISTICS

1. 1. The aim of the political art

In the *Gorg.* we find Socrates' most systematic account of the nature and aim of the political art. The aim of the political art according to Socrates is to provide the best for the soul (see, 464c4-5; cf. 501b3-4); the politician should be concerned with nothing else but how the citizens are to become as good as possible (515b8-c3)¹. Socrates says about the aim of the political art in the *Gorg.*:

T1) For these two things [the soul and the body] I say there are two crafts; the one set over the soul I call the political craft; I can't off-hand find a single name for the single craft set over the body, but still body-care is one craft, and I say there are two parts of it, the gymnastic and the medical crafts. The part of politics corresponding to gymnastics is legislation, and the part corresponding to medicine is justice (*dikaiosunē*). Each member of these pairs - medicine and gymnastics, justice and legislation, shares with the other, in so far as they are both about the same thing; but still they differ to some extent from each other. Here are four crafts, taking care of either body or soul, aiming at the best². (464b3-c5)

¹ Socrates implicitly identifies persons with their souls in the *Gorg.*. A similar implicit identification of persons with their souls is found in his third argument against Thrasymachus in *Rep.* I (352b5-354a11). For a brief criticism of this identification in *Rep.* I see Annas (1981), pp. 54.

² The translation of all the passages from the *Gorg.* is Irwin's (1979).

In contrast to these four crafts which aim at the best for either the body or the soul, there are four 'knacks' (*empeiriai*, see 463b4, 465a3), all of them species of flattery, which aim, not at what is best for either the body or the soul, but at what is the most pleasant for either of them (464c5-d3). The species of flattery are: cosmetics, cookery, sophistry and rhetoric. Their relation to the crafts aiming at the best for either the body or the soul is as follows:

T2) ... as cosmetics is to gymnastics, so is sophistry to legislation, and as cookery is to medicine, so is rhetoric to justice. (465c1-3)

1. 2. The political art as a superordinate art

Another important characteristic of both the political art and the art which is concerned with the good of the body, according to Socrates, is the fact that they are both superordinate arts and should rule over the other arts or knacks³. Socrates focuses first on the crafts which are concerned with providing what the body desires, for example food, clothes, shoes, etc., and claims that the practice of these arts is of the servicing kind (*diakonikê*) (517d2). Some people might mistakenly think that these arts take care of the body. But, according to Socrates:

T3) Everyone supposes this who doesn't know that there is another craft, gymnastics and medicine, besides all these, which is really care of the body, and which fittingly rules over all crafts and uses their works - for it knows what food and drink is worthy and base for the excellence (*aretê*) of the body, while all the others are ignorant of it. And this is why these other crafts are slavish, with the tasks of servants, not free men, in the treatment of the body, while the gymnastic and medical crafts are mistresses

³ Socrates does not stick to his own terminology and calls sometimes what he took to be knacks (*empeiriai*) 'arts' (*technai*). See, for example, 517e6-7 and 518a3.

(*despoinas*) of these, according to what is just..... these same things apply to the soul too... (517e3-518a5)

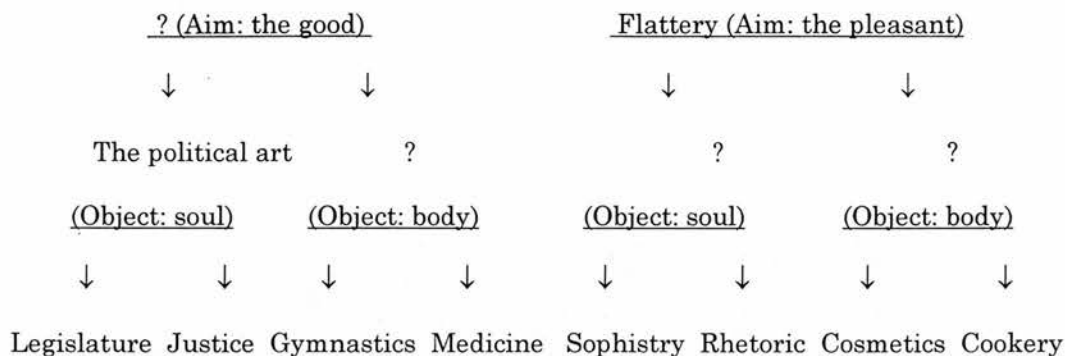
Socrates does not make clear how the analogy is supposed to apply to the case of the political art and the service of the soul. However, when Socrates considers the achievements of certain Athenian leaders of the past, like Pericles, Kimon, Themistocles and Miltiades, he acknowledges that they were extremely skilful in providing the city with ships, walls, dockyards and a lot of similar things (517c2-4), but reproaches them for not making the citizens better (517b6-7). He thinks that it is a mistake for men to believe that these politicians have made the city great; in fact the city is swelling and festering because of them (518e3-519a1):

T4) For without justice and temperance they have left the city full of harbours and dockyards and walls and tributes and this sort of rubbish. (519a1-4)

Does this suggest that Socrates takes considerations about the defence and the material welfare of the city to be of no use at all or does it suggest that he takes them to be subservient to the political art which cares for the soul of the citizens? I will examine this question in section 1. 4.

1. 3. The good of the soul the political art aims at

Let us focus first on T1 and T2. What Socrates says in T1 can be given by the following schema:



It is clear that Socrates has not fully worked out the analogy at the first two levels. Socrates does not name the general craft which aims at the good for both the soul and the body; nor does he name the craft which aims at the good for the body and the two knacks which aim at what is pleasant for the soul and the body respectively. At the third level however there are no gaps and the analogy is fully described. According to T2, we have:

<u>cosmetics</u>	=	<u>sophistry</u>	and	<u>cookery</u>	=	<u>rhetoric</u>
gymnastics		legislature		medicine		justice

To understand fully Socrates' account of the political art we must examine what the good of the soul is which the political art aims at. Socrates uses again an analogy with the body and the crafts which aim at its good. He claims that all craftsmen try to create some kind of order and structure in what they produce (503e1-504a1). The same happens with the gymnastic-trainers and the doctors: they try to put order and structure into the body (504a2-4). Health and strength comes to be in the body⁴ from the order and structure of the body (504b7-9). Socrates draws

⁴ The Greek for 'comes to be in' (Irwin's translation) is *gignomenôî*; see, *ti oun onoma estin en tôi sômati tôi ek tês taxeôs te kai tou kosmou gignomenôî*; (504b7-8) cf. 504c1-2,

again an analogy with the body to show what comes to be in the soul from the structure and order of the soul:

T5) I think that the name for the structures of the body is 'healthy' from which health and the rest of bodily excellence comes to the body. (504c7-9)...And for the structures and the orderings of the soul the name is 'lawful' and 'law', from which people become lawful and orderly; and these are justice and temperance. (504d1-3)

At 452a1-b7, Socrates claims that the function of medicine is to bring about health in the soul, while the function of gymnastics is to bring about beauty and strength. On the basis of this passage and T5 we may reasonably infer that the function of the political art is to bring temperance and justice in the soul.

Why are justice and temperance as structures of the soul so important? Socrates' answer is that they make men happy. A Socratic argument for the importance of temperance and justice as structures of the soul for human well-being would include the following crucial steps:

- 1) Whatever is an ordered x is a good x.
- 2) An ordered soul is a good soul.
- 3) Possession of a good soul makes someone a good man.
- 4) A good man is a happy man.

504c7-9, and 504d1-3). "Coming to be in" does not denote a causal relation between the structure of the soul and justice and temperance in 504d1-3. The structure of the soul *is* justice and temperance. And a similar relation holds for the structure of the body and health: the structure of the body *is* health. So 'coming to be in' does not denote a causal relation but a logical one: 'coming to be in' is used in the same sense as 'making' is used in the phrase 'the presence of two molecules of hydrogen and one of oxygen makes a liquid to be water'.

This use of 'coming to be in' should be distinguished from the use of 'coming to be in' in 504d5-e4; in this passage Socrates refers to the actions and speeches of the good rhetor from which justice and temperance comes into the soul of his citizens; 'coming to be in' obviously denotes here a causal relation between the actions and the speeches of the rhetor and justice and temperance in the soul of the citizens: the former are the cause of the latter.

He uses similar premises in an argument in the *Gorg.* to the effect that a good man is happy and blessed:

T6) a)...the good [is] that which, if it has come to be present, we are good? - Quite. - Now we are good, and so is anything else which is good, when some virtue has come to be present. - *I* think it's necessary, Callicles. - But now, the virtue of each thing, a tool, a body and, further, a soul and a whole animal, doesn't come to be present in the best way just at random, but by some structure and correctness and craft, the one assigned to each of them. Is this so? - I say so. - Then the virtue of each thing is something structured and ordered by a structure? - I would say so myself. - Then it is some order - the proper order for each of the things that are- which makes the thing good by coming to be present in it. - I myself think so. - Then a soul with its own proper order is better than a disordered soul?- It must be. - But now the soul which has order is orderly? - Of course it is. - And the orderly soul is temperate? - It certainly must be.- Then the temperate soul is good. (506d1-507a2)

b) And so, Callicles, since the temperate man is just and brave and pious, as we described him, he definitely must be a completely good man; and the good man must do whatever he does well and finely; and the man who does well must be blessed and happy. (507b8-c5)

1. 4. The relation between the two components of the political art, legislature and justice

Having examined the function of the political art we may now turn to the relation between its components, legislature and justice. Dodds ((1959), p. 226) (followed by Santas (1979), p. 288) calls legislature a *regulative* art and justice a *corrective* art. The distinction between regulative and corrective art applies equally to gymnastics and medicine. So, according to Dodds's and Santas's interpretation, legislature and gymnastics, on the one hand, are considered to be primarily regulative and to involve a corpus of principles and rules which should be followed if the good condition of the soul and body respectively is to be achieved; justice and medicine, on the other hand, are considered to be primarily corrective and to involve another set of principles and rules, which

enables the restoration of a good condition of the soul and the body respectively. (see Santas (1979), p. 288-289)

According to this interpretation, justice is a corrective art and should be thought to be equivalent to the judicial art. The following considerations support this interpretation: a) In the analogy between medicine and justice at 477a5ff. justice is equated with the art of the judges (see, especially 478a4-7) and its main function is to rid men of intemperance and injustice (478a8-b2; cf. 478d6-7). b) The term 'judicial' (*dikastikê*) replaces the term 'justice' at 520b2-3 where Socrates claims that 'sophistry is finer than rhetoric by just as much as legislative science is finer than the judicial, and gymnastic than medical'. c) The priority of legislature over judicial art (as well as of gymnastics over medicine) is easily explained if judicial art and medicine are considered to be corrective arts and legislature and gymnastics regulative.

However, if Socrates considers justice to be equivalent to the judicial art, then his account of the political art seems to be incomplete and at odds with some modern intuitions about the function of the political art. The main tasks of the politician whose primary aim is the good of the soul of the citizens will be, according to Dodds's and Santas's interpretation of Socrates' view, to propose just laws and to reach just decisions in the court. But this account of the political art leaves out an important skill a politician needs in order to successfully engage in everyday politics: the skill of identifying the right policies and make the citizens follow them⁵; in the context of Socrates' conception of the

⁵ Cf. Protagoras' account of the role of the wise rhetor in the *Theaetetus* (167c2 - 6). Protagoras claims that the wise rhetor is able to make beneficial policies seem just to the citizens.

function of the political art, this skill would consist in the politician's ability to identify the just policies which would make the citizens just and temperate. This skill is different from the skills of the legislators and the judges. In contrast with the legislative art, it is not concerned with the creation of the general principles of the social conduct, but rather in the actualisation of the 'spirit' of the laws in particular circumstances. In contrast with the judicial art, its object is not the restoration of the good condition of the soul, but the maintenance of it through the adoption of just policies.

The inadequacy of the account of the political art Dodds and Santas ascribe to Socrates becomes clearer, once we consider that we treat a particular person's ability to identify and make the people follow policies which will benefit them (either by promoting their material welfare or, if we are to follow Socrates, by making them just) as an integral part of his political skill. To be fair to Socrates, nevertheless, we should examine whether this ability which seems to be an integral element of the political art can be thought to be part of either the legislative art or the art of justice⁶. The art of justice seems the most promising candidate. Firstly, the name 'justice' (*dikaïosunê*) itself with which Socrates introduces the second component of the political art (see T1) does not have a strict 'judicial' sense. Secondly, rhetoric, which is the 'image' (*eidôlon*) of justice according to Socrates (see, 463d1-2), is described by Gorgias as the art of persuasion, which can be used, not only in the courts, but also in the council and the assembly and generally in

⁶ The fact that justice is considered an art in *Rep.* I (332a2) stops Dodds from amending *dikaïosunên* to *dikastikên* in 464b8, 464c2 and 465c5 (see, Dodds (1979), p. 227-228). As it will become clear, there are some other considerations that support the *dikaïosunê* reading (see, my second and third point in the main text).

any political gathering (see 452e1-4; cf. Gorgias' definition of rhetoric at 454b5-7). Thirdly, the fact that rhetoric can be used for non-judicial purposes seems to be also accepted by Socrates himself who identifies it generally with any public oratory (*dêmêgoria*, 502d2), and includes in it tragedy, lyre-playing (501d7-502d8), and speeches to the Athenian and other assemblies (502d10-e2). What all these species of public oratory have in common is the fact that they aim, not at the good of the citizens, but at what is pleasant for them. This sort of public oratory is flattery and something base (503a5-6); but there is, according to Socrates, another kind of public oratory and rhetoric which is concerned with how the souls of the citizens will become better (503a7-8).

The latter kind of rhetoric should be considered to be part of the political art, since it aims at the improvement of the souls of the citizens. And since this is a good kind of *rhetoric*, it should be equivalent to the counterpart of rhetoric, according to T2, namely, *justice*. So, it seems that Socrates allows for the second component of the political art to have a broader scope than the judicial art. And since the base kind of rhetoric includes the ability to propose policies which aim at what is pleasant for the citizens, the art of justice (the good kind of rhetoric) should include the ability to propose policies which aim at the good of the citizens.

Since the scope of the art of justice is broader than the scope of the judicial art, the distinction between the legislative art and the art of justice Socrates has in mind may not be primarily the distinction between a regulative and a corrective art. In accordance with the evidence of the dialogue, their difference can be brought out as follows: the legislative art is concerned with the construction of laws which prescribe the general principles of social conduct and provide the outline

of how one should live; the art of justice is concerned with the application of the laws either in political decision-making (in the assembly or in any kind of political gathering) or in the court.

Undeniably, in the *Gorg.* Socrates stresses the latter aspect of the art of justice which is equivalent to the judicial art. But, if my argument above is correct, this is not because Socrates actually intends an equation of the art of justice with the judicial art. Socrates' primary concern with the judicial aspect of the art of justice can be explained on the basis of his general preoccupation in the *Gorg.* with issues of corrective justice in his attempt to show that the person who is justly punished is better off than the one who escapes punishment.

1. 5. The political art and the provision of moral and non-moral goods

In Socrates' account of the political art, there is no reference to any non-moral goods which the politician should bring about in the city. There is no reference to the promotion of the material welfare of the citizens and the protection of the city from its enemies, which we (and as we shall see Socrates' contemporaries) consider to be among the most important things a politician should care about. Why does supply of these non-moral goods not figure among the aims of the political art according to Socrates' account of it?

To answer this question we must go back to T3 and T4. We have seen that in T4 Socrates calls the achievements of politicians of the past, like the creation of walls, dockyards, etc. 'rubbish'. Now he presumably does not think that all of these achievements are entirely useless to the

city; his point is rather that in comparison to justice and temperance these achievements count as nothing and a politician makes an empty boast of having created harbours, ships and the like, when he has failed to make his citizens just and temperate.

It seems that provision of all of these non-moral goods was considered by Socrates' contemporaries to be a real aim of the art of politics. Socrates says in the *Euthyd.* :

T7) ...the other works (*erga*) which *one* would tell to be the works of the political art - there are a lot of these, I think, for example, making the citizens wealthy and free and peaceful? (*astasiastous*)-⁷...(292b4-6)

In this passage Socrates mentions non-moral goods which contribute to the general material welfare of the citizens and not only to the defence of the city. But T4 and T7 taken together show that there is a conception of the political art according to which promotion of non-moral goods is a main aim of politics⁸. What then is Socrates' attitude towards this conception of the political art?

Socrates seems to condemn this conception of the political art because according to it the political art is not concerned with what is best

⁷ Unless otherwise stated the translation is mine.

⁸ It is not clear whether Socrates believes that according to the common conception of the political art supply of non-moral goods is the *sole* aim of the political art. In the *Gorg.* (see, T8 & T9), Socrates shows only that the criterion people use to judge whether someone is a good politician is whether he succeeds in promoting the material welfare of the citizens. This does not preclude, however, that, according to the common conception, the politician had to promote some moral goods as well, say, guarantee that there is less injustice in the trade market, fewer murders and robberies. The fact that provision of moral goods does not figure among the criteria men employ to assess whether someone is a successful politician might indicate that according to the common conception provision of moral goods is not a central aim of political art, but it does not show that it is not among the aims of political art at all.

for (the soul of) the citizens but with what is most pleasant to them.

Twice he reproaches Callicles:

T8) But a little later you come along saying that fine and good men [Themistocles, Pericles, Kimon, Miltiades] have been citizens in the city. Whenever I ask you who they are, I think the sort of men in politics you offer are just as if I had asked you about gymnastics which men have previously proved to be or are now good in care for the body, and you told me quite seriously, "Thearion the baker, Mithaecus who wrote the Sicilian cookery-book, and Sarambus the vendor, because they are terrific at care of the body- one supplies terrific bread, one cooked dishes, the third wine. (518a7-c1)

T9) And what you are doing now, Callicles, is just like this. You're eulogizing people who feasted the Athenians, indulging them with what they had appetite for. (518e1-3)

So, the political art of the politicians of the past (who were concerned with the provision of non-moral goods) is considered to be analogous to the art of cookery. But, as T3 makes clear, cookery is among these arts or knacks which are subordinate to the art which really cares for the body. From T3 one can reasonably infer that, once cookery and all the other arts or knacks that supply what the body needs are controlled by the art which really cares for the body, they do no harm⁹. Similarly, supply of non-moral goods can be considered to be subordinate to the political art, which aims at making the soul better (that is, just and temperate); and, once supply of non-moral goods is controlled by the art which cares for the good of the soul, it does no harm.

It is unclear, however, whether Socrates considers the skill of promoting non-moral goods in the city as part of the political art. The analogy with cookery suggests that it is not: cookery is not part of

medicine. Socrates does not say anything substantial about the skill of promoting non-moral goods in the city and thus we cannot identify the class of people he might think they possess it. But, if Socrates does not consider this skill to be a part of the political art, then at least the following is clear enough: his conception of the political art is not reconcilable with either what he took to be the common conception of the political art of his time or our modern intuitions according to which the art of politics has something to do with the material welfare of the citizens.

On the other hand, in the *Euthyd.* Socrates does not explicitly say that promotion of non-moral goods in the city is not among the aims of the true political art. But even if we allow that he took the skill of promoting non-moral goods in the city to be a part of the political art (albeit not as important as the skill of making the souls of the citizens just and temperate) problems still remain. Socrates needs to clarify the relation of the two skills; does he think that, the skill of promoting non-moral goods comes with the acquisition of the skill of promoting moral goods or, does he think that, even if one possesses the latter, he still needs some special training to acquire the former?

To conclude: according to Socrates, the real political art is not primarily the art of supplying non-moral goods; its aim is to make the souls of the citizens just and temperate; provision of non-moral goods is worthless if the souls of the citizens are not just and temperate; but, if

⁹ The point is rather obvious. Socrates does not suggest that there should be no cooks but that their art should be controlled by the art which cares for the good of the body.

the provision of non-moral goods is guided by the art whose aim is to make the souls of the citizens just and temperate, then it does no harm.

We can thus explain why Socrates does not take provision of non-moral goods to be one of the (main?) aims of the real the political art: provision of non-moral goods is less important than the care of the soul and its beneficialness is conditional upon the success of the art which cares for the soul.

1. 6. The object of the real politician's knowledge

One more thing about Socrates' conception of the political art needs to be clarified, namely, what the real politician's knowledge is knowledge of. Socrates claims:

T10) ...someone who is going to be a rhetor in the right way should be a just man, one who knows about just things (*epistêmōna tōn dikaiōn*) - which again Polus said Gorgias had conceded out of shame. (508c1-2)

I would like to note three things about T10. a) The knowledge about just things which Gorgias has conceded is knowledge of which particular things are just or unjust (good or bad, fine or disgraceful) (see, 459d1-e1). b) The fact that the rhetor has knowledge not only of which things are just or unjust but also of which things are good or bad, fine or disgraceful indicates that Socrates, when speaking of knowledge about just things at T10, refers to general moral knowledge. c) We have seen that the real or true rhetor is the possessor of the art of justice. So,

presumably knowledge about just things is the knowledge the man who has the art of justice possesses.

Is the knowledge about just things also the characteristic knowledge of the man who possesses the legislative art, and thus generally of the man who possesses the political art? It seems quite plausible to suppose that it is: to create the laws the legislator who tries to make the soul of his citizens just and temperate must at least know which things are just or unjust. Further, the analogues of the legislator and the good rhetor, the gymnast and the doctor, are presented by Socrates as sharing the same kind of theoretical knowledge, namely, they know which food or drink is good for the body (see, T3). If the analogy holds, then we should expect the legislator and the good rhetor to know which things are just or unjust. Finally, in the *Charmides* Socrates explicitly identifies political knowledge with knowledge about which things are just:

T11) Is it [the knowledge of knowledge] the same with the knowledge and lack of knowledge of which thing is healthy and knowledge and lack of knowledge of which thing is just?

In no way.

But the first I think is medical knowledge, the second *political knowledge* and that thing nothing else but knowledge. (170a10-b4)

However, the political art involves also another kind of knowledge, according to Socrates. The possessor of the political art must know the order and the structure of the soul which is justice and temperance (see, T5) as the gymnast and the doctor have knowledge of the order and the structure of the body which is health (see, T5 and 504a2-4). According to Socrates:

T12) Then won't that rhetor, the craftsman, the good one, look to these things (the structure and the order of the soul) when he applies whatever speeches he makes to souls, and when he applies all his actions to them, and when he gives whatever he gives, and when he takes away whatever he takes away? He'll always have his mind on this; to see that the souls of the citizens acquire justice and get rid of injustice, and that they acquire temperance and get rid of intemperance (*akolasia*) and that they acquire the rest of virtue and get rid of vice. (504d5-e3)

In T12 only the true rhetor is presented as having this kind of knowledge. However, Socrates probably thinks that knowledge of the order and the structure of the soul also belongs to the legislative art and thus to the political art in general. This is suggested: a) by the fact that Socrates considers, as we have seen above, the knowledge of the order and the structure of the soul which is health to belong to both the gymnastic and the medical arts and b) by the fact that he calls the order and structure of the soul 'lawful' and 'law' (see, T3). So, we are justified in claiming that, according to Socrates, knowledge of the structure and the order of the soul is another component of the political art.

It becomes clear that the knowledge the possessor of the political art has is moral knowledge. Political knowledge is thus equivalent for Socrates to moral knowledge. Further, it seems that for him the political art is moral virtue, since he holds that the man who possesses moral knowledge is virtuous, acts virtuously and has a just motivation:

T13) S. And isn't someone who has learnt carpenter's things a carpenter, or isn't he? G. Yes he is. S. And isn't someone who has learnt musical things a musician? G. Yes. S. And isn't someone who has learnt medical things a doctor? And in other cases by the same account (*logos*) isn't the man who has learnt each of these things such as his knowledge makes him? G. Quite. S. Then according to this account isn't also the man who has learnt just things just? G. Certainly, I presume. S. And, I take it, the just man does just things. G. Yes. S. Then isn't it necessary for the rhetor to be just, and

for the just man to want to do just things? G. Yes, apparently. S. Then the just man will never want to do injustice. G. Necessarily. (460b1-c4)¹⁰

1. 8. The political art as *technê*.

¹⁰ I would like to note the following things about this argument. First, Socrates establishes the conclusion that the man who knows (has learnt) just things is just on the basis of the principle that possession of knowledge of F-things makes someone F. In order that the principle is valid, 'knowledge of F-things' must be understood in the sense 'knowledge of the cognitive field F-things fall in' or 'knowledge of a theory about F-things'. 'Knowledge of F-things' should not be taken in the weak sense 'knowledge of some F-things' or 'knowledge of some truths about F-things', since in this case anyone who knows some things about a particular field could count as an expert in it. Further, in order for the principle to be valid "knowledge of F-things" should be taken to include, not only theoretical knowledge, but also knowledge of a particular method (or a particular knowing how) pertaining to the field to which F-things belong. Second, the move from 'possession of knowledge of F-things makes someone F' to 'the man who knows just things is just' is problematic. The examples of craftsmen (the carpenter, the musician and the doctor) Socrates adduces to illustrate the principle that possession of knowledge of F-things makes someone an F differ in a significant respect from the example of the just man. While we may legitimately hold that someone is a musician, for example, purely on the basis of the knowledge he possesses, even if in many cases he has no motivation to employ his expertise and play music, it is doubtful whether we can legitimately hold that a particular person is just, even if in many cases he has no motivation to behave justly and as a matter of fact does not perform just actions. For example, a musician's lack of motivation to play music in, say, open concerts and his actual refusal to give a performance does not disqualify him as a musician and is not a sign that his expertise in music is somehow deficient; but a particular person's lack of motivation to perform just actions and his actual refusal to do so may count as valid reasons for not holding him to be just. Of course, Socrates acknowledges that the just man acts justly and has the motivation to act justly in T13. But the way Socrates' argument runs in T13 indicates that he does not treat motivation to perform just actions and actual performance of just actions as necessary conditions for a particular person's being just: he infers that someone is just solely on the basis of the fact that he possesses knowledge of just things. Further, in this argument Socrates infers that the just person acts justly and has the motivation to act justly from the fact that he is just in the sense of knowing the just things ('just man' is used in this sense in 'the just man does just things' and 'it is necessary for the just man to want to do just things', see my third point). Third, Socrates' claim that the just man does just things is problematic. It is analytic if 'just man' denotes the man who acts justly. However, the way the argument runs shows that the just man must be the one referred in Socrates' previous question, namely, the man who knows just things. But, then, Socrates needs to adduce further arguments to establish that the person who knows just things will act justly. For an account of how Socrates could defend the claim that the man who knows just things will act justly, see Irwin (1979), p. 127.

In the previous sections we saw some general characteristics of Socrates' conception of the political art. In this section I will examine the characteristics Socrates' conception of the political art has in virtue of being a *technê*. In other words, I will examine which characteristics the political art shares with other *technai*, according to Socrates.

1. 8. 1 Other-directedness

The political art is other-directed. In *Rep.* I Socrates maintains that every *technê* qua *technê* aims at the good of its subject-matter; for example, medicine aims at the good of the body (3423c1-2) and the art of the captain aims at the good of the sailors (342e2-5). Socrates asks Thrasymachus the following rhetorical question in the *Rep.* I:

T14) ... it isn't appropriate for any craft to seek what is to the advantage of anything except that of which it is the craft?¹¹ (342b4-5).

In the *Rep.* I Socrates' argument against Thrasymachus, that the real rulers (that is, the possessors of the political art) do not aim to serve their self-interest when they exercise their craft, but to serve the interest of their subjects, is based on this general principle about crafts. It is clear that the other-directedness of justice Socrates maintains fits well with his thesis in the *Gorg.* that the political art aims at the good of the

¹¹ Grube's and Reeve's translation. 'Appropriate' (*prosêkei*) is not used here to convey the idea of a moral (what ought to happen) or prudential requirement (what rationality ordains it should happen or what it is beneficial to happen). Other-directedness is rather a property every craft has in virtue of its being a *technê* (see, the use of *pephuken* in 341d7): 'appropriate' is used to denote a kind of metaphysical necessity.

soul of the citizens (and not, say at the service of the interest of its possessor).

Two considerations support the thesis that arts or crafts are other-directed. First, the crafts were discovered for the service of their subjects. Medicine was discovered for the service of the patients (341e4 - 7), and not, say, as a means for people's passing their time or doing something enjoyable. Second, the craftsman when exercising his craft is governed by considerations about the interests of his subjects and not about his own interest. For example, the doctor, the true or real doctor, while exercising medicine is motivated by and considers what is good for his patient and not what is good for him (342d2 - 7).

1. 8. 2. Possession of theoretical knowledge and know how

In the *Gorg.* Socrates postulates that the ability to give a rational account (*logon*) of its subject-matter is a necessary condition for something to be a *technê* (as opposed to being a knack, *empeiria*). Socrates holds the following thesis about flattery:

T15) And I say it is not a craft (*technê*), but a knack, because it has no rational account (*logos*) by which it applies the things it applies, to say what they are by nature, so that it cannot say what is the explanation (*aitia*) of each thing; and I don't call anything a craft which is unreasoning (*logon*). (465a3-6)

T15 makes clear that according to Socrates the possessor of a *technê* should possess a kind of theoretical knowledge which enables him to give a rational account of the subject matter of his *technê*; this theoretical knowledge involves, as T15 indicates, knowledge of the nature

of the things a particular *technê* is about and also knowledge of why these things are the way they are.

However, it seems that Socrates also considers possession of practical knowledge to be another characteristic of a *technê*. In the *Laches* he claims:

T16) For if we happen to know about something, that its being joined to something else makes that other thing better, and further *we are able to make this thing become joined to the other*, clearly we know the thing itself about which we are advisors regarding how it might be acquired easily and best. Perhaps you do not understand what I say, but will understand more easily in this way. If we happen to know about sight that joining it to the eyes makes them better for its having being joined to them, and further *we are able to join sight to the eyes*, clearly we know sight itself, what it is, about which we could give advice regarding how someone could acquire it easily and best. For if we did not know what sight or hearing is, we would hardly be advisors or physicians worth paying attention to regarding the eyes or ears and how one could best acquire hearing or sight¹². (189e3-190b1)

T16 makes clear that the possessors of a *technê* possess a kind of practical knowledge; they know how to bring about beneficial stages for their subject matter. It also indicates a particular connection between the theoretical and the practical knowledge the possessor of a *technê* has: practical knowledge, the 'know how' of the possessor of a *technê* is evidence for the fact that he has theoretical knowledge, that is, knowledge of the nature of the subject matter of his *technê*.

The fact that possession of practical knowledge is taken by Socrates as evidence for possession of theoretical knowledge suggests that Socrates does not allow for the possibility that someone may possess practical knowledge without possessing theoretical knowledge as well. A (real) craftsman according to Socrates should possess both.

¹² The translation is from Brickhouse & Smith (1994) see pp. 49 - 50.

I suggest that the same kind of practical knowledge (ability to join virtue to the soul, according to the jargon of T16) is a part of the political art or virtue. The possessor of the political art or virtue knows how to make other people virtuous (put justice and temperance in their soul, according to the jargon of the *Gorg.*). It is this know how I take to be described in T10 where Socrates claims that the real rhetor, that is the possessor of the political art, having in mind the structure and ordering of the soul which is justice and temperance, chooses the speeches and policies which will create justice and temperance in the soul of the citizens. The possessor of the political art does not only know what virtue is, he knows as well how to produce it in the soul.

1. 8. 3. Teachability

Socrates accepts that the crafts are teachable. He believes that the possessor of a particular craft, for example, medicine or sculpture can impart his knowledge to someone else (see, *Prot.* 311b5-c8; cf. *Prot.* 319b3-c8). Further, having being taught by a good craftsman is a sufficient condition, according to Socrates, for a particular person to possess the relevant craftsmanship (see, *Gorg.* 514a5-b4, *La.* 185b1-4). However, it is not a necessary condition: one can acquire a particular craftsmanship by oneself without ever being taught (*Lach.* 185e7-8). In this case, however, one must show some good works to convince others that one possesses a particular craftsmanship (*Lach.* 185e9-186a1).

Socrates expects that those who possess the political art or moral virtue are able to teach others. In the *Lach.* he maintains that the person who knows what virtue is will be able to give advice about how

one can acquire it (see T16 and 190b6-c2). In the same dialogue he claims that, when his interlocutors find the teacher of virtue, they should entrust their sons to him to educate them (186e6-187a6). At the end of the *Lach.* he adds that, not only their children, but they themselves should become his pupils (201a2-b5).

Further, the whole discussion about the function of the political art in the *Gorg.* makes no sense unless Socrates believes that the political art or moral virtue is teachable. As we have seen, the purpose of the political art according to Socrates is to make the citizens morally better by putting justice and temperance into their soul. The purpose of the political art is precisely educational: the possessor of the political art educates the citizens by his speeches (503a7-9) and generally by his overall behaviour (see, T12 above) with an eye to how their souls will become better.

We need to clarify the ways in which the possessor of the political art or moral virtue will educate the citizens. The question is whether a) the true political man or the moral expert will educate men in order to make them experts in virtue by passing on to them his high level of moral knowledge; or b) his teaching will be a variant of the moral conditioning Protagoras describes in his account of men's moral education (see, *Prot.* 325c4 - 326e5). The difference between the two ways of educating the citizens can be brought out as follows: according to a) it is a necessary condition for a particular person to have been taught virtue that he attains knowledge of what virtue is, or of the structure and the ordering of the soul which is virtue; according to b) the attainment of knowledge of the structure and the ordering of the soul which is virtue is not necessary for a particular person to have been taught virtue: education in virtue consists solely in learning a set of rules (of the type x

is just, x is unjust, I ought to do x, I ought to refrain from doing x) and acquiring a disposition to behave in accordance with this set of rules¹³.

Nowhere in the *Gorg.* does Socrates say that those who possess the real the political art try to make the citizens experts in their art in the sense of making them experts in the legislative art or the art of justice; nor does he claim that the possessors of the real political art will try to pass on to the citizens their knowledge of the structure and order moral virtue is equivalent to. Furthermore, some of the methods the possessor of the true the political art is going to follow in order to mould the souls of his citizens bear no resemblance to the methods of rational explanation and instruction which are expected to be followed in the case in which an expert tries to make someone else an expert in his craft: Socrates allows that the possessor of the political art can use force to change the appetites of the citizens and make them lead the sort of life that will make them better (517b5-c2). We would not normally expect that a doctor for example would use any kind of force to pass on his expertise to someone else; the use of force rather indicates that in the case of moral

¹³ The problem arises from the fact that there are two ways in which virtue may be said to be teachable, Ta and Tb. Socrates finds nothing wrong with calling virtue teachable if it is Tb: Protagoras in the Great Speech tries to establish that virtue is teachable by showing that virtue is Tb and there is no indication that Socrates finds it illegitimate to call virtue teachable if it is Tb.

The fact that virtue may be Ta or Tb makes virtue disanalogous with the crafts in the following respect: the crafts are teachable only in a way similar to Ta. Medicine, for example, is teachable in the sense that the knowledge the doctor has (which according to the *Gorg.*, is knowledge of the structure and ordering of the body which is health) can be imparted to the students of medicine. But we may not say, and Socrates surely does not say, that medicine is teachable because men may learn to acquire health or adopt a healthy life style.

The difference between Ta and Tb may be also brought out in the following way: the student of the political art or virtue who learns the structure and the ordering of the soul which is virtue becomes an expert in virtue (as the student who learns the structure and the ordering of the body which is health becomes an expert in medicine). The citizens however who receive only a conditioning in virtue cannot be considered to be experts in it.

training, or at least at some stage of it, the predominant element is not rational instruction, but a kind of conditioning.

Similarly, in the *Lach.* there is no indication that the man who knows what virtue is and thus is the most appropriate person to join it to the souls of the people is going to pass on to them his knowledge of what virtue is. Socrates only says that what the moral expert is going to teach is how men are to acquire virtue; this by no means implies that he is going to teach them what virtue is. In fact the analogy with the ophthalmologist (see T16) suggests that he need not impart his high level of knowledge to them: the ophthalmologist can join sight to the eye without explaining to the patient what sight is.

Of course the fact that the possessor of the political art (the moral expert) educates the citizens without imparting to them his high level knowledge does not imply that he cannot impart his high level moral knowledge to others. Indeed Socrates seems to allow that the moral expert may teach others what virtue is. In the *Euthyph.* he says to Euthyphro who claims to know what holiness is:

T17) So explain to me what this standard (*idea*) itself is [holiness], so that when I observe it and use it as a means of comparison, I may affirm that whatever actions are like it -yours or anybody else's- are holy, while those not of that kind are not.¹⁴ (6e4-7).

T17 shows that Socrates believes that moral teaching may take a form different from conditioning in virtue: it may consist in imparting knowledge of what virtue is.

To recapitulate; Socrates believes that the political art or virtue is teachable. The possessor of the political art or virtue can be said to teach

¹⁴ Tredennick's and Tarrant's translation (1993).

virtue in two ways: a) condition men to virtue and b) pass over to men his knowledge of what virtue is.

1. 8. 4. Possibility of expertise

It should have been clear from the above that Socrates believes that there are experts in crafts and expects to find experts in the political art or moral virtue as well. That is, on the one hand he recognises that some people have theoretical and practical knowledge in certain crafts which other people do not share and which makes them eligible to give advice on these issues; and on the other, he expects to find some people who have theoretical and practical knowledge in virtue which others do not share and which makes them eligible to give advice on moral issues.

1. 9. Conclusion.

Let us recapitulate the main characteristics of the political art according to Socrates:

- 1) The political art is other-directed and aims at the service of the good of the soul of the citizens.
- 2) It is a superordinate art.
- 3) It has two components: the legislative art and the art of justice. The relation between the legislative art and the art of justice can be described as follows: the legislative art is concerned with the construction of laws which prescribe the general principles of social conduct and provide the

outline of how one should live; the art of justice is concerned with the application of the laws either in political decision-making (in the assembly or in any kind of political gathering) or in the court.

4) Provision of non-moral goods is not part of its function or is not one of its main functions.

5) Political knowledge is moral knowledge. It is knowledge of which things are just and of what virtue is.

6) Political or moral knowledge is both theoretical and practical.

7) Since the man who possesses knowledge about just things is just and will behave justly and have a just motivation, the political art seems to be equated with moral virtue.

8) The person who possesses the political art or moral virtue may both condition men to virtue and pass over his high level of knowledge of what virtue is.

9) There may be experts in virtue.

For my purpose of assessing whether Socrates espouses political authoritarianism the most important characteristic of the political art or moral virtue is that it involves theoretical knowledge and that they can be experts in the political art or moral virtue. It is Socrates' account of moral theoretical knowledge and his notion of expertise I will focus on in the following two chapters.

CHAPTER TWO

SOCRATES ON MORAL KNOWLEDGE Part A'

- THE SOCRATIC ELENCHUS

2. 1. Two different senses of the verb 'to know' in Plato's early dialogues

In the previous chapter I examined some basic characteristics of the Socratic conception of the political art. In this chapter and in the following chapter I will focus on Socrates' account of moral knowledge. I will begin by examining the different senses in which Socrates uses the verb 'to know'.

In the recent literature there has been a lot of controversy over the different senses in which Socrates uses the verb 'to know'¹. The problem arises from the fact that on the one hand Socrates claims that he does not possess any knowledge and on the other he claims to know some things².

¹ The seminal paper is Vlastos (1993b), first published in 1985. Among those who agree with Vlastos that Socrates uses the verb 'to know' in two different senses (although they disagree on what these senses are) are Woodruff (1990) and Brickhouse & Smith (1994). For criticisms of Vlastos's thesis, see Irwin (1993). See also the following footnote.

² Not all scholars agree with this account of the problem. We may distinguish the following groups of scholars: a) those who do not take seriously Socrates' disclaimer of knowledge and believe that Socrates is ironic when he disclaims knowledge; ii) those who take seriously Socrates' disclaimer of knowledge and deny that Socrates ever claims to have knowledge or that he ever holds any positive convictions in the early dialogues; iii) those who do not doubt the sincerity of Socrates' disclaimers of knowledge and believe that Socrates holds strong positive convictions (has true beliefs) which he nevertheless does not count as knowledge; iv) those who hold that Socrates uses the verb 'to know' in two senses, which allows him to claim both that he has no knowledge and that he knows some things.

For example, Socrates in the *Apol.* claims that he knows nothing either great or small (21b4-5). And he further claims that his only superiority over those who claimed to be wise, but whom he has shown not to be, is that they claimed knowledge while he did not (21d5-6); Socrates shared with them ignorance of anything good (21d4-5). Similarly, in other Socratic dialogues he disclaims possession of knowledge of anything really great: he disavows knowledge of what virtue is (*Prot.* and *Meno*), of what the fine is (*Hipp. Maj.*), of what courage is (*Lach.*), of what temperance or soundness of mind is (*Charm.*), of what piety is (*Euth.*) and of what friendship is (*Lysis*). Furthermore, in the *Gorg.* even after Socrates has claimed to have proved that being justly punished is better than escaping punishment, he claims that he does not know how these things are (509a5).

On the other hand, he claims to *know* certain propositions; for example, he claims to know (*oida*) that it is bad and disgraceful to disobey his superior, either god or man (*Apol.* 29b6-7). And in the *Gorg.* he says to Callicles that he knows well (*eu oida*) that if Callicles agrees with those things Socrates believes, then these things are the very truth (486e5-6). Similarly, in the first book of the *Rep.* Socrates claims that after his argument against Thrasymachus that the just man is wise and the unjust

The main consideration which counts against the thesis that Socrates' disclaimers of knowledge are not sincere is that these disclaimers are 'too frequent and emphatic to be dismissed as ironical without good reason' (Irwin 1977, pp. 39-40). Against the interpretation that Socrates has no positive convictions (let alone knowledge) and in the early dialogue he argues entirely *ad hominem* with the sole aim of disproving his interlocutors' theses tells the fact that throughout the early dialogues Socrates' arguments use a number of similar premises (for example, the premise 'whatever is good is fine and whatever is fine is good' and lead to similar conclusions (for example, the conclusion that virtue is some kind of knowledge) (cf. Irwin 1977, p. 293 n. 1). Finally, the textual evidence Vlastos (1993b) adduces (see, main text) tells against the thesis that Socrates never avowed knowledge and was content to allow only true belief for himself.

ignorant no one (and thus not Socrates himself) could still not know (*oudeis an eti touto agnoêseien*) that injustice is ignorance (351a5-6)³. Further, in the *Gorg.* Socrates implicitly avows knowledge that it is better for the wicked not to live. Socrates ascribes this knowledge to a thoughtful sea-captain who is in fact a creation of Socrates. But, as Vlastos puts it, 'his thought and reasoning are what Socrates says they are. So for Socrates to say that the sea-captain knows that for an incurably wicked man death would be better than life is as good as saying that he, Socrates, knows this'⁴ (Vlastos (1993b), p. 47).

2. 2. The kind of knowledge Socrates avows - Elenctic knowledge

Vlastos holds that the knowledge Socrates claims to have is based on the successful application of his method, the elenchus⁵. The elenchus

³ All these passages are cited by Vlastos (1993b, pp. 43-47). Vlastos cites also some other passages as evidence for his claim that Socrates avows knowledge in the early dialogues. I did not include them in the main text because I feel that they are not instances of *Socratic* avowals of knowledge. I discuss them in some detail in appendix I.

⁴ In this passage Vlastos may justifiably diverge from the rule that we should not infer from the standards Socrates uses for ascribing knowledge to others to the standards he uses for ascribing knowledge to himself. The sea-captain of this passage is no ordinary sea-captain but someone who knows how to reason (*logizesthai...epistatai*, 511e6). And indeed he reasons in a way in which we would normally expect Socrates to be reasoning, to support the conclusion that it is better for the wicked not to live (see, 511e6 - 512b2).

Further, I believe, *contra* Irwin (1992, p. 250, n. 10), that the sea-captain's argument belongs to the class of argument that may be labelled 'elenctic'. The reason is that it may be considered to have the same structure of justification of its conclusion as the elenctic arguments (see, J2 in 2. 7.). But it may not be an elenctic argument according to Vlastos's standards, since the sea-captain does not test someone else's beliefs (or else he does not adopt the adversative role), but reasons on his own. So, in this respect Vlastos's inference from the fact that Socrates ascribes knowledge to the sea-captain to the fact that Socrates must avow the same piece of knowledge is problematic.

⁵ On the absence of any *direct* evidence to the effect that Socrates takes the elenchus to be a *vehicle of knowledge* I treat Vlastos's claim as an interpretative assumption the acceptability of which should be tested on its explanatory power. Vlastos's interpretative assumption that the knowledge Socrates avows is elenctic knowledge

is the method Socrates uses to test the beliefs of his interlocutors. Vlastos claims that all the beliefs which the elenchus has tested and shown to be true are the content of Socrates' knowledge.

I accept both Vlastos's claim that the nature of elenchus is constructive and his assumptions that for Socrates elenctic justification suffices to turn an ethical belief that p to knowledge that p and that all

explains well Socrates' avowals of knowledge in the passages quoted in 2. 1.. Let us look at them more closely.

In the first passage Socrates claims to know a particular moral truth, namely, that it is bad and shameful not to obey his superior. In the *Apol.* he presents no proof for this moral truth but there is an elenctic argument in the *Crito* (46d5-47d7) which leads to a similar conclusion, namely, that one must respect, follow and fear the man who has knowledge about the just things. It is plausible to assume that Socrates may claim to know the moral truth of the *Apology* on the basis of his having it proved by a similar elenctic argument.

The passage from the *Gorg.* presents Socrates as claiming that he *knows* that the theses on which Callicles will agree with him are true. It is important to note that Socrates' claim does not contain reference to an argument from authority. His point is not that he will unquestionably rely on the epistemic authority of Callicles. Rather what he trusts is the process of examination to which both his and Callicles' theses will be subject: he claims that, if in the elenctic discussion (*en tois logois*) Callicles agrees on something with him, this will have been tested adequately (*bebasanismenon ...estai ikanôs*) by *both of them* and it will not require to be tested in another examination (487e1-3). The test to which Socrates refers is clearly the elenctic inquiry to which he will put Callicles' theses and it is the agreement of Callicles with Socrates *in the process of an elenctic inquiry*, and not solely Callicles' agreement with Socrates irrespectively of whether it is tested by the elenchus, which accounts for the truth of their common theses. Further, the characteristics of great wisdom, goodwill and freespokenness Socrates ascribes to Callicles with an undeniable touch of irony are emphatically presented as evidence for the fact that the elenctic examination of Callicles will be of such quality that it will give rise to no additional elenchus and will lead to the end of, or the perfect, truth (487e3-7). Again the last remark is highly ironic; but not the idea that a well-conducted elenchus may lead to truth. After all Socrates had claimed in his arguments with Polus that the elenchus proved Socrates' theses to be true and the conclusions of his elenchi with Callicles had been established by arguments of 'iron and adamant'. So, his claim that the agreement of Callicles with Socrates' theses when obtained in the course of an elenctic inquiry will show the truth of certain moral theses is not ironic; and we may suggest that his claim that these true moral theses established by the elenchus constitute knowledge is not ironic either.

The passage from the *Rep.* I represents Socrates as implying that his previous argument provided a strong justification for his moral thesis that injustice is ignorance and such that whoever had followed it could not claim not to know the true of Socrates thesis. So, it is possible to interpret Socrates as thinking that his elenctic argument led to knowledge of the particular proposition it establishes.

ethical propositional knowledge Socrates avows is elenctic knowledge⁶. I disagree, however, with Vlastos' account of the elenchus and especially

⁶ I must note here that I do not claim (neither do I think Vlastos does) all kind of claims Socrates may make to knowledge are claims to elenctic knowledge. Further, I do not claim that all the claims to knowledge found in the early dialogues, either made by Socrates or made by his interlocutors or ascribed by Socrates to his interlocutors or any imaginative constructs of his arguments (like, the moral expert in the *Crito*) are claims to elenctic knowledge. The following are conditions for the identification of instances of elenctic knowledge in the early dialogues:

1) Elenctic knowledge is *propositional moral knowledge*. Socrates uses the verb 'to know' to refer to his cognitive abilities, his skills, or his strong confidence about something.

Here are some passages of the *Gorg.* where he does so (Irwin's translation (1979):

a) Socrates claims in his discussion with Polus: 'I know how to produce just one witness to whatever I say - the man I am having a discussion with whoever he may be-...' (474a5-6) and 'I know how to put the question to a vote to one man, but I don't even have a dialogue with the many' (474a7-b1).

b) Socrates claims in his response to Callicles' attack on the use of philosophy: 'I know (*oida*) that four of you have become associates in wisdom, Callicles; you, Teisander of Aphindae, Andron, the son of Androtion, and Nausicydes of Cholargeis. And once I overheard you deliberating about how far wisdom should be cultivated, and I know (*oida*) that some opinion of this kind was prevailing with you - not to be eager to philosophise as far as exactness...' (487c1-7).

c) Again in his discussion with Callicles he describes how badly a doctor will fare if he was judged by a jury of children having a cook as a persecutor (521e4 - 522a7) and claims: 'I know that the same thing would happen to me too if I came before a jury-court' (522b3-4).

d) Finally, he claims that if he failed to defend himself against the jury and was condemned to death he would bear death easily. He says: 'But if I died because I lacked flattering rhetoric, I know for sure (*eu oida*) that you would see me bearing death easily' (522d8-e1).

In all these cases, Socrates avows knowledge but the knowledge he avows is not knowledge of *moral propositions*. And it is not elenctic knowledge, since the elenchus can only test and justify moral propositions. But the fact that Socrates uses the verb 'to know' in an ordinary sense does not tell against the thesis that he may also use it in a more philosophically interesting sense to denote the propositional moral knowledge reached by successful application of the elenchus. After all do even modern epistemologists in their everyday speech apply with zest and devotion their elaborate distinctions of the various senses of 'to know' and never succumb to the temptation of using it in its ordinary and philosophically naive sense?

2) Elenctic knowledge is *propositional moral knowledge avowed by Socrates*. Socrates may ascribe propositional moral knowledge to others, but his standards of ascribing knowledge to them may be different from his standards of applying knowledge to himself. For example, he may ascribe knowledge of an moral proposition to the many at *Prot.* 357d7-e1 using the verb 'to know' in its ordinary sense without implying that they gained this knowledge by successful application of the elenchus (see, appendix I). Or he may ascribe propositional moral knowledge to possible moral experts (as he does in the *Crito* and the *Laches*) while this knowledge may not be attained by the successful application of the elenchus but by inference from prior knowledge of what virtue is (see, chapter 3) Or his ascription of knowledge to others may be a mere pretence as is probably the case with his ascription of knowledge to Callicles (see, *Gorg.* 487a2-3).

with his account of the assumptions which support the workings of the Socratic elenchus. In the following sections I will present Vlastos's account of the Socratic elenchus and explain its inadequacies. I will also propose a particular way to remedy the pitfalls of Vlastos's account.

2. 3. Vlastos's account of the Socratic elenchus

According to Vlastos, the standard form of the direct⁷ elenchus is the following: Socrates' interlocutor maintains P; Socrates gains his agreement on Q and R; Socrates then shows that Q and R entail not-P; Socrates claims that he has proved not-P to be true and P false. (Vlastos (1993a), p. 11)

The most striking feature of Vlastos's account of the elenchus is Socrates' claim that he has *proved* not-P to be true and P false⁸; Socrates'

⁷ Vlastos following Robinson (1953) distinguishes between direct and indirect elenchus. In the indirect elenchus Socrates assumes with his interlocutor that P is true, then gains his assent that Q and R and then shows that the set which contains Q, R, and P is inconsistent and that, since his interlocutor does not challenge the truth of Q and R, he must infer that not-P. As Vlastos rightly remarks 'in point of logic there is no substantial difference from standard elenchus' (Vlastos 1993a, p. 12, n. 34).

⁸ This is most explicitly made in the *Gorg.* at 479e8 where Socrates asks Polus: "Has it not been proved (*apodedeiktai*) that what was asserted [by myself] is true?" (Vlastos's translation). Similarly, at the end of his elenctic argument with Polus he concludes: "So I spoke the *truth* when I said that neither I nor you nor any other man would rather do than suffer injustice' (475e3-5) (Vlastos's tr.). Further, when he compares the method of examination used by the rhetors in the courts to his elenchus, he says that this method has no value in comparison to the truth (471e7-472a2) and has no success in convincing Socrates: 'But I, a single man, do not agree, for you do not compel me, but produce a multitude of false witnesses against me, trying to drive me out of my property, the truth' (472b3-6) (Vlastos's translation). So, Socrates seems to imply that his method of examination has some value in comparison to the truth, that it leads to truth and that it will (logically) compel the opponent to recognise the truth (cf. Vlastos (1993a, p. 20). Similarly, Socrates claims that he can, by using the elenchus, produce his interlocutor as a *witness* (*martura*) to the theses he supports (474a5-6). In other words, the elenchus can give Socrates' opponent strong reasons to admit the falsity of his position.

claim seems *prima facie* to be unjustified. The most the elenchus seems to show is that Socrates' interlocutors holds two inconsistent beliefs. How, then, can Socrates claim that he has proved one of his interlocutor's beliefs to be true and the other false?

Socrates believes that by testing the consistency of his interlocutor's beliefs also tests the consistency of his own beliefs⁹; in fact, unless Socrates' beliefs in a certain elenchus are consistent, he has no hope of proving that his interlocutor's beliefs are inconsistent. So, in order to justifiably believe that in any subsequent elenchus he will win, Socrates must assume that his beliefs are consistent.

Vlastos formulates the two Socratic assumptions which support the workings of the elenctic method as follows:

A) Whoever has a false moral belief will always have at the same time true beliefs entailing the negation of that false belief. (*op. cit.* p. 25)

and

B) The set of elenctically tested moral beliefs held by Socrates at any given time is consistent. (*op. cit.* p. 28)

According to Vlastos, it follows from A) and B) that the Socratic set of moral beliefs contains only true moral beliefs. So, on the basis of these assumptions Socrates could justifiably say that he has proved not-P to be true and P to be false. Not-P was entailed by the Socratic beliefs Q and R which are, according to the above, true and P conflicts with the true beliefs Q and R; so not-P is true and P false (*op. cit.*, p. 28).

Vlastos believes that Socrates has some inductive evidence for both A and B. The inductive evidence for B is the fact that he has never been

⁹ Socrates claims in the *Prot.*: 'It is chiefly the thesis that I am testing, but all the same it perhaps turns out to be a test for me too, as I ask the questions, and for whoever is answering' (333c7-9, Taylor's (1991) translation). For more on this passage, see 2. 9.

found to possess any inconsistent beliefs in the elenchi in which he has been involved (*op.cit.*, p.27). The inductive evidence for A is the fact that in the elenchi in which he has been involved he has always found in his interlocutors' belief-set beliefs which entail the contradictory of beliefs he considers to be false. But, as Vlastos himself acknowledges, this is evidence for only a part of A, 'for all of it except the claim in [A] that the beliefs from which he deduces the negation of his interlocutors' theses are *true*. For this he would have to fall back on nothing better than the pragmatic value of those beliefs: they articulate intuitions which prove practically viable in his own experience; they tell him who is happy and who isn't; he does what they tell him and he *is* happy.' (*op. cit.*, p. 26, Vlastos's italics).

2. 4. Vlastos's Socrates' inductive evidence for assumption A

What Vlastos takes to be Socrates' inductive evidence for A makes the workings of the elenchus problematic. Vlastos's thesis that Socrates makes the truth of a particular belief dependant on its pragmatic value entails that the elenchus is not for Socrates the sole method of discovery of the truth of a particular belief, but in fact its workings depend on the successful application of another method, the one which assesses the beneficialness of a particular belief. This method should be distinct from the elenchus, since it is only after it has been applied and its results have supported assumption A that the elenchus can get going. Otherwise, that is, if Socrates thought that the only method for assessing the pragmatic value of a proposition is indeed the elenchus, then he would be committed

to a thesis, which generates a vicious infinite regress, namely, that it is a necessary condition for a particular elenchus' showing the truth of a belief that a previous elenchus has shown the truth of that belief. But Vlastos's assumption that Socrates has a way of establishing the truth of a belief other than the elenchus a) goes against Vlastos's own account of the elenchus and b) makes the use of the elenchus along with the assumptions which support it redundant.

a) Vlastos's assumption runs contrary to his description of the elenchus as 'the *only final support* Socrates offers his moral doctrines' (*op. cit.*, p. 17 n. 51, Vlastos's italics) and as Socrates' 'only method of searching for moral truth' (1993b, p. 56); it also makes questionable the validity of his interpretation that the ethical propositional knowledge Socrates avows is elenctic knowledge, that is, knowledge of an ethical proposition whose truth was established by means of the elenchus.

b) If Socrates has a method of establishing the truth of a particular belief other than the elenchus, then it becomes a mystery why he constructs the elenctic method in the first place and why he makes the elenchus his favourite method for the search of truth. If Socrates takes the truth value of a belief to be its pragmatic value and he has a method of *directly* (that is, without relying on the elenchus) assessing the pragmatic value of a belief, it becomes a paradox indeed which epistemic reasons would lead him to construct another method which assesses the pragmatic value of a belief indirectly, via assessing its consistency. The introduction by Socrates of the elenchus as an alternative method for the search of truth and his making it his preferred method becomes more puzzling once we take into consideration: i) the fact that in order for the elenchus to successfully assess the pragmatic value of a belief, Socrates needs to

make an assumption for which he has no epistemic justification, namely, that only beneficial beliefs are consistent; and ii) the fact that the elenchus is epistemically posterior to the method of directly assessing the pragmatic value of a belief, since, as we have seen, what supports Vlastos's assumption A and makes it possible for the elenchus to operate is prior knowledge of the beneficialness of the beliefs which will be elenctically tested.

It is possible, however, to treat A as a fundamental assumption of Socrates about men's epistemic state to which he adhered, although he lacked any inductive evidence for which of the conflicting beliefs of his interlocutor are true and which are false. Even so, however, the ascription of A to Socrates remains highly problematic: it has implications which run contrary to textual evidence about some of Socrates' firmly held beliefs.

2. 5. The inextricability assumption

Following Scaltsas (1989, pp. 142-144) we may understand Vlastos's assumption A not as a single assumption, but as a conjunction of two related assumptions: the *inextricability* assumption, that is, the assumption that the possessor of a false belief cannot lose his true moral beliefs, since he will *always* have true beliefs entailing the negation of his false belief, and the *adequacy* assumption, that is, the assumption that the true moral beliefs in a person will be enough to entail the negation of his false belief. Let us examine first the inextricability

assumption. Scaltsas recognises that the inextricability assumption may take two forms:

(1) A person cannot lose *any* of his true moral beliefs.

(2) A person cannot lose *most* of his true moral beliefs. (Scaltsas 1989, p. 142)

Scaltsas is correct in his diagnosis of the two possible readings of the inextricability assumption. However, it is unlikely that Socrates held either (1) or (2) because neither of them allows for substantial moral corruption, while Socrates seems to be firmly committed to the possibility of substantial moral corruption. On the one hand, Socrates' belief in the possibility of substantial moral corruption is firm. In the *Crito*, he recognises that, unless we subordinate ourselves to the orders of the moral expert 'we shall spoil (*diaptheroumen*) and impair (*lôbêsometha*) that part of us [the soul] which, as we used to say, is improved by just conduct and ruined (*apôlluto*) by unjust...'¹⁰ (47d3-6). He even proclaims that life is not worth living if our soul is destroyed (*diapthêromenou*, 47e7). In a similar manner, he warns Hippocrates in the *Prot.* (313a1-314c2) to examine carefully the issue of whether the man to whom he is going to entrust the education of his soul actually knows what is best for it, otherwise his soul will be corrupted (*ponêrou genomenou*, 313a8-9). Further, Socrates acknowledges that there are cases of extreme moral corruption; think, for example, of king Archelaus, who in the *Gorg.* is depicted as having an extremely rotten personality (see, 471a4-d2).

On the other hand, given Socrates' denial of the possibility of *akrasia*, moral corruption cannot be due to any deficiency of character,

¹⁰ Tredennick's and Tarrant's translation (1993).

but its cause should be located in the presence of false ethical beliefs in the agent. On this account substantial moral corruption should involve the loss of a great number of true ethical beliefs and (or) acquisition of a great number of false ethical beliefs. Now, (1) and (2) rule out the possibility that substantial moral corruption for Socrates may involve loss of a great number of true ethical beliefs. This means that for Socrates all, or at least most, of the true ethical beliefs of even the most rotten person have not been changed in the process of his moral degeneration. Since it is precluded that substantial moral corruption involves the loss of any or most of the true beliefs of the individual, substantial moral corruption must be the result of a single factor: the acquisition of a vast number of false beliefs. But there is textual evidence to the contrary. In the *Prot.* Socrates interprets a poem by Simonides in such a way as to make it a vehicle for some Socratic theses¹¹ and puts forward the thesis that for Simonides only the good man, and not the bad, can become bad due to misfortune (344b6 - 345c3); the reason is, to put it briefly, that 'becoming' involves changing from one stage to a different one and, thus, only the good man can change from virtue to vice: the bad is already bad, so he cannot *become* bad (344e1). What Socrates takes to be involved in a man's becoming bad is stated in unambiguous terms, it is *loss of knowledge* (345b5). The amount of knowledge lost must be quite substantial, since it suffices to turn someone from virtue to vice, to make a good man bad. So, there is evidence that Socrates believes that substantial moral corruption (becoming bad) has something to do with losing a significant number of true beliefs and not (or, at least not only) with acquiring false ones.

¹¹ See, Taylor (1991), pp. 141 - 148.

1) and 2), thus, should be dropped from the list of the assumptions Socrates is likely to make. It is possible, however, that he assumed something weaker than 1) and 2), namely, that in all men, even in the most wicked, there can be found *some* true beliefs in their set of ethical beliefs. This means that Socrates' inextricability assumption is to be reformulated as follows: a person cannot lose *all* of his true ethical beliefs. Further, given that there is no evidence for the assumption that Socrates ascribed a special status to particular ethical beliefs and thought that these ones will always be present in every man, the inextricability assumption should be qualified as follows:

3) A person cannot lose all of his true moral beliefs, although he may lose any of his true moral beliefs.

2. 6. The adequacy assumption

Let us now turn to the adequacy assumption. The adequacy assumption is somewhat unclear due to the vagueness of 'enough true moral beliefs'. Ultimately, what number of true ethical beliefs is sufficient to entail the negation of every false ethical belief depends crucially on whether the entailment is direct or indirect. Vlastos seems to have in mind exclusively direct entailment: he thinks that Socrates assumes that for every false belief P of his interlocutor he will possess two other beliefs Q and R the conjunction of which directly entails the negation of his false belief¹². And Vlastos also thinks that Socrates is confident that, if his interlocutor decides to withhold his true beliefs

¹² See, Vlastos's account of Socrates' elenctic argument against Polus' thesis that to commit justice is better than to suffer injustice in Vlastos's 1993a, pp. 19 - 20.

instead of his false belief, in another elenchus he will be able to show to him that he is committed to two other true beliefs the conjunction of which directly entails the negation of his false belief. This means that, on Vlastos's account, Socrates assumes that for every false belief someone has there should be at least two pairs of true beliefs, in his belief set which directly entail the negation of his false belief. Now, if Socrates assumes that for every false belief one has he has four additional different true beliefs, then he must assume that all of his interlocutors, and indeed all men, are massively ethically correct, since their true ethical beliefs outnumber their false ethical beliefs. But this seems to be at logger-heads with both Socrates' recognition of the possibility of substantial moral corruption and his well-attested low opinion of the morality of the many¹³. To avoid this undesired consequence we must think that for Socrates the same true ethical beliefs may directly entail different false moral beliefs and that in most cases the true ethical beliefs should be limited in number. This account carries with it, of course, a great degree of implausibility; consider, for example, how implausible it sounds that the small number of true ethical beliefs of an extremely morally corrupted person may directly entail each and every of the many false ethical beliefs he has.

The implausibility could be lessened, if we allow that Socrates, in his adequacy assumption, may understand that the true ethical beliefs of a person may entail, not only directly, but indirectly as well each and every false belief of his. The importance of this qualification will become evident later. Let us turn instead to what we should take Vlastos's

¹³ See, chapter 4.

assumption A to come to after the clarification of the adequacy assumption. Assumption A should be understood as

A*) For every false belief of A A has at least two pairs of true beliefs such that the conjunction of the members of each pair entail the negation of A's false belief.

2. 7. Vlastos on Socrates' assumption B

Let us now examine assumption B and the inductive evidence Vlastos claims that Socrates has for it. According to Vlastos, the inductive evidence for B relies on Socrates' own experience of the elenchi in which he has been engaged: 'The consistency of the set is being inferred from its track-record in Socrates' own experience: in all of the elenctic arguments in which he has engaged he has never been faulted for inconsistency' (Vlastos (1993a) p. 27, n. 69) Now, in the elenctic arguments Socrates has been involved, he has shown to hold for every contradictory of his interlocutor's proposition P two other propositions, say, Q and R, the conjunction of which entails $\sim P$. Further, given that on Vlastos's interpretation, if Socrates' interlocutor, instead of withholding P, decided to question Q and R, Socrates could adduce another two propositions, S and T he holds, the conjunction of which entails $\sim P$, we should assume that in some elenctic arguments Socrates would have shown the consistency of at least five beliefs. So, in the light of the above the inductive evidence Socrates has actually supports the following version of B:

B*) For every belief of Socrates, Socrates has at least two pairs of beliefs such that the conjunction of the members of each pair is consistent with that belief.

But then from A*) and B*) it does not follow that C) Socrates' set of beliefs consists solely of true beliefs. It is easy to see why; assume that Socrates has one false belief P. Then, according to A*) he should have another four beliefs, say, Q, R, S, T, such that $Q \ \& \ R \rightarrow \sim P$ and $S \ \& \ T \rightarrow \sim P$. And nothing precludes that he could not satisfy B*) as well, that is, he could also have another four beliefs, say, K, L, M, N, such that $K \ \& \ L \rightarrow P$ and $M \ \& \ N \rightarrow P$. If this is so, the elenchus has no justificatory power and, thus, Socrates cannot validly claim to have established the truth of a proposition by using the elenchus.

How did what seemed a valid inference from A) and B) to C) result in a non-sequitur? We seem to have paid the price of an ambiguity of Vlastos's assumption B): assumption B) allows a strong and a weak reading. B) can be read as claiming either a) that the various elenchi have shown each and every of Socrates' beliefs to be consistent with each and every other, or b) that the various elenchi have shown that all of the subsets (all of the bunches of at least five beliefs) Socrates has examined are internally consistent. The difference between a) and b) is that, while a) affirms that Socrates has one coherent set of beliefs, b) affirms only that Socrates has many small sets of beliefs which are internally consistent, without affirming that these small sets form a coherent whole. Vlastos presumably intended the strong reading a) but the account of the elenchus he has given actually supports only the weak reading b)¹⁴.

In order for the workings of the elenchus to be compatible with the strong reading a) we need to change the account of the procedure Socrates will follow if his interlocutor decides to uphold the false belief P and

¹⁴ See n. 12.

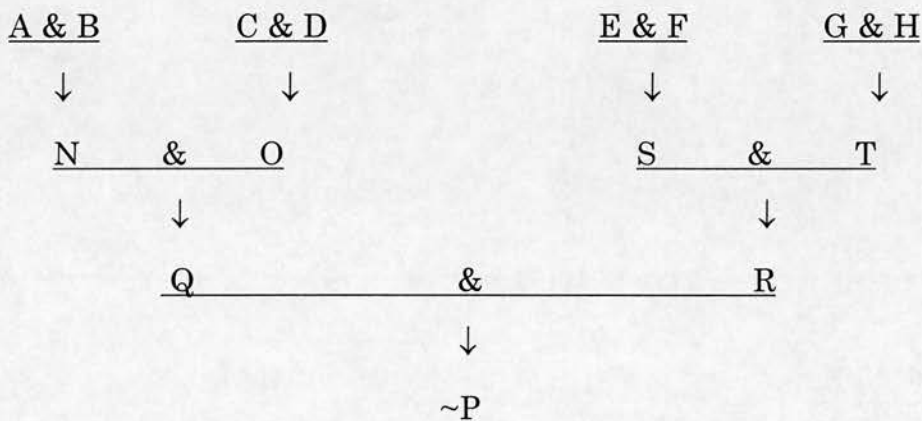
challenge the truth of the conjunction Q & R which entails $\sim P$. Vlastos holds that Socrates will produce another two beliefs S and T the conjunction of which entails $\sim P$ and so on. But then the demonstration of the coherence of the whole set of Socrates' beliefs would become a hopeless task; all Socrates can show in a particular elenchus is that the same belief is (directly) entailed by different conjunctions of beliefs. Socrates cannot show that the latter beliefs are consistent with one another or that each of them is justified. He would give what we can call a one level justification of P described in the following schema:

J1)



while reading a) requires rather a multilevel justification of the type:

J2)



To get something like the latter schema we need only assume that, when Socrates meets a stubborn opponent who is willing to challenge the truth of the conjunction which entails the contradictory of the belief he holds, Socrates will go on to justify each belief of the conjunction and so

on, instead of producing two other beliefs the conjunction of which entails the contradictory of the initial belief of the interlocutor. In this way the different elenchi will show the initial belief to be a part of a large set of consistent beliefs and to be directly or indirectly entailed by each belief in the set. Ideally, of course, if all beliefs of Socrates are to form a coherent whole, each and every belief of his should be directly or indirectly entailed by each and every other belief of his. So, we can see how Socrates could possibly come to believe a): we may assume that he began with a small set of beliefs which he tested through various elenchi and found to be internally consistent and such that each member of it directly or indirectly entails every other and then went on checking the consistency of every new belief by testing whether it was consistent with the members of this set. Ultimately, an accepted new belief would be shown to be entailed directly or indirectly by every other belief in Socrates' set. So, in this way, Socrates could assume that all of his beliefs are members of a coherent set.

Further, if Socrates proceeds in the manner of J2) and not of J1), when faced with a stubborn opponent, then we should no more understand Vlastos's assumption A) to be equivalent to A*). Since, as I have already argued the inextricability assumption contained in A) is nothing stronger than the assumption that a person cannot lose all of his true ethical beliefs, although he may lose any of his true ethical beliefs; and since, if Socrates adopts the justification way J2), the true beliefs a person will never lose may indirectly as well as directly entail the contradictory of all his false beliefs, assumption A) may take the following form:

A**) For every false belief of A, A will always have some true beliefs which will entail directly or indirectly the contradictory of his false belief.

A**) in conjunction with B) (under reading a)) allow Socrates to validly assume that all of his beliefs are true.

2. 8. A fourth assumption for Vlastos's Socrates

The above account of how Socrates could support B) brings us within sight of how Socrates (according to Vlastos's account of the elenchus) could justify his claim in A that 'the beliefs from which he deduces the negation of his interlocutors' beliefs are *true*'. B) makes clear that what the set of Socrates' beliefs has and the set of interlocutors' beliefs lacks is *coherence as a whole*. And, indeed, according to my account of the procedure Socrates will follow against a stubborn interlocutor who is unwilling to immediately accept the result of a single elenchus, the various applications of the elenchus will show the coherence of the set of Socrates' beliefs. But then, if the justificatory power of the elenchus is so intrinsically, and indeed exclusively, connected with the coherence of the set of a particular person's beliefs *as a whole*, and since, as I have already argued, the assumption that Socrates possesses a method other than the elenchus makes the elenchus redundant and Socrates' reliance on it inexplicable, Socrates on Vlastos's account of the elenchus is left with only 'coherence of a set of beliefs *as a whole*' as an epistemically viable account of the criterion of the truth of a belief¹⁵. This

¹⁵ Here I claim only that for Socrates coherence satisfies a *critical* account of truth. I do not claim that Socrates takes coherence to be also the definition of truth and nothing

allows us to suggest that in order for Vlastos's Socrates to be able to explain why the beliefs from which he deduces the negation of his interlocutors' beliefs are *true* he must assume that

D) All and only the true beliefs may form a coherent set as a whole¹⁶.

If Vlastos's Socrates makes this assumption, then what allows him to treat the beliefs from which he deduces the negation of his interlocutors' belief as true is the fact that it is only these beliefs that may form a coherent set as a whole and it is precisely this fact that the applications of the elenchus will show. So, if Vlastos's Socrates assumes D), then the elenchus would successfully perform what it purports to do, namely, test coherence for truth. It would make the truth of any particular belief dependent on the only thing it could test, namely, coherence of a set of beliefs as a whole .

It is important to note that D) does not rule out the possibility that some false ethical beliefs may be consistent with one another; it rules out the possibility that the false ethical beliefs may constitute a *coherent set as a whole*. It is possible that a particular false belief or indeed two or more false beliefs may be consistent¹⁷ with or even entail another false belief. It is further possible that one or more than one true beliefs may be consistent with a false belief. What D) stipulates is that all the false beliefs will never fit together or indeed with some true beliefs so as to

in my discussion of assumption D) depends on what the definition of truth is. For more on Socrates' definition of truth, see appendix III. . For the distinction between criterial and definitional account of truth, see Rescher (1973).

¹⁶ As opposed to forming small internally consistent sets of beliefs.

¹⁷ I take it that two beliefs are consistent if there is some possible world in which they are both true.

form a coherent set as a whole. The point is that there will be always gaps in the justification of false beliefs and such that any beliefs other than those which are true will be prevented from 'fitting nicely together'. That is, anyone who entertains some false ethical beliefs will never succeed in fitting them together into a coherent set as a whole; on the contrary, his justification of any of them will contain gaps and contradictions. Socrates' elenctic skill consists precisely in his ability to identify the justificatory gaps and the inconsistencies within the belief system of his interlocutor. Further, the many applications of the elenchus have shown that Socrates' belief system as a whole contains no justificatory gaps or inconsistencies, and thus, as per D), it consists solely of true propositions.

This explains why it is important for the workings of the elenchus that Socrates believes that it tests the coherence of a set of beliefs as a whole and not only the internal consistency of a small number of beliefs. Any two false beliefs or indeed a false and a true belief may be consistent with a particular true belief: for example, the belief that acting to the disadvantage of others is good and the belief that whatever is good is fine is consistent with the belief that the pursuit of one's self-interest is fine. The importance of D) lies in the fact that it precludes that anyone who does espouse these three propositions will be able to show that they belong to a coherent whole. If he could do so, he would not be deterred by the result of several elenchi, since the most they could reveal would be that he possesses two inconsistent but internally coherent sets of ethical beliefs. But the elenchi could not show which of the two is the true one. And indeed that person could choose to abandon the true set of moral beliefs.

Assumption D) has two important consequences: a) it makes Socrates an objectivist about the ethical realm, since it entails that there is only one truth concerning ethical matters; and b) it makes the demonstration of consistency a sufficient epistemic condition for the acceptance of the truth of a belief. Once it is shown that a particular belief is a member of a coherent set as a whole, then everyone is epistemically justified in accepting that it is true.

2. 9. Socrates' adversative role

Until now I have been following Vlastos in treating the elenchus as a test for the consistency of the *actual* beliefs of a particular person, that is, of the propositions a particular person is actually committed to. There is evidence, however, that Socrates believes that the elenchus may test propositions which are not held by anyone. In the *Prot.* Socrates explicitly makes this point. Socrates asks Protagoras whether he believes that men who behave unjustly are acting sensibly when they behave unjustly and Protagoras says that he would be ashamed to subscribe to this view, although he admits that many people have this view (333b8-c3). Socrates asks him whether he should discuss the thesis of the many or Protagoras' own view and Protagoras invites him to do the first thing (333c3-5). Then Socrates says: 'I do not mind, provided that you answer the questions, whether you believe the answers or not. It is chiefly the thesis that I am testing, but all the same it perhaps turns out to be a test for me too, as I ask the questions, and for whoever is answering' (333c5-9, Taylor's (1991) translation).

This passage makes clear at least this: Socrates does not think it necessary for the workings of the elenchus that his interlocutor is committed to the thesis he tests. Of course, he does not in this argument of the *Protagoras* dispense altogether with his interlocutor, but it is clear that examining a committed or active interlocutor is not indispensable for the workings of his elenchus. There is no reason why he could not conduct the argument without any meaningful participation by a third person, and this is what he actually does later in the *Prot.*, when he puts under elenctic examination the thesis of the many.

On the basis of this evidence we may reformulate assumption D) as follows:

D*) All and only true propositions may form a coherent set *as a whole*.

If Socrates actually holds D*), then it is not necessary for the elenchus to operate that Socrates adopts the adversative role, or else that Socrates does not need an interlocutor for an elenctic argument. The reason is that D*) makes D), A**) or Vlastos's assumption A) redundant: if Socrates assumes D*), then he can reach the desired conclusion that his moral beliefs are true solely on the basis of assumptions D*) and B) (under reading a), see, 2. 7.), without there being any need for him to rely on anything else. So, Socrates may employ the coherence testing method of the elenchus to check the truth values of propositions which have not been put forward by any of his interlocutors: Socrates may himself put forward certain moral theses and then, by examining whether they fit into his coherent set of beliefs, reject some or adopt others. A**) remains of course of some use to Socrates, when he employs the elenchus in order to test the beliefs of others and does justify his confidence that he will

find in any of his interlocutors some true beliefs. His confidence is justified since A**) is ultimately supported by the inductive evidence that in every elenchus he has found his interlocutors to hold contradictory beliefs and some of these beliefs to be members of a coherent set as a whole and, thus, be, as per D*), true. But D*) allows Socrates to test any proposition and not only those believed by the men he happens to meet and are willing to be subjected to cross-examination.

The fact that the elenchus may be a method capable of testing, not solely the consistency of the propositions believed by Socrates' interlocutors, but any proposition, independently of whether a particular person actually maintains it or not, has an important implication for the use of the elenchus in the Platonic dialogues before the *Meno*. It is an integral part of Vlastos's account of the elenchus that, after the *Gorgias*, Plato loses his faith in the value of the elenchus as a method of searching for moral truths and in the *Hippias Major*, the *Lysis*, and the *Euthydemus*, he totally abandons it¹⁸. Vlastos's reason for suggesting the abandonment of the elenchus in these dialogues and for considering them later than the *Gorgias* is that Socrates no longer examines and rejects theses of his interlocutors, but the theses he examines and rejects are put forward by himself. A detailed account of the arguments of these dialogues and the correct balancing of various considerations concerning the development of Plato's thought will be needed in order to settle both the issue of the order in which these dialogues were written and the issue of whether Socrates' method in these dialogues differs from the elenctic method of the early dialogues. But if my arguments above are correct, then Vlastos's reason for suggesting that the elenchus was dropped as

¹⁸ See Vlastos (1993a), pp. 29 - 33.



Plato's favourite method in the dialogues after the *Gorgias* is not valid, since it is not necessary for the workings of the elenchus that the theses tested belong to the set of moral beliefs of Socrates' interlocutor¹⁹. And, while remaining fairly agnostic as to the order in which the early dialogues were written, in absence of any other arguments to the contrary, I am inclined to treat the arguments of the *Hippias Major*, the *Lysis*, and the *Euthydemus* as elenctic arguments.

2. 10. Conclusion: Four points of disagreement with Vlastos's account of the elenchus

Let me recapitulate the main points of my critical discussion of Vlastos's account of the elenchus. I adopted Vlastos's thesis that Socrates elenctic arguments as proofs for the theses they justify and that the moral propositional knowledge Socrates avows is knowledge of moral propositions established by the elenchus. I disagreed however with the way Vlastos formulated the assumptions which seem to support the workings of the elenchus and justify Socrates' claim that elenctic

¹⁹ On Vlastos's account of the Socratic elenchus, the demand that the beliefs elenctically examined are part of his interlocutors' set of beliefs is exemplified in Socrates' demand for sincerity, the 'say what you believe' rule. But, *contra* Vlastos, this demand does not seem to be an integral part of the elenchus, since, as Irwin (1992) has convincingly argued, is loosened in the *Protagoras* twice in crucial steps of the argument.

The *Protagoras* creates a further problem for Vlastos's account of the elenchus: the argument for the thesis that no one errs willingly, which is a standard Socratic thesis, is based on the hedonism of the many, which Vlastos does not take Socrates to adopt. But, then, Vlastos is committed to the thesis that, in the elenchus, Socrates may establish the truth of a proposition relying on false premises, which goes against Vlastos's account that in the elenchus the beliefs which entail the contradictory of the opponent's beliefs are true. See, also appendix I.

arguments constitute proofs. My main disagreement with Vlastos focused on four points:

1) Vlastos's account of assumption A). Vlastos's account required that a) a particular person cannot lose any or most of his true beliefs and b) his true beliefs must be enough to directly entail the contradictory of his false belief. My account requires that a particular person cannot lose some of his true ethical beliefs and that his true ethical beliefs may directly as well as indirectly entail the contradictory of his false beliefs.

2) Vlastos's account of the procedure Socrates would follow when confronted with a stubborn interlocutor who was willing to challenge the truth of the beliefs which entailed the contradictory of his belief instead of withholding his belief. On Vlastos's account, Socrates would proceed by finding another two beliefs of his interlocutor the conjunction of which entailed the contradictory of his interlocutor's belief, and if his interlocutor challenged the truth of this pair, he would go on to produce another pair of beliefs of his interlocutor which entailed the contradictory of his thesis and so forth. On my account, Socrates would proceed by producing another two pairs of beliefs each of which justifies the beliefs the truth of the belief which his interlocutor challenged, on the model of J2. My account has the advantage of allowing Socrates to assume that the elenchi has shown his set of moral beliefs to be coherent as a whole.

3) Vlastos's justification of Socrates' assumption that his beliefs which the elenchus vindicates are true. Vlastos claims that Socrates infers that the beliefs the elenchus justifies are true from their pragmatic value. On my account Socrates may infer the truth of the propositions the elenchus justifies from his assumption that all and only the true moral

propositions may form a coherent set and his elenctic experience which shows that his set of beliefs is coherent as a whole.

4) Vlastos's belief that a necessary condition of the elenchus is that Socrates adopts the adversative role. According to Vlastos's account the application of the elenchus requires an interlocutor (and indeed a sincere one), while, according to my account, arguments in which Socrates himself puts forward a thesis and critically examines it without his interlocutors' active participation can still be legitimately considered to be 'elenctic'. This is possible because according to my account Socrates needs not assume something like Vlastos's assumption A) or any ramification of it to legitimately claim that the elenchus has demonstrative power. Ultimately, what I claim is that whether an argument in the early dialogues is elenctic depends, not on whether it takes two to perform it, but on whether it has a particular structure of justification of its conclusion, one similar to J2 above.

CHAPTER THREE

SOCRATES ON MORAL KNOWLEDGE PART B - TWO MODELS OF SOCRATIC IGNORANCE

3. 1. Elenctic knowledge as a reliabilist account of knowledge

According to the account of the elenchus I described in the previous chapter Socrates claims to know moral propositions he has established using the elenchus. This indicates that Socrates considers the elenchus a reliable method of establishing the truth of moral propositions and such as to yield knowledge. It is possible, then, to consider elenctic knowledge to be compatible with a reliabilist account of knowledge according to which in order for one to know a particular moral proposition one has to establish it by using the reliable method of elenchus. On this reliabilist account of knowledge A's belief that m (where m stands for any moral proposition) counts as knowledge, if it is justified by means of the elenchus, and this is precisely how the ascription of elenctic knowledge to Socrates works. We can thus propose the following formula to describe elenctic knowledge (EK_m) of an moral proposition constructed on the model of reliabilist accounts of knowledge:

(EK_m) A elenctically knows that m iff m is true and A holds that m on the basis of his having established that m by using the elenchus.

In what follows I will assume that in general Socrates may be described as working with a reliabilist account of moral propositional knowledge according to which a true belief that *m* may count as knowledge that *m* iff its justification involves the application of a reliable method. On this reliabilist account of 'knowing that *m*' Socrates may validly claim to *know* (elenctically) that *m* since he holds that *m* on the basis of his having established that *m* using the elenchus which is regarded by Socrates as a reliable method of discovering moral truths. I want to suggest that, when Socrates disclaims moral propositional knowledge, he means that he lacks a particular reliable method (other than the elenchus) of establishing that *m* and that, thus, he does not hold that *m* on the basis of his having established that *m* by using this particular reliable method.

3. 2. The kinds of knowledge Socrates disavows.

In the early dialogues Socrates disavows two kinds of moral knowledge. On the one hand, Socrates disclaims knowledge of moral propositions he has established through the elenchus. As we have already seen, Socrates denies in the *Gorg.* that he knows that being justly punished is better for the agent than escaping punishment, which he previously claimed to have shown to be true and established with arguments of iron and adamant. So, Socrates seems to distinguish moral propositional knowledge reached and supported by the elenchus from another kind of moral propositional knowledge, reached presumably by a different method, which he admits not to possess. The evidence of

the *Gorg.* allows us to say that Socrates generally accepts that the same proposition m can be known elenctically but still not be known in another sense.

On the other hand, Socrates disclaims knowledge of things which he has not established through the elenchus. Namely, Socrates disavows knowledge of what piety, justice, temperance, courage, and virtue, in general, is. He probably knows as a result of the elenchus that all virtue is a kind of knowledge. In the *Prot.* he shows by using the elenchus that all virtues are the same thing, namely knowledge of goods and evils. But he does not consider this elenctic knowledge to be knowledge of what virtue is: at the end of the dialogue he admits that he has not achieved knowledge of what virtue is¹. Thus, it is not the case that he knows elenctically what virtue is but does not know what virtue is in some other way (as he knows only elenctically and not in another way that just punishment benefits the agent); Socrates does not even know elenctically what virtue is.

3. 3. Moral propositional knowledge based on knowledge of what F-ness is

Socrates believes that there is a particular relation between knowledge of what a particular virtue is and knowledge of a proposition

¹ Socrates claims that, if what virtue is becomes clear, then the issue of whether it is teachable or not will be settled (360e8-361a2). And he also suggests that he and Protagoras should engage in further argument to find out what virtue is (361c4-5). This implies that what the previous arguments have established, namely, that all virtues are the same thing, knowledge of goods and evils, does not constitute the appropriate answer to the question of what virtue is. This is compatible with Socrates' denial that he knows what holiness is in the *Euthyphro*, what temperance is on the *Charmides*, what justice is in the *Republic* I, what friendship is in the *Lysis*, what the fine is in the *Hippias Major*.

m. Socrates' view about this relation can be found in a number of passages throughout the early dialogues:

T18) Soc. [addressing to Euthyphro] Well, then teach me what this reality is, in order that by looking at it, and using it as a paradigm, I can say that of the things you or anyone else would do is holy if it agrees with it, or, if it does not I can deny that it is holy². (*Euth* 6e3-6)

T19) [Socrates reports his discussion with Protagoras] 'Indeed', I said, ' I have no purpose in making all these questions other than to try to understand what is going on with virtue and what on earth this thing is, the virtue. For I know that, once this [what virtue is] was evident (*phaneron*), the other thing, about which me and you had a long discussion, I claiming that virtue is not teachable and you claiming that it is teachable, would become perfectly clear (*katadêlon*)'³. (*Prot.* 360e6-361a3)⁴

T20) Soc. He [Socrates' bullying critic] will ask me if I am not ashamed to dare discuss fine practices when elenctic refutation makes it evident that I don't even know what on earth the fine itself is. 'So, how will you know' he will ask me, 'if anyone has produced a fine speech or any other fine performance whatever, when you do not know the fine? And when this is your condition, do you think you are better off alive than dead?' (*Hipp. Maj.* 304d6 - e3)

T21) Soc. We have made ourselves ridiculous Lysis and Menexenus - I, an old man, and you. For those who go away will say that we think we are one another's friends - for I put myself in with you - but what a friend is, we have not been able to discover. (*Lysis* 223b4-8)

T22) Soc. Well, if you [Meno] ask anyone of those who live here [in Thessaly] this question [whether virtue is teachable or not] he will laugh and say: 'O stranger, it seems that I look to you like a blessed man - so as to know whether virtue is teachable or in what way it is acquired -. I am so far away from knowing whether virtue is teachable or not that I even do not happen to know this thing, what on earth virtue is.'

² Tredennick's and Tarrant's translation (1993).

³ Taylor's translation (1991).

⁴ In T19 Socrates does not explicitly relate *knowledge* of what virtue is with propositional *knowledge* about characteristics of virtue; he speaks, instead, of what virtue is becoming 'evident' (*faneron*) and whether it is teachable or not becoming perfectly clear (*katadêlon*). But it is natural to think that for Socrates the person to whom what virtue is is evident has *knowledge* of what virtue is and consequently *knowledge* of whether virtue is teachable, since Socrates says that this will be perfectly clear to him. Among those who think that Socrates wants to relate knowledge of what virtue is with knowledge about what properties virtue has are Robinson (1953), Vlastos (1993c), p. 82,.

That man and myself, Meno, are both in the same position, . I am poor along with the Thesalians in this thing and I find fault with myself that I do not know a single thing about virtue. Since I do not know what it is, how would I know what kind of thing it is? Or, do you think that it is possible for someone who does not know at all who Meno is to know whether he is good-looking or rich or brave, or the opposite of these? (*Meno*. 71a1-b7)

T23) I seem to have behaved like a glutton, snatching at every dish that passes and tasting it before properly savoring its predecessor. Before finding the answer to our first inquiry about what justice is, I let that go and turned to investigate whether it is a kind of vice and ignorance or a kind of wisdom and virtue. Then an argument came up about injustice being more profitable than justice, and I couldn't refrain from abandoning the previous one and following up on that. Hence the result of the discussion, as far as I am concerned, is that I know nothing, for when I don't know what justice is, I'll hardly know whether it is a kind of virtue or not, or whether a person who has it is happy or unhappy⁵. (*Rep.* 354b1-c3)

The above passages suggest the following relations between knowledge of what F-ness, or the F is (where F-ness or the F may stand for a virtue, or for an moral condition such as friendship, or for a moral universal such as the fine) and knowledge of a relevant proposition m:

a) If A knows what F-ness is, he will know that m. (T18, T19)

b) Only if A knows what F-ness is, will he know that m. (T20, T21, T22, T23)

a) and b) suggest that according to Socrates knowledge of what F-ness is is both necessary and sufficient for attaining knowledge that m and thus suggest that according to Socrates:

SN) A will know that m iff he knows what F-ness is.

⁵ Grube's and Reeve's translation (1992).

In all the passages quoted above all the moral propositions for the attainment of knowledge of which knowledge of what F-ness is is both necessary and sufficient, are either of the form 'x is F'(signifying that a thing or course of action or person had a particular moral property) or of the form 'F-ness is G' (signifying that an moral property has certain characteristics)⁶. So, we have:

- a) If A knows what F-ness is, he will know that x is F. (T18)
- b) If A knows what F-ness is, he will know that F-ness is G (T19)
- c) Only if A knows what F-ness is, will he know that x is F.(T20, T21)
- d) Only if A knows what F-ness is, will he know that F-ness is G. (T22, T23)

which, given SN, entail

- 1) A will know that x is F iff he knows what F-ness is.
- 2) A will know that F-ness is G iff he knows what F-ness is⁷.

⁶ From now on, I will use m to symbolise ethical propositions of the form 'x is F' or 'F-ness is G' exclusively.

⁷ It is clear that by crediting Socrates with 1) and 2) I credit Socrates with the propositions Vlastos names G (in honour of Geach) and R (in honour of Robinson) which assert that knowledge of what F-ness is is necessary for knowing whether x is F or F-ness is G respectively (see, Vlastos (1993c)). Vlastos denies that G and R occur in the early dialogues, and thinks that they are found only in the *Hippias Major* and the *Lysis* in which Plato has abandoned the method of the elenchus. I have already argued against Vlastos's thesis that Socrates abandons the elenchus in these two dialogues and the *Euthydemus* and thus find no reason to go back on my interpretation that throughout the early dialogues (until the *Meno*) Socrates holds 1) and 2). (For the problems T23 creates for Vlastos's interpretation and the way Vlastos tries to overcome them, see Vlastos (1991), pp. 250 - 251.)

1) and 2) can be considered as expressions of an essential part of the so-called 'Socratic fallacy'. The Socratic fallacy may be understood to comprise two assumptions: a) the assumption that we cannot know whether a predicate F belongs to a certain subject or what properties F-ness might have unless we have know what F-ness is and b) that the use of examples is not permitted in the search for what F-ness is. a) is false, since we are normally in a position to say whether something is red, for example, even if we lack a definition of redness. b) is equally mistaken, since unless there is some agreement on examples that are F, the discussion about what F-ness is cannot even

T18 provides an account of how one will come to know that x is F if one knows what F -ness is. Socrates claims that once he knows what holiness is he can use holiness as a standard to establish whether a particular course of action is holy or not. I will examine in the next section what is involved in using F -ness as a standard to establish whether x is F and give a detailed account of how establishing that x is F using F -ness as a standard is different from elenctically establishing that x is F . For the present I would like to confine myself to a brief argument that they are indeed different.

In the elenchus Socrates establishes the truth of a particular proposition m , say of the form ' x if F ' by showing that it coheres with other propositions m or propositions other than m ; no particular proposition is used as a "standard" against which the truth of the ' x is F ' proposition is going to be assessed. Even if we understand 'establishing that x is F using F -ness as a standard' as equivalent to 'showing that " x is F " follows from a proposition stating what F -ness is'⁸ it is clear that in the elenchus no proposition has the privileged position the proposition stating what F -ness is has according to T18: in the elenchus the truth of a proposition m of the form ' x is F ' is established by showing that it

begin. Among the scholars who credit Socrates with this fallacy are Robinson (1953), p. 51, Geach (1966), Beversluis (1974), Benson (1990). For opposing views, see Irwin (1977) & (1995), Santas (1979), Brickhouse and Smith (1994), pp. 45 - 60, Vlastos (1993c), Beversliius (1987).

As it will become clear, I do not treat 1) and 2) as instances of a fallacious reasoning. The reason is that in my interpretation 1) and 2) state necessary and sufficient conditions for a specific kind of propositional moral knowledge.

⁸ But this is not the only way to understand 'establishing what F -ness is a standard' (see, 3. 3.) The equation of 'establishing that x is F by using F -ness as a standard' with 'showing that " x is F " follows from a proposition stating what F -ness is' holds only for those who think that by knowledge of what F -ness is Socrates refers to knowledge of proposition which states the definition of F -ness. But, as I will argue in 3. 2. there is another way of conceiving what Socrates might mean by 'knowledge of what F -ness is'.

coheres with other propositions *m* (as well as propositions other than *m*) and not by showing that it coheres with only one specific proposition.

I assume that for Socrates the method of establishing the truth of propositions of the form 'x is F' is the same as the method of establishing the truth of propositions of the form 'F-ness is G': it would require that someone uses what F-ness is as a standard to establish the truth of propositions of the kind 'F-ness is G'⁹. So again this method of establishing that F-ness is G would be different from the elenctic one.

If what I have argued so far is correct and the elenctic method of establishing that *m* is different from the method of establishing that *m* using what F-ness is as a standard, then the necessary and sufficient conditions of knowing that *m* according to 1) and 2) are different from the necessary and sufficient conditions of elenctically knowing that *m*. So, 'know' in 'know that x is F' and 'know that F-ness is G' in 1) and 2) respectively cannot mean 'elenctically know'. And, since, as I have argued, Socrates avows elenctical knowledge that *m* but disavows knowledge that *m* attained by using what F-ness is as a standard, I suggest that, when Socrates disavows knowledge that *e*, he uses 'know that *m*' in the following sense:

⁹ See, for example, T19, T22 and T23. It is true that in this passage it is not explicitly stated that knowledge of what F-ness is will be used as a 'standard' or something equivalent. But nothing crucial depends on the occurrence of such terminology in the dialogues; the basic idea behind my interpretation is that there is for Socrates a difference between someone's establishing the truth of a proposition *e* by using the elenchus and someone's establishing the truth of a proposition *e* based on prior knowledge of what F-ness is. My calling the latter 'establishing the truth of a proposition *e* by using knowledge of what F-ness is as a standard' on the model of T18 is purely conventional. I believe that it best represents an ambiguity which the notion of knowledge of what F-ness is involves in all the passages quoted in 3. 2.; as I will later show 'knowing what F-ness is' as used by Socrates in T18- T23 admits of two altogether different and incompatible readings.

A knows that m iff m is true and A holds that m on the basis of his having established that m by using his knowledge of what F-ness is as a standard.

In a nutshell, my line of argument in this section was the following: the fact that Socrates thinks that it is legitimate for him to claim that he knows that m iff he has established that m by using the elenchus suggests that Socrates adopts an externalist conception of knowledge according to which knowing that m presupposes having a reliable method of establishing that m. The elenchus is for Socrates a reliable method and so, when he has established that m by using the elenchus Socrates feels justified to claim that he knows that m. However, Socrates lacks another reliable method of establishing that m, namely, establishing that m using F-ness as a standard and when he claims not to know that m he means that he has not established that m using F-ness as a standard¹⁰.

3. 4. Two ways of understanding 'knowledge of what F-ness is'

The majority of scholars understand knowledge of what F-ness is to be knowledge of the *definition* of F-ness, that is, knowledge of a *proposition* which states what F-ness is¹¹. This definition is usually understood to be *real* rather than nominal; it does not provide an account of the meaning of an moral term on the model of the account of the meaning of words found in dictionaries, but it gives an account of the

¹⁰ For different accounts of what kind of knowledge Socrates lacks, see appendix II.

¹¹ See, among others, Robinson (1953), Irwin (1977) pp. 61 -73, (1995), pp. 23 - 30, Woodruff (1976), Santas (1979), pp. 97ff., Brickhouse & Smith (1994), pp. 63- 64, Beversluis (1974), Nachnikian (1971), Fine (1992).

essential attributes of F-ness, of what F-ness primarily is. The exact form the statement of a proper Socratic definition takes is a matter of dispute: some assume that a proper Socratic definition is by genus and differentia, and some believe that it gives an analysis of what it is to be F¹². Here I am not interested in the details of Socratic definition. It suffices for my purposes to make clear that according to one interpretation knowledge of what F-ness is is knowledge of a proposition which is the definition of F-ness.

On this account of knowledge of what F-ness is, Socrates, in all the passages T18 - T23, should be understood as claiming that knowledge of the proposition which states the definition of F-ness is necessary and sufficient for knowledge of a relevant proposition m. So, what Socrates claims in T18 to use as a standard is knowledge of a proposition, the proposition which states the definition of holiness¹³. Similarly, it is a proposition which states the definition of virtue which he expects to become evident in order for the truth-value of the proposition 'virtue is teachable' to become evident as well. We should understand Socrates' reference to knowledge of what F-ness is in the other passages in a similar manner. So, we may ascribe to Socrates the following necessary and sufficient conditions for someone's *definitionally* knowing that m (using for convenience 'd' as the symbol for a proposition which states the definition of F-ness)

¹² For a detailed account of the various interpretation, see Santas (1979).

¹³ Cf. Irwin (1977): 'Socrates expects good definitions to provide paradigms or standards for deciding whether actions or persons are virtuous' (p. 72); and Kraut (1984), who considers the problems which the interpretation that Socrates expects solely a definition as an answer to his 'what is F-ness?' question creates, asks: 'How...can a brief sentence about justice help us to resolve all our political problems? How can a simple statement about piety serve as a standard for deciding whether any given act is pious?' (p. 279).

(DKm): *A* knows definitionally that *m* iff *m* is true and *A* holds that *m* on the basis of his having established that *m* using his knowledge that *d* as a standard.

There is however another account of what knowledge of what *F*-ness consists in for Socrates¹⁴. On this account knowledge of what *F*-

¹⁴ Penner (1988) and White (1976) ch.I & II come closer to my account of the second interpretation. (It should be noted that for many years the 'orthodox view' was that for Plato knowledge by acquaintance was the primary type of knowledge. According to the orthodox view knowledge of the Forms was an instance of knowledge by acquaintance. See, for example, Cherniss (1971))

White's account of the relation between the definition of *F*-ness and knowledge by acquaintance of the Form of *F*-ness (op. cit. 20 - 21) is broadly in agreement with my account of it (see, 3. 6.), although I must admit that he may not agree with my saying that the definition of *F*-ness *expresses* the content of the mental apprehension of *F*-ness. White describes Socrates of the early dialogues as being involved in two different searches about which he was not particularly clear and between which he seemed to oscillate. According to White, Socrates on the one hand sought definitions of virtues which he would use as premises to deductively infer that an act or a person was virtuous, or that virtue had a certain property; and on the other, he sought to become acquainted with the Form of *F*-ness so as to use it as a standard to judge whether *x* is *F* or *F*-ness is *G*. My disagreement with White rests on the fact that, while White suggests that Socrates does make two searches but is not clear about their difference in scope, I suggest that Socrates is making one search albeit, given the inconclusiveness of any positive evidence, we are not in a position to tell which of the two different searches is actually Socrates'. One main part of my disagreement with White is his treatment of the evidence for either of the two searches. White seems to suppose that we are able to identify the pieces of evidence which clearly suggest that Socrates is concerned with one search and the pieces of evidence which clearly suggest that Socrates is concerned with the other search. I suggest to the contrary: a) what White claims to be clear evidence for the fact that Socrates wants to find definitions, namely, his demand for *knowledge what* is by no means reliable; as I will argue Socrates does not remain faithful to the use of specific constructions of the verb 'to know' and does not seem aware of the subtle philosophical connotations of the different constructions. After all, he does use in some contexts the direct - object construction of the verb 'to know' interchangeably with the 'what' construction, which, if we are to put with White any weight on Socrates' use of the different constructions of 'to know', might be taken to suggest that he has in mind a species of knowledge by acquaintance. b) What White takes to be evidence for the interpretation that Socrates wants to mentally apprehend the Forms, namely, the use of the visual metaphors, is, as I argue in later quite weak.

A corollary of White's interpretation is that it presents Socrates as being confused about the sort of knowledge he wants to attain. But I think that it should have been quite clear to Socrates the difference between a species of knowledge by acquaintance and knowledge of a definition. The crux of the matter is whether Socrates actually wanted to 'see' the Forms; if he did, then what he lacked was ultimately mental apprehension of the Forms. If he did not and was satisfied with achieving a *logos*, a definition of *F*-ness, then all he lacked was ultimately knowledge of a definition.

ness is is not for Socrates a species of propositional knowledge like knowledge of a proposition which states the definition of F-ness; it consists in mental apprehension of the reality F-ness refers to, of the object in the world which F-ness names. So, on this interpretation 'knowing what F-ness is' is a species of what in modern philosophy is called 'knowledge by acquaintance'¹⁵.

¹⁵ The equation of 'knowing what' with 'knowing by acquaintance' might seem odd to modern eyes. The reason is that we tend to treat interrogative constructions of 'to know' as reducible to that-constructions and knowledge what as essentially propositional knowledge (see, Hintikka (1974), pp. 212 - 213), while we keep the direct - object construction for expressing knowledge by acquaintance. But we should keep in mind

a) That even modern epistemologists acknowledge that, insofar as natural language is concerned, a neat distinction between the interrogative constructions and the direct - object construction is evasive. Hintikka (1974) makes the following remark: 'In fact the sharp distinction I have made above between the interrogative constructions and the direct-object construction in terms of 'knows' has to be taken with a grain of salt. It is easily seen that in ordinary language one construction is frequently used to denote what would be expressed perhaps slightly more appropriate by the other. Language is at best a partial and incomplete guide to logic here. Acquaintance *may* be what 'knowing who' naturally expresses in suitable circumstances' (p. 225).

b) That even modern philosophers seem to have assimilated 'knowledge what' with 'knowledge by acquaintance'. The most notable example is one of the main exponents of the notion of knowledge by acquaintance, B. Russel. In his opening lines of his paper 'Knowledge by Acquaintance' and 'Knowledge by Description' we read that the aim of his paper 'is to consider what it is that we know in cases where we know propositions about the 'so and so' without knowing who or what the so and so is' (Russel (1918), p. 209).

c) That Plato (and most certainly early Plato) did not have or follow a strict philosophical terminology and did not seem to have been aware of the connotations of the different constructions of the verb 'to know'. Firstly, what in the literature is labelled as Socrates' desire to 'know what F-ness is' never in the text has this straightforward form: the exact equivalent of the Greek formula reads like 'know F-ness what it is' (see, for example, *Meno* 71a6, b5, *Rep.* I 354c1). Some scholars treat 'know F-ness what it is' as equivalent to know a definition (that is, to have propositional knowledge), while others think that 'know F-ness' in this formula should be understood in the sense of 'being acquainted with F-ness'. Secondly, 'know F-ness what it is' is treated interchangeably with 'know F-ness' or 'know of (about) F-ness what it is'. These two points show how thin the evidence is from the constructions of the verb to know found in the early dialogues are for the kind of knowledge concerning F-ness Socrates disclaims.

The crux of the issue is the following. 'Knowledge what' can be used to denote 'knowledge by acquaintance' and modern philosophers have used in that way. Plato did not employ strict philosophical terminology and did not seem to have been aware of the epistemic connotations of different constructions of the verb 'to know'. So, there is in principle no obstacle to an interpretation which takes what in literature has been labeled as 'knowing what F-ness is' to denote a species of knowledge by acquaintance.

Then, what Socrates wants to be able to 'look at' in T18 should be taken to be the reality of holiness; and what he wants to be able to use as a standard should be taken to be his mental acquaintance with the reality of holiness. Similarly, when in T22 Socrates treats the priority of the knowledge of what virtue is to the knowledge of whether virtue is teachable as analogous to the priority of the knowledge of who Meno is to the knowledge of whether he is good-looking, rich, etc., we should understand his analogy as resting, in part, on the fact that knowledge of what virtue is and knowledge of who Meno is are both instances of the same kind of knowledge, knowledge by acquaintance. In a similar manner, we should understand that the passages T18 - T23 show that mental apprehension of F-ness is both necessary and sufficient for knowledge that *m*. So we may ascribe to Socrates the following account of knowing that *m* by mental apprehension of F-ness (MAK_{*m*}):

(MAK_{*m*}) *A* will know that *m* by mental apprehension of F-ness iff *m* is true and *A* holds that *m* on the basis of his having established that *m* using his mental apprehension of F-ness as a standard.

MAK_{*m*} shows that for Socrates knowledge of things is epistemologically prior to knowledge of facts (propositions). It further shows that there is for Socrates a sense of the verb 'to know', according to which, in order for *A* to be validly said to know certain fact about *x*, he must be acquainted with *x* and establish that fact on the basis of his being acquainted with *x*. That is, there is a sense of the verb to know according to which Socrates cannot be validly said to know certain facts about Meno, unless he has been acquainted with Meno and be able to infer them from his visual apprehension of him; if, for example, Socrates

inferred the fact that Meno is good-looking from the fact that a lot of young girls were mad for him and the fact that Agathon has composed a poem celebrating his beauty, without having ever seen Meno, then Socrates could not be validly said to know that Meno is good-looking. So, according to this sense of knowing that Socrates cannot be validly said to know that x is F or that F-ness is G, unless he has been acquainted with F-ness.

There is no conclusive evidence in favour of either interpretation of what Socrates conceives knowledge of what F-ness is to consist in. In favour of the second interpretation may be cited the following:

a) The fact that Socrates uses visual metaphors to describe someone's grasping what F-ness is. For example, in T19 he speaks of 'looking at' (*apoblepôn*) the reality of holiness (cf. *Meno*. 72c6-d1, where he speaks again of someone looking at (*apoblepsanta*) the *eidōs* all virtues have in common to say what virtue is (cf. *Hipp. Maj.* 299e2).

b) The fact that he uses direct - object constructions of the verb 'to know' to describe what elsewhere treats as instances of knowing what. For example, in the *Euth.* he speaks of knowing the holy (15d4, e1) where his object of inquiry is to find out what the holy is (15c11-12); similarly, in the *Meno* he speaks of knowing virtue in the context of a discussion about what virtue is (79c7-9).

c) The fact that he treats in T22 knowing what F-ness is as analogous to knowing who Meno is and the fact that the Greek verb he uses to describe knowing of who Meno is is *gignôskein*, which normally signifies 'knowledge by acquaintance' (it is more or less equivalent to the French verb *connaître*).

None of these considerations is conclusive. The visual metaphors carry no great weight, since Socrates employed no strict philosophical terminology and it is not unusual in ordinary language (both Greek and English) to use the 'seeing' metaphor with reference to knowledge. Further, the visual metaphors are not supported by an even elementary theory which treats 'knowledge what' as analogous to sight. Equally dubious is the significance of direct - object constructions of the verb 'to know'; given Socrates' lack of systematic philosophical terminology we cannot rely solely on some (considerably 'thin') linguistic evidence to ascribe to him a particular epistemological thesis which requires a significant degree of philosophical conceptualisation of linguistic items¹⁶. After all, if we assume that Socrates was so conscious of the elaborate philosophical connotations of different constructions of the verb 'to know' it is difficult to understand why he preferred the construction 'to know what' which is at least ambiguous between knowledge of definitions and knowledge by acquaintance. Finally, insofar as c) is concerned, I may note two things. The first is that Socrates use of 'knowing who Meno is' is ambiguous between 'knowing a particular proposition which states the

¹⁶ Apart of the direct - object and the what construction of the verb 'to know' Socrates uses also instances of 'know of' or 'know about', a) Soc....And now I do not know of (*peri*) virtue what it is... (*Meno* 80d1).

b) Soc....In a similar manner since we do not know of (about) virtue either what it is or what kind of thing it is, we should examine this thing whether it is teachable or not teachable by making a hypothesis...(*Meno* 86b2-4).

c) Soc. He [Socrates' obstinent objector] will ask if I am not ashamed to dare talking about fine things since it is so obvious that I do not know of (about) the fine this very thing, what on earth it is (*Hipp. Maj.* 304d5-8)

d) Soc. So we should not ...directly examine the whole of virtue [what it is]...but we should firstly see whether we have sufficiently know about some part of it [what it is]...(Lach. 190c8-10).

In a similar manner Socrates speaks of asking 'about F-ness what it is' or as looking for an answer which states 'about F-ness what it is' (see, for example, *Meno* 72a2, b1-2, 75b4, 77a6-7, 80b2-4, *Charm.* 159a2-3).

essential properties of Meno' and 'being acquainted with Meno'. The second is that *gignôskein* could be used and is used in Plato interchangeably with *oïda*, and *epistamai* to denote propositional knowledge.

The evidence for the first interpretation of the kind of knowledge Socrates takes knowledge of what F-ness is to be is equally inconclusive. The following may be adduced as evidence:

- a) Socrates' use of the construction 'know what'.
- b) The examples of the answers to his 'what F-ness is' questions he finds correct. For example, in the *Meno*. he considers the proposition 'figure is the limit of solid (76a5-7), that is, a proposition which states the definition of figure, to be a good answer to the question what figure is .
- c) Socrates' expectation that the elenchus will be able to test who has knowledge of what F-ness is. Socrates' elenchus is able to test only propositions so the kind of knowledge the possessor of knowledge of what F-ness is has should be propositional knowledge.

What I said above about Socrates' linguistic insights rules out a) as a reliable piece of evidence. Further, there are passages in the early dialogues which may be taken to suggest, on the account that for Socrates knowledge of what F-ness is is a species of knowledge by acquaintance, i) that the person who mentally apprehends F-ness may be able to linguistically express it, presumably in the form of a definition; and ii) that the person who attains propositional knowledge of the definition of F-ness will be able to somehow mentally apprehend F-ness (see, 3. 6). This considerably weakens the strength of b) and c) above, since it shows that in the context of the interpretation that for Socrates knowledge of what F-ness is is knowledge by acquaintance the content of

this knowledge may be expressed in propositions, which may be tested by the elenchus. These propositions may be accurate expressions of the mental apprehension of F-ness and indications that the person who supports them mentally apprehends F-ness.

Where has the discussion led us thus far? I have argued that there are two ways in which Socrates may understand knowledge of what F-ness is, one according to which knowledge of what F-ness is is for Socrates propositional knowledge of the definition of F-ness and another according to which knowledge of what F-ness is is for Socrates mental apprehension of F-ness. Since, as I have argued in 3. 2., Socrates disclaims knowledge of what F-ness is, then he should be understood to disclaim either propositional knowledge of the definition of F-ness or mental apprehension of F-ness.

Further, we have already seen that Socrates disavows propositional knowledge that m based on prior knowledge of what F-ness is. So, given that there are two accounts of the kind of knowledge knowledge of what F-ness is is for Socrates, we have equally two accounts of the propositional knowledge that m which Socrates disclaims. One, according to which Socrates disclaims definitional knowledge that m , that is, knowledge that m based on prior knowledge of the relevant definition of F-ness and another, according to which Socrates disclaims knowledge that m by mental acquaintance of F-ness, that is, knowledge that m based on prior mental acquaintance with F-ness.

3. 5. Knowledge of the definition of F-ness.

We need to explain how one comes to acquire knowledge of the definition of F-ness. This will clarify the nature of the definitional knowledge that m and make explicit the contrast between definitional and elenctic knowledge that m .

Unfortunately, the early dialogues give us no clues as to the source of a particular person's knowledge of the definition of F-ness. One plausible assumption is that according to Socrates knowledge of the definition of F-ness may be achieved by the elenchus, since, as I have argued in 3. 4., knowledge of the definition is a species of propositional knowledge and the elenchus may lead to propositional knowledge. On this account, knowledge of a proposition d , which is necessary and sufficient for definitional knowledge that m , is itself according to Socrates an instance of elenctic knowledge. Thus, the following seem to be the necessary and sufficient conditions for elenctically knowing that d :

(EK_d) A elenctically knows that d iff d is true and A holds that d on the basis of his having established that d by using the elenchus.

If this is so, then Socrates, when he disclaims knowledge of what virtue is, means that his use of the elenchus has failed to establish any definition of virtue. So, Socrates has failed to find a proposition d such that it coheres with the true propositions m (that is, those moral propositions which form a coherent whole).

Even if knowledge that d which is a necessary and sufficient condition for definitional knowledge that m is elenctic knowledge, still definitional knowledge that m and elenctic knowledge that m are different in kind. The method of establishing that m using the elenchus

and the method of establishing that m using a proposition d as a standard are different: no proposition m has the privileged status in the elenchus which the proposition d has in being the inferential basis and the ultimate justification for all other propositions m .

The question which remains is why, on the model presented so far, definitional knowledge that d is so important and, thus why definitional knowledge that m is somehow superior to elenctic knowledge that m . I suggest that the two main respects in which the superiority is established are *explanatory power* and *economy in justification*: definitional knowledge that m is a much clearer form of knowledge and requires fewer steps of justification than elenctic knowledge that m . Let us consider the following analogy: say, that definitional knowledge that m is analogous to the doctor's knowledge that malaria is an adverse bodily condition and elenctic knowledge that m is analogous to someone's knowledge that malaria is a adverse bodily condition achieved by means of a kind of medical elenchus. The possessor of the medical elenchus knows (elenctically) that malaria is an adverse bodily condition based on the fact that the application of the elenchus has established that the proposition that malaria is an adverse bodily condition is consistent with the propositions that malaria makes men feel sick and turn pale, that feeling sick and turning pale are signs of disease and that a disease is an adverse bodily condition. Each of these propositions is established by means of a further elenchus which shows that each one of them is consistent with another set of propositions and so on. For example, the justification of p_1 , p_2 , and p_3 using the elenchus may take the following form:

$$\begin{array}{r}
 \\
 \\
 \text{(EJ)} \quad p_2 \text{ because } \{ \& \\
 \\
 p_1 \text{ because } \{ \& \\
 \\
 \\
 \\
 p_3 \text{ because } \{ \& \\
 \\
 \\
 \\
 \end{array}
 \begin{array}{r}
 p_4 \text{ because } \{ \dots \\
 \\
 \\
 p_5 \text{ because } \{ \dots \\
 \\
 p_6 \text{ because } \{ \dots \\
 \\
 p_7 \text{ because } \{ \dots
 \end{array}$$

On the contrary, the doctor, the man who knows the definitions of health and disease, will be able to justify that malaria is an adverse bodily condition by using knowledge of the definition of health as a standard. For example, the justification of p_1 , p_2 , and p_3 using the definition of health as a standard may take the following form:

$$\begin{array}{l}
 \text{(DJ)} \quad p_1 \text{ because } d_h \\
 \quad p_2 \text{ because } d_h \\
 \quad p_3 \text{ because } d_h
 \end{array}$$

The contrast between EJ and DJ shows that: a) in DJ, to establish a particular proposition one does not have to establish a whole chain of justificatory links as one does in EJ and b) in DJ the justification of every proposition about the same thing (say, health) requires reference to the same single proposition which states the definition of that thing (say, the definition of health), while this uniformity of justification is absent in EJ. Or, to put it differently, the justification of every proposition of the form

'x is F' or 'F-ness is G' requires reference to the single proposition which states the definition of F-ness.

One might protest that the contrast between DJ and EJ is artificial in that the exclusion of the elenctic justification of the proposition stating the definition from the series of the justification links which establish the truth of p is arbitrary and thus the economy of justification in DJ is illusory. The challenge is in fact that, as in depicting the justification of p_1 in EJ, we state the steps in the justificatory links which establish that p_2, p_3 , etc., we should in the same manner state in DJ the series of the elenctic justification of the definition d . To this we may answer that the explanatory power of d is a compelling reason for considering the justification of p_1 as completed once the relevant definition is available. d offers the reason why it is the case that p_1 and in this way differs significantly from p_2, p_3 , etc. in EJ, none of which has by itself such an explanatory power. On the contrary, it is essential for the justification of p_1 in EJ that it is part of a long series of justificatory links, since it is not sufficient for the truth of p_1 that it is consistent with another proposition p , but what accounts for the truth of p_1 is the fact that it is part of a *set* of propositions, the true ones, that is, the only ones that are consistent with one another and may form a coherent whole. Thus, it is essential for the justification of p_1 in EJ that the idea that p_1 is a member of a set is depicted.

On the other hand, the elenctic justification of d adds virtually nothing to the definitional justification of p_1 as such. To get clear about this we may recall the distinction between justification within a theory and justification of the theory itself. The latter, although it may enhance our overall understanding of a cognitive field, is conceptually distinct and

has no bearing on the process of justifying a particular proposition within the theory. The point is that the reasons why, for example, I support a particular theory about the nature of psychoses play no role in justifying my diagnosis of a psychological disorder such as paranoia. Similarly, the reasons why I accept d play no role in justifying that p_1 in DJ. By contrast in EJ what establishes p_2, p_3 , etc., is essential for the justification of p_1 , since for the elenctic justification of p_1 it is necessary that p_1 is shown to be a member of a coherent set.

Explanatory power and economy in justification make definitional knowledge that m a more reliable kind of knowledge than elenctic knowledge that e . Since the possessor of definitional knowledge that m knows the reason why it is the case that m and the justification process he needs to follow is considerably shorter and simpler than the elenctic justification process, he is likely to be less susceptible to error and have a greater degree of certainty than the possessor of elenctic knowledge. So, we may suggest that definitional knowledge is a less fallible and more certain kind of knowledge than the elenctic knowledge. This explains why Socrates considers possession of definitional knowledge to be a requirement anyone who is to going to give advice on moral issues should satisfy.

3. 6. Mental apprehension of F-ness

Let us now examine knowledge of what F-ness is as mental apprehension of F-ness. As we have seen, the elenchus gives Socrates propositional knowledge and thus all the knowledge about the moral

domain Socrates claims to possess is knowledge that *m*. Now, if we understand his quest for what *F*-ness is as a quest for a kind of mental apprehension of *F*-ness, then it is clear that when Socrates claims not to know what *F*-ness is he does not disavow a kind of propositional knowledge, namely, knowledge that *d*, but a kind of extralinguistic, non-propositional knowledge, namely, knowledge of the thing *F*-ness, knowledge of the reality of *F*-ness. Since the latter kind of knowledge is non-propositional, then the elenchus, which engenders solely propositional knowledge, cannot provide Socrates with the desired kind of knowledge. Socrates, on this account, can be understood to be dissatisfied with the propositional knowledge the elenchus grounds and to want to see through the propositions to the reality which accounts for their truth.

This does not mean, however, that the mental apprehension of *F*-ness, although itself lacking a propositional content, may not be linguistically expressed. Socrates seems to allow for this possibility:

T24) Soc.And even though the virtues are many and of various kinds, all of them share in one and the same form (*eidos*) because of which they are virtues and by looking at which the answerer is well able to state to the questioner this thing, what virtue is. (*Meno*. 72c6-d1)

T25) Soc. ...So, do we have this need, to know what on earth virtue is? For if we happened not to know at all what on earth it is, how would we become advisors about the best way one can acquire it?

Laches. I don't think we would, Socrates.

Soc. So, we say we do know what it is, Laches.

L. Yes, we do.

Soc. So, what we know, we could also, presumably, say what it is.

L. Certainly. (*Lach*. 190b7-c6)

On the interpretation that for Socrates knowledge of what *F*-ness is consists in mental apprehension of *F*-ness, T24 and T25 can be taken

to suggest that the possessor of mental apprehension of F-ness will be able to linguistically express the content of his knowledge. This means that he will be able to give a propositional content to his mental apprehension and explain what F-ness is. The proposition formulated would be nothing other than the definition of F-ness, a proposition *d*.

So, the man who has 'seen' F-ness will also have a relevant propositional knowledge that *d*. It is this propositional knowledge which he can impart to others and which the elenchus can test by showing it to be consistent with the set of propositions *m*. However, propositional knowledge that *d* is not what Socrates seeks on this account of Socrates' quest for knowledge of what F-ness is. If we assume that the elenchus could establish that *d*, on this account Socrates would be still dissatisfied with his achievement and could still consider himself lacking the knowledge of what F-ness is and of the knowledge (in a sense other than elenctically knowing) that *m*: he would not have mentally apprehended F-ness and he could not establish that *m* based on his mental apprehension of F-ness. Thus, it becomes clear that, if for Socrates 'to know what F-ness is' is equivalent to 'to have a mental apprehension of F-ness', propositional knowledge that *d* is a corollary rather than the real object of the knowledge Socrates claims to be lacking.

The fact that in T18 Socrates seems to suggest a different relation between knowing the definition of F-ness and mental apprehension of F-ness does not tell against this conclusion. In T18 Socrates asks Euthyphro to teach him what the single form of holiness (what all holy things have in common and by virtue of which they are holy) is so that (*ina*) by looking at (*apoblepein*) it and using it as a standard he will be able to tell which things are holy. On the interpretation that knowledge

of the Form of holiness is not propositional knowledge of the definition of holiness, the most this passage suggests is that knowledge of the definition of F-ness will somehow enable mental apprehension of F-ness. T18 by no means implies that knowledge that *d* is necessary for the attainment of mental apprehension of F-ness¹⁷. Strictly speaking, it does not even imply that it is sufficient: whether Socrates will develop a mental insight into F-ness after learning the definition might partly depend on some special cognitive abilities of Socrates, which may not be a common property of all men. So, knowledge of *d* may not suffice by itself to generate mental apprehension of F-ness but requires the presence of special cognitive abilities which may be possessed by only a few¹⁸.

It should be noted that the fact that Socrates allows for the content of the mental apprehension of F-ness to be linguistically expressed in the form of a proposition *d* and that knowledge of proposition *d* may help

¹⁷ White mistakenly reads T18 as implying that knowledge of the definition is necessary for mental apprehension of F-ness and credits Socrates, on the basis of T18 and T24 with circular reasoning: according to White Socrates claims both that knowledge of the definition of F-ness is necessary for mental apprehension of F-ness (T18) and that mental apprehension of F-ness is necessary for knowledge of the definition of F-ness (White (1976), p. 21). Since, as I argue in the main text, T18 does not have the implication White thinks it has, Socrates should not be regarded as arguing fallaciously.

Further, according to my interpretation, Socrates may allow that the definition of F-ness does not always require and may be achieved by means other than mental apprehension of F-ness; the elenchus may result in a valid definition and thus, on the evidence of T18, elenctic knowledge of the definition of F-ness may help someone to mentally apprehend F-ness. This suggests that T24 should not be read as implying that mental apprehension of F-ness is the necessary condition for all kinds of propositional knowledge that *d*. Obviously it is not necessary for elenctic knowledge that *d*; but it is necessary for the propositional knowledge that *d* which is established by looking at the Form of F-ness. So, we may on the basis of T24 suggest that Socrates could employ the notion of knowledge that *d* by mental apprehension of F-ness:

(MAK_d) *A* knows that *d* by mental apprehension of F-ness iff *d* is true and *A* has established that *d* by using his mental apprehension of F-ness as a standard.

¹⁸ The plausibility of this suggestion is strengthened by the fact that Socrates denies that men have equal mental and moral abilities, see chapter 4.

some people to acquire mental apprehension of F-ness makes possible the process of teaching high level moral knowledge. The person who has mentally apprehended F-ness can communicate the content of his knowledge to others and help some of them acquire this mental apprehension of F-ness.

On this account of Socrates' quest for knowledge of what F-ness is knowledge of the definition is not the inferential basis for knowledge that x is F or that F-ness is G. The inferential basis is the mental apprehension of F-ness as MAK_m make clear. This marks an important difference between DK_m and MAK_m .

Let us also see the difference between elenctic knowledge that m and knowledge that m by mental apprehension of F-ness. The main difference is that they involve different methods of establishing a fact or a proposition, that is, they differ in their methods of justifying those beliefs which count as knowledge. We may distinguish the following points of difference:

- a) Nothing has in EK_m the privileged position mental apprehension of F-ness has in MAK_m as the inferential basis for the truth of m .
- b) While in elenctic justification that m a whole chain of justificatory links needs to be established to show that m is a member of a coherent set, all that is needed in MAK_m to establish any m is reference to the same thing, the mental apprehension of F-ness.
- c) The material of EK_m is nothing else but propositions, while direct access to an extra-linguistic reality is required for MAK_m .

The advantages of MAK_m over EK_m can be easily shown on the basis of a), b) and c). As in the case of DK_m , a) and b) show that MAK_m are superior to EK_m in respect of economy in justification and

explanatory power. In MAK_m fewer steps of justification need to be taken in order that m is established. Further, the uniformity of justification in MAK_m (all facts or propositions about F-ness are established by reference to the same thing, the mental apprehension of F-ness) makes MAK_m a much clearer form of knowledge. Explanatory power and economy in justification make MAK_m a less fallible and more certain form of knowledge than EK_m . The degree of certainty of MAK_m is further enhanced by the fact that it comprises direct access to reality, an access lacking in EK_m which is entirely embedded in the realm of propositions. Direct access to the reality of F-ness makes MAK_m a firmer kind of knowledge than EK_m .

3. 7. Political or moral knowledge: elenctic knowledge or knowledge of what F-ness is?

According to Socrates possession of elenctic knowledge does not qualify anyone as a political or moral expert. There are two main considerations which support this conclusion.

The first consideration is that, according to Socrates, although the moral or political expert is able to educate people and make them more virtuous, the possessor of elenctic knowledge is unable to teach anyone. In the *Apol.* Socrates emphatically denies that he has ever been the teacher of anyone (33a5-6). And in the *Laches* (200e1-201b5) he acknowledges that he himself needs a teacher to tell him how to become better. On the other hand, in the same dialogue Socrates claims: a) that, if someone knows what virtue is, he is able to give advice about how one

can acquire it (see, T16 and *Lach.* 190b6 - c2); and b) that it is a necessary condition for someone to give authoritative guidance on virtue that he possesses knowledge of what virtue is (*Laches* 200e1-201b5).

The second consideration is that, while Socrates thinks that the political or moral expert may legitimately expect or demand total and unquestionable subordination on the basis of his knowledge, nowhere does Socrates expect or demand subordination. I will give an account in the following chapter (see, 4. 3.) of the authoritarian behaviour of the political or moral experts which Socrates finds justified. The political or moral expert is allowed to use force to change the appetites of the citizens (*Gorg.* 517b5 - c2), to determine what they are allowed to do (*Charm.* 171d6 - e7); and the citizens should treat him with fear and respect and be guided by him (*Crito* 47c8 - d7). But Socrates' elenctic knowledge does not seem to make legitimate for him such an extreme authoritarian behaviour.

CHAPTER FOUR

SOCRATES ON THE MANY'S CAPACITY FOR MORAL KNOWLEDGE AND ON MORAL AUTONOMY

4. 1. The equality and the autonomy thesis

In the previous chapter I discussed Socrates' views about political or moral knowledge and expertise. Socrates seems to accept that there are political or moral truths and gives an account of the high level knowledge a political or moral expert should possess. It is clear that he espouses the first thesis of political authoritarianism, since he recognises the existence of political or moral truths. To decide whether he also adopts the second thesis of political authoritarianism, namely the thesis that only a few can attain political knowledge, we must examine his views about who has the capacity to become a political or moral expert. This is one of the issues I will deal with in this chapter. The other issue is whether Socrates adopts the third thesis of political authoritarianism, namely, the thesis that there is strong reason for dispensing with the moral autonomy of individuals.

So, in this chapter I will discuss the following questions: a) Does Socrates believe that all men have substantially equal capacities for attaining the political art or moral virtue? and b) Does he believe that

there is strong reason for allowing each and every adult individual to make moral decisions for himself?

An affirmative answer to a) and b) would identify Socrates as an anti-authoritarian. Recognition of equal human capacities for attaining virtue and espousal of the principle that every individual should be free to make his own moral decisions rule out an in principle justification of extensive paternalistic policies, such as those which political authoritarians find justified. In particular, the recognition that human beings have equal capacities for virtue is incompatible with the division of men by nature into superior and inferior classes and with paternalistic policies based on the principle that the naturally superior should rule. Similarly, acceptance of the principle (which is in fact a procedural principle of moral deliberation) that each and every individual must be free to decide upon moral issues for himself tells against a justification of an overall paternalism.

So, if Socrates is an anti-authoritarian he must accept two theses, the equality thesis and the autonomy thesis, which can be reformulated as follows:

Equality thesis (ET): all men are substantially equal in their capacity for virtue.

Autonomy thesis (AT): each and every (adult) individual should be free to make his own moral decisions¹.

¹ The reasons for accepting the autonomy thesis may be either prudential or moral. That is, the autonomy thesis may be justified on the basis of the fact that, if men are free to decide by themselves on moral issues, there will be less tension in society, greater social cohesion, etc.; or the autonomy thesis may be considered to reflect an absolute moral requirement. My formulation of the autonomy thesis intends to be neutral between these two kinds of justification.

There is almost universal agreement among scholars that Plato accepts neither ET nor AT. But what about Socrates?

Popper, Gulley, Klosko and Vlastos agree that Socrates' views are the opposite of Plato's. This is what they take Socrates' stance on ET and AT to be:

a) ... his intellectualism is also antiauthoritarian. A technique, for instance rhetoric, may perhaps be dogmatically taught by an expert, according to Socrates; but real knowledge, wisdom, and also virtue, can be taught only by a method which he describes as a form of midwifery. Those eager to learn may be helped to free themselves from their prejudices; thus, they may learn self-criticism, and that truth is not easily attained. But they may also learn to make up their minds, and to rely, critically, on their decisions, and on their insight. In view of such teaching, it is clear how much the Socratic demand (if he ever raised the demand) that the best, i.e. the intellectually honest, should rule, differs from the aristocratic demand that the best, i.e. the most noble should rule. (Popper (1962), p. 129)

b) ...[Socrates]considers the moral worth of the individual to be of paramount importance. Hence, he considers that the individual must be free to realise his own good.... Certainly, his conviction of the individual's moral self-sufficiency predisposes him to think that the individual is able to realise his moral ends under most forms and conditions of government. But he always insist on the individual's right to be free to realise his own good. And he is confident that the vigorous exercise of this right will help to create the best political conditions for realising that good. (Gulley (1966), p. 177)

c) The evidence is strong that Socrates believes all individuals (all Greeks?) to be basically equal. As his very demand that individual become morally autonomous indicates, Socrates believes that every individual has the capacity to develop his rational faculties and be governed by them. The soul is identical to the rational faculties, and so every soul can be developed to achieve rationality. Perhaps it is because Socrates has so little regard for human reason that he believes every soul is capable of attaining the heights accessible to others.... Every individual has a rational soul, and so every individual can be awakened to become morally autonomous and to rule himself. Socrates devotes his life to a sustained attempt to waken his fellow citizens to his conception of the virtues of the soul, to a life devoted to reason and moral autonomy. (Klosko (1986), p. 47)

d) ...[according to the Socrates of Plato's early dialogues] every one of us would have the royal art, each of us would pursue the "examined life", we would all be ruled in our individual lives by our personal knowledge and vision of the good. (Vlastos (1994b), p.105)

It is clear that the above scholars believe that Socrates holds both ET and AT. In my view this bespeaks a great misunderstanding of Socrates' conception of the political art or moral virtue: Socrates is as authoritarian as Plato is. In what follows I will try to show that there is strong evidence that Socrates does not espouse either ET or AT.

4. 2. Texts against the Equality Thesis

Socrates' low opinion of the many is manifested in many passages. In the *Apol.* he claims that the many corrupt the young instead of properly educating them:

T26): But surely, Meletus, the members of the Assembly do not corrupt the young? Or do all of them too exert an improving influence?

'Yes, they do.'

Then it would seem that the whole population of Athens has a refining effect upon the young, except myself; and I alone corrupt them. Is that your meaning?

'Most emphatically, yes.'

A great misfortune, indeed, you've damned me for! Well, let me put another question to you. Take the case of horses; do you believe that those who improve them make up the whole of mankind, and that there is only one person who has a bad effect on them? Or is the truth just the opposite, that the ability to improve them belongs to one person or to very few persons, who are horse-trainers, whereas most people, if they have to do with horses and make use of them, do them harm?² (25a5-b4)

In the same dialogue Socrates maintains that if he tried to take part in politics, the Athenians would have killed him (31d6-e1). He generalises:

² Tredennick's & Tarrant's translation (1993).

T27) No man on earth who conscientiously opposes either you or any other organised democracy, and flatly prevents a great many wrongs and illegalities from taking place in the state to which he belongs, can possibly escape with his life³. (31e2-32a1)

In the *Crito* he stresses that one should not take into account the opinion of the many on moral issues:

T28) ...what we ought to worry about is not so much what people in general will say about us but what the expert in justice and injustice says, the single authority and with him the truth itself. So in the first place your proposal is not well-founded when you claim that we must consider popular opinion about what is just and honorable and good, or the opposite.⁴ (48a5-10)

A similar point is made in the *Laches* :

T29) I believe that a good decision must be reached by knowledge and not by the greater number (of opinions). (184e8-9)

In the *Hippias Major* Socrates gains Hippias' agreement to the following:

T30) S.: Are those who know the truth, the many?
Hip.: Of course not. (284e4-5)

The above passages show that Socrates does not value the moral capacities of the many. He thinks that they are responsible for the morally deficient education of the young (T26), that they are to a great extent morally corrupt (T27), that they have false moral beliefs and thus their moral opinion is not trustworthy (T28, T29, T30). The many's moral capacities are contrasted with those of the few moral experts; the

³ Tredennick's & Tarrant's translation (1993).

⁴ Tredennick's & Tarrant's translation (1993).

moral experts know the moral truth, (and thus we can trust their moral opinion) and are able to educate the young properly. So, we can reasonably infer that Socrates believes that there is substantial inequality in men's moral capacities.

However, one could counterargue that the most the above passages show is that Socrates believes that the current moral state of the majority of his fellow-citizens is so bad that they are unable to attain a significant degree of virtue; but, one could suggest, Socrates may still believe that the majority of his fellow citizens are capable of receiving appropriate moral education and that once they have been appropriately educated, they would be able attain a significant level of virtue.

The suggestion that Socrates believes that his fellow citizens could cease to be in the same corrupt moral state and attain *some level of virtue* is probably correct. His continuous examination of his fellow citizens would have been a meaningless enterprise unless he believed that it could change somehow their moral beliefs and their general moral status. Further, the very fact that he believes that the moral experts should be entrusted not only with the education of the young but, as we have seen (1. 8. 3), with the education of the adults as well implies that he believes that some advancement in virtue is attainable by most people.

However, I think that the suggestion that Socrates believes that all men have equal capacities to attain a significant degree of virtue and, in particular, moral expertise is mistaken. In T26 the ability to morally improve the young is categorically said to belong only to a few men. Further, since the possession of moral expertise or high level moral knowledge is a necessary condition for someone to be able to morally educate his fellow citizens, it follows that only few men will be able to

become moral experts. It is crucial to understand that Socrates does not believe that the majority of men cannot educate the young because the majority of his contemporaries happen to be morally corrupted; the fact that only a few are able to improve the young is presented by Socrates as a kind of universal truth about all kinds of training: only a few are able to make the young virtuous as only a few are able to properly train the horses and the other animals.

The majority of people, not only lacks the ability to train others, but, according to Socrates, has more general deficiencies. This becomes clear from what he claims in the *Crito*:

T31) I only wish that ordinary people had an unlimited capacity for doing harm; that would mean that they had an unlimited power for doing good, which would be a splendid thing. In actual fact they have neither. They cannot make a man wise or foolish; they achieve whatever luck would have it⁵. (44d6-10)

T32) So one ought not to return an injustice or an injury to any person, whatever the provocation. Now, be careful, Crito, that in making these single admissions you do not end by admitting something contrary to your real beliefs. *I know that there are and always will be few people who think like this. (oida gar oti oligois tisi tauta kai dokei kai doxei)*⁶ (49c10-d2)

T31 makes clear that the majority of men have a limited capacity for doing good according to Socrates. They seem incapable of bringing about a significant transformation of a particular person's character or affect his moral life in a significant manner.

T32 shows that Socrates believes that the majority of men will not come to hold certain true moral beliefs. It is not clear however whether a) Socrates believes that the many will *never* come to believe certain

⁵ Tredennick's & Tarrant's translation (1993).

⁶ Tredennick's & Tarrant's translation (1993).

moral truths or b) he believes that the many will never come to believe certain moral truths *unless their education is entrusted to the moral experts*. If b) is the case, then Socrates might allow that, once the many receive by the moral expert the appropriate moral education, and thus their current moral state changes, they will come to believe some moral truths they now reject. His comment in T32 then is probably about the abilities of the many to recognise certain moral truths established by the elenchus. But, even in this case, Socrates advances a thesis which tells against the equality thesis. A few people (like Socrates) may recognise moral truths without being educated by the moral experts, while for the majority of people being educated by the moral experts is a necessary condition for coming to believe certain moral truths.

To recapitulate, there is strong evidence that Socrates does not espouse ET. Socrates holds that people have unequal moral capacities: only few have great capacity for virtue and high-level moral knowledge, while the majority of men have very limited capacity for virtue.

4. 3. Textual evidence against the Autonomy Thesis

There is strong textual evidence which tells against the suggestion that Socrates espouses AT. Consider the following passages:

T33) So in this case as well we should come to consider first the very same thing, whether one of us is an expert about the thing we are discussing [namely, virtue]. And if one of us is an expert we should rely on (*peithesthai*) him though he is only one, and not trust the many; and if none of us is an expert we should try to find someone who is. (*Lach.* 184e11-185a3)

T34) Well now, tell me, Crito - we don't want to go through all the examples one by one - does this apply as a general rule, and above all to the issues which we are trying now to resolve: just and unjust, honourable and dishonourable, good and bad? Ought we to be guided (*epesthai*) and intimidated (*phobeisthai*) by the opinion of the many or by that of the one - assuming that there is one with expert knowledge? Is it true that we ought to respect (*aischunesthai*) and fear (*phobeisthai*) this person more than all the rest put together; and if we do not follow his guidance we shall spoil and impair that part of us which, as we used to say, is improved by just conduct and ruined by unjust? Or is this all nonsense?

C.: No I think it is true, Socrates⁷. (*Crito* 47c8-d7)

T35) [if we had temperance] we who had temperance would live our lives without making any mistakes and similarly all the others who would be ruled by us. The reason is that we would not try to do these things we do not know, but we should find those who possess knowledge of them and leave the business to them; nor would we allow (*epitrepomen*) those we ruled to do anything else but that thing they would perform rightly - and this would be the thing they had knowledge about. And so the house ordered by temperance would be ordered rightly and the city administered by temperance would be administered rightly and generally everything else which temperance guides will be done rightly. (*Charm.* 171d6-e7)

T36) But for forcing (*metabibazein*) change in their [the citizens'] appetites, not indulging them, persuading and forcing (*biazomenoi*) them towards what will make the citizens better - here they [the politicians of the past] were virtually no different from people now [the present politicians]- and that's the only work for a good citizen⁸. (*Gorg.* 517b5-c2)

T33 and T34 show the procedure which, according to Socrates, we should follow when we need to make a decision about moral issues: we should find the moral expert and rely on him; in fact, as T34 makes clear, we should be guided by him and treat him with respect and fear. Further, Socrates assumes that our attitude towards him should be analogous to our attitude towards any other authority on non-moral issues. In T33 Socrates seems to apply a general principle concerning how we should proceed on issues of a *technê* to the case of virtue. This general principle is illustrated in the *Lach.* (185b1 - 5) by the example of

⁷ Tredennick's & Tarrant's translation (1993).

⁸ Irwin's translation (1979).

the physical trainer: when we deliberate about gymnastic training we should rely on the trainer and not on the many. Similarly, in T34 we find the application of the same general principle: according to Socrates, we should regulate our actions, exercises and diet according to the view of the instructor who is an expert and not according to the opinion of the many. T34 gives us in addition an account of our emotions towards the expert: they are respect and fear.

Now it is obvious that T33 and T34 tell against the AT. Instead of accepting that the individual should make moral decisions for himself, Socrates suggests subordination to the authority of moral experts. Instead of insisting that one should follow the moral thesis which seems to oneself the strongest after deliberation, as the AT requires, Socrates maintains that one should follow the view of the moral expert. Instead of invoking the importance of personal deliberation, Socrates invokes the disastrous consequences for the soul which failure to comply with the expert's view will have and urges that we should treat the expert with respect and fear.

This account of Socrates' thesis is further supported by T35 and T36. T35 and T36 show how Socrates thinks the moral expert is eligible to behave. The moral expert will leave no room for autonomous decisions: he will not allow people to do what they want, but will make sure that people do what they are good at, and will rely extensively on the use of coercive power. T36 in particular makes clear that the moral expert or the true political man, if he is in power, is allowed to manipulate the desires of the citizens and force them to adopt that way of life which is best for their soul. Socrates recognises that the moral expert

is eligible to behave in an extremely paternalistic manner and violate the autonomy of the individual citizens.

To recapitulate, there is strong evidence that Socrates did not espouse the AT. *Contra* the AT requirements, Socrates suggests that men should comply with the view of the moral experts and allows that the moral experts may act in ways which violate the autonomy of the citizens.

4. 4. Counterarguments.

It is surprising that in the face of such strong evidence some scholars have held that Socrates' theory is egalitarian and anti-authoritarian. In this section I will examine the arguments they have adduced to support their interpretation and show how they fail.

4. 4. 1. Popper

Popper's mistaken account of what moral knowledge is for Socrates is responsible for Popper's false conclusion that Socrates is both an egalitarian and anti-authoritarian thinker. Popper claims that the real wisdom, which according to Socrates should be possessed by the truly wise, consists only in knowledge of how little they know. These are the wisest men whom Socrates believes should be the leaders of the state (Popper (1962), p. 128). This kind of knowledge or rather this critical state of mind requires no exceptional intellectual capacities and can be taught to and achieved by everyone (*ibid*).

It is clear from our discussion in the previous chapter that the moral knowledge the real politicians should have is, according to Socrates, of a different kind: it is a high-level moral knowledge which consists in knowledge of what virtue is. The knowledge the wise men possess is not, according to Socrates, knowledge of their cognitive limitations, which can be achieved by virtually everyone, but high-level moral knowledge which requires intellectual capacities only a few can possess.

4. 4. 2. Gulley

Gulley believes that Socrates' 'individualism' (which is how Gulley calls a theory which accepts or entails AT) is marked by three main assumptions Socrates makes: a) the assumption that the Socratic method, the elenchus, is self-sufficient as a means for achieving definitional moral knowledge; b) the assumption that definitional moral knowledge is sufficient for virtue; and c) the assumption that the virtuous man is self-sufficient, that is, he cannot be harmed (Gulley (1968), pp. 176-177)

Let us first focus on a) and b). a) and b) entail AT if we assume that everyone or virtually everyone can achieve moral knowledge, that is, if we assume a specific formulation of ET, like 'all men have equal capacities for moral knowledge' and that possession of the capacity for moral knowledge is an overriding reason for granting someone moral autonomy. But Gulley adduces no evidence that Socrates holds ET. Further, Socrates can still hold a) and b) without holding ET. First, even if Socrates believes that the elenchus can yield knowledge of what virtue

is (which Gulley equates with definitional knowledge), it does not follow that for him all men can attain it; as we have seen in analysing T32), Socrates claims to know that only a few people will ever accept the conclusion the elenchus establishes; this is further corroborated by the fact that in T26) and T32) he believes that only a few will attain moral expertise which requires the possession of knowledge of what virtue is. So, it is consistent with his tenet that the elenchus can yield high-level moral knowledge, which only a few will ever grasp it.

Similarly, Socrates can hold both b) and the thesis that only a few can attain high-level moral knowledge. True, moral knowledge is sufficient for virtue but equally true, only a few can attain this moral knowledge since only a few can know what virtue is.

Finally, c) seems to play no role in the argument. Gulley refers to Socrates' remark in *Apol.* 41d1 that a good man cannot be harmed either in life or death. But clearly this remark contains no information about who can attain high-level moral knowledge or whether all men should be autonomous.

4. 4. 3. Klosko and Vlastos

Klosko believes that Socrates accepts both the equality and the autonomy theses. He credits Socrates with ET because (following Popper) he mistakenly identifies the moral knowledge Socrates stresses the wise man must possess with knowledge of one's own cognitive limitations. On the other hand, he concludes that Socrates holds AT on the basis that Socrates claims in the *Apol.* 38a5-6 that the unexamined

life is not worth living (Klosko (1986), p. 32). Vlastos similarly thinks that the AT follows from the same Socratic claim (see, d) in 4. 1.).

The whole passage of the *Apol.* is as follows:

T37) If ...I tell you that to let no day pass without discussing goodness and all the other subjects about which you hear me talking and examining both myself and others is really the very best thing that a man can do, and that life without this sort of examination is not worth living, you will be even less inclined to believe me⁹. (38a1-7)

Both Vlastos and Klosko believe that it follows from what Socrates says in this passage that he considers that the individual must be morally autonomous and that moral knowledge must be his own. But nothing can be safely inferred from this passage about Socrates' respect for the moral autonomy of individuals. Firstly, Socrates' praise of the examined life takes place in a specific context: Socrates compares the examined life with a life of quietness in which there is no place for the exercise of his elenchus. Socrates explains why a life which does not involve the elenchus is not a valuable alternative for him (37e3-5). He argues that, on the one hand, if he abandons the elenchus he will disobey the god (37e5-38a1); and that, on the other, he will cease to do what is best for a man, that is, elenctically discussing issues about virtue (see, T37)). Socrates praises the examined life to show why *he* cannot lead an unexamined one. But it is important to note that the unexamined life which is not a good alternative *for him* is not life of obedience to a moral expert, but life among his fellow-citizens no one of whom is a moral expert. Socrates does not compare the examined life with life under the rule of wise men who will rule with a view to what is best for the souls of

⁹ Tredennick's & Tarrant's translation (1993).

their subjects and guide them so as to become virtuous. This is perfectly justified because the only kind of unexamined life which is a real alternative for him is the quiet life in a place where there are no moral experts to follow. But then we cannot infer anything from his praise of the examined life in T37 about how he would value life under the rule of wise men and about whether he would give an absolute value to moral autonomy.

Further, it can be shown that the arguments he adduced to prove the preferability of the examined life over the unexamined life among his fellow citizens do not establish the superiority of the examined life over a life under the rule of moral experts. There is strong moral reason for subordinating oneself to the rule of the moral expert since, as we have seen, Socrates holds that not to obey a superior is bad and shameful. And it is plausible to assume that Socrates would resolve the *prima facie* conflict between the two moral duties, the duty to philosophise as ordained by the god and the duty to obey a superior, by showing the conditionality of the first moral duty: Socrates has to go on with the elenctic mission until an expert has been found and then subordinate himself to his moral directives. Moreover, there is strong prudential reason for subordinating oneself to the rule of the moral experts: the moral experts aim at the best for the soul of the people and have the knowledge to bring about the best state of the soul.

Secondly, it is doubtful whether the kind of examined life that Socrates values so highly in T37 entails a high degree of moral autonomy for *every individual*. In T37 Socrates does not claim that any kind of moral examination is of supreme value, but he praises the kind of moral examination he has been practising all his life, the elenctic examination.

Now, the elenchus requires that one of the interlocutors has both a quite large body of true beliefs and an exceptional skill at testing the consistency of moral beliefs. But during his life-time Socrates has never found anyone as morally good as him. Further, none of his interlocutors is presented in the early dialogues as exhibiting a commendable degree of skill in the elenchus; nor are they presented as having learned how to use the elenchus after their discussion with Socrates. So, he cannot think that every man is in a position to use the elenchus and test his own and his interlocutors' beliefs. Men will always require someone like Socrates if they are going to live the examined life. But this already imposes considerable constraints on the moral autonomy of the individuals. Moral decisions must be the individuals' own in a restricted sense: the individual should follow not merely what he reasons to be correct, but what he comes to believe after he has been exposed to the elenctic examination the success of which is dependant upon the personality of the man who examines his beliefs.

4. 4. 4. Kraut

Kraut accepts that Socrates' theory is authoritarian. Kraut recognises that Socrates believes that men should be under the rule of moral experts and follow their ordainments; Socrates does not value moral autonomy. But Kraut believes that Socrates seriously doubts whether there can ever be any moral experts and whether any human being can ever attain the high level of definitional knowledge (see Kraut (1984), ch. 7).

Kraut believes that Socrates tolerates democracy because he considers moral expertise to be unattainable by humans. Kraut is interested mainly in Socrates' stance against the Athenian democracy. However, his thesis that Socrates doubts the possibility of moral expertise has important implications for Socrates' overall conception of the political art and especially for the degree and the character of Socrates' authoritarianism.

If Socrates seriously doubts that there can be any moral experts, as Kraut maintains, then his theory becomes quite odd. What would be the point in stressing that we should subordinate ourselves to the demands of the moral experts, that the appropriate procedure in dealing with moral issues is to seek the advice of the moral experts, that the experts are allowed to use force to bring about the good state of the soul, if he believes that there can be no experts in virtue? Moreover, why would he be at pains to illustrate the nature of the real political art in the *Gorg.* if he believed that no one could ever acquire it and, thus, benefit others? Furthermore, why would he ask for high level moral knowledge if he believed that no one has or will ever have it?

I believe that Socrates is not as pessimistic as Kraut depicts him. Socrates believes that someone, or very few people, can acquire the real political art and high level moral knowledge. In other words, Socrates believes that there can be experts in virtue. The elenchus allows him to grasp a picture of what they would be like and provides him with a recognition-test of them. The person who will suggest a definition which the Socratic elenchus cannot refute will be the moral expert, the person we can entrust our children's and our own education.

Is there positive evidence that Socrates is optimistic about the possibility of moral expertise? I think there is. We have seen that in T33 Socrates suggests that, if none of his interlocutors is proved to be an expert they should try to find someone who is. At the end of the *Lach.*, after it has been shown that none of Socrates' interlocutors is an expert, Socrates gives his advice on how they should proceed from now on. His advice is not that they should decide for themselves how to educate the young nor that, in the absence of moral experts, they can hope at nothing more than the Socratic elenchus. Socrates does not even hint at the possibility that there may not be any moral experts. Instead he advises them to go on searching for the moral expert without sparing money or any other goods (201a1-6).

His advice does not make sense if he believes that moral expertise is beyond the grasp of humans; he would have advised Lysimachus and Nicias to perform a futile task, to search for something he does think it exists. His advice is perfectly intelligible if he believes that moral experts can be found; it may be difficult to find them, since there are so few but the benefit of having our lives guided by the truly wise would be compensation for the pains of the search.

4. 5. Conclusion of the first part

We are now in a position to see which of the main theses of political authoritarianism we may ascribe to Socrates. Our discussion in the second and the third chapter made clear that Socrates believes that there are moral truths and that men can acquire knowledge of these

moral truths. Further, our discussion in this chapter made clear that Socrates believes that only few people can acquire knowledge of these moral truths and that the rest should subordinate themselves to the authority of the few political or moral experts. Thus, we may safely ascribe to Socrates the first three main theses of political authoritarianism. It remains to be seen whether he espouses the fourth main thesis of political authoritarianism, namely the thesis that the few political or moral experts have a claim to rule. But the fourth thesis of political authoritarianism gives rise to some interesting philosophical issues concerning the legitimacy of a particular person's authority. It is on these issues I will focus in second part of my dissertation.

Part B

Political Authoritarianism and the Legitimacy of Political Authority

CHAPTER FIVE

POLITICAL AUTHORITARIANISM AND THE RIGHT TO AUTHORITY

5. 1 Legitimate authority as involving a right to authority.

In the first part of my dissertation, I examined Socrates' conception of political art and argued that there is strong evidence that Socrates espouses three of the main theses of political authoritarianism: 1) the thesis that there are political truths, 2) the thesis that some (and relatively few) people may know these political truths and 3) the thesis that there is strong reason for dispensing with the moral autonomy of individuals and not allowing them to make moral and political decisions for themselves. It remains to be seen whether we can ascribe to Socrates the fourth main thesis of political authoritarianism, namely, the thesis that those who possess knowledge of political truths have a moral claim to political authority. I will proceed as follows. In the second part of my dissertation I will try to elucidate the meaning and the implications of the fourth thesis of political authoritarianism. I will argue that there is something deeply problematic about a basic component of the conception of legitimate authority it involves and that the form in which it is usually put forward is unacceptable. In the third part I will argue that Socrates may be credited with a modified version of the fourth thesis which is not susceptible to the same mistaken conception of legitimate authority, but which is still authoritarian. Finally, I will try show what is wrong even

with the modified version of the fourth main thesis of political authoritarianism and why political authoritarianism in general is unacceptable as a theory about the legitimacy of political authority.

Let me begin by considering the fourth thesis of political authoritarianism as it is usually formulated. In the introduction I assumed that the fourth tenet of political authoritarianism is equivalent to the statement that the political experts have a *claim* or an *entitlement* to rule. Now, it is time to produce some evidence that this is a common conception of political authoritarianism and attempt an explanation of what a claim or an entitlement to rule involves. Consider first how David Estlund and David Copp (to whose articles I have already referred) understood the third tenet of political authoritarianism. Estlund (1993) formulates the 'authoritarian tenet' as follows:

The Authoritarian Tenet: The normative political knowledge of those who know is a strong moral reason for their holding political power. (p. 72)

Although Estlund does not use the terms 'claim' or 'entitlement', it is clear that he thinks his statement that there is strong moral reason for the political experts' holding political power to be equivalent to the statement that the political experts have a claim or an entitlement to rule: a) his 'authoritarian tenet' is inspired by and is supposed to correspond to what Estlund takes to be a main Socratic thesis, the thesis that 'the wise have a special claim to rule' (p. 72); and b) Estlund redescribes his 'authoritarian tenet' as expressing the thesis that 'the knowers have a special claim to rule' (p. 82). Similarly, David Copp in his reply to Estlund's paper understands the authoritarian argument as leading to the conclusion that '...(t)he qualified members of the

intelligentsia, and they alone, have a claim to share in the ruling of society' (Copp (1993), p. 107).

I believe that the use of the term 'claim to rule' in Estlund's and Copp's account of the authoritarian theory of the legitimacy of political authority reflects a fairly common conception of what legitimate authority in general involves. According to this, the essential feature of legitimate political authority and the basic criterion for distinguishing legitimate from mere *de facto* authorities is *a right to rule* ; that is, a particular person's or a government's authority is legitimate only insofar as that person or that government has a right to rule. Further, this right to rule is supposed to be associated or correlated with an obligation or a duty¹ of the subjects to obey.

There is a strong conceptual link between a right to x and a (valid) claim to x. To ascribe to someone, say, A , a right to x is to ascribe to him, at least among other things, a claim to or an entitlement to x². In the next chapters, I will explore further the nature of rights and discuss in more detail the relation between rights and claims. For now, it suffices to note that, if Estlund and Copp do not use the expression 'claim to rule' as synonymous with 'right to rule', at least they are driven by the common conception of legitimate authority as involving a right to rule correlated with a duty to obey in their formulation of the authoritarian tenet for the legitimacy of political authority.

¹ I will not make any distinction between duties and obligations.

² McCloskey (1965) holds that rights in their essential character are entitlements or claims to. Feinberg (1980a & b) puts forward a more complex thesis. He believes that 'all rights merge *entitlements to do, have, omit, or be something with claims against others to act or refrain from acting in certain ways*' (Feinberg (1980b), p. 155). Similarly, Gewirth takes 'a justified claim to x' to be an essential part of 'a right to x' (see, Gewirth (1982) especially pp. 334 - 338).

Let us see some accounts of the common conception of legitimate authority. Perhaps the clearest account has been given by a philosophical anarchist, Robert Wolff. Wolff writes:

'A government's commands may promise beneficent effects, either intentionally or not. For these reasons, and for reasons of prudence as well, a man may be right to comply with the commands of the government under whose *de facto* authority he finds himself. But none of this settles the question of legitimate authority. That is a matter of the *right* to command, and of the correlative obligation *to obey the person who issues the command*.

The point of the last paragraph cannot be too strongly stressed. Obedience is not a matter of doing what someone tells you to do. It is a matter of doing what he tells you to do *because he tells you to do it*. Legitimate, or *de jure*, authority thus concerns the grounds and sources of moral obligation.' (Wolff (1998), p. 9.)

Wolff makes three important points. The first point has already been stressed: according to the common conception the right of political authorities to rule is correlated with a moral obligation of the subjects to obey them. In addition, Wolff provides an elucidation of the nature of the correlation between the right to rule and the obligation to obey. He suggests that the right to rule is *the grounds* of the moral obligation, meaning presumably the *justificatory grounds*. This is a point I will come back to in the following chapters. The third point is that the issue of the legitimacy of political authority is conceptually distinct from the issue of the beneficialness of political authority. Although Wolff does not pursue this point further, I believe that he indicates a distinction which I will elaborate upon in the following section: the distinction between the issue of the justification of the institution of political authority and the issue of the legitimacy of a particular person's political authority.

Joseph Raz is another exponent of the common conception. In discussing the distinction between *de facto* and *de jure* authorities he claims:

'Legitimate authorities are there by right. They have the right to act as authorities. Mere *de facto* authorities do not, but they claim such right.' (Raz (1990), p. 3.)

'...[authorities] claim such a right [to rule], i.e. they are *de facto* authorities because they claim a right to rule as well as because they succeed in establishing and maintaining their rule. They have legitimate authority only if and to the extent that their claim is justified and they are owed a duty of obedience.' (Raz (1986), p. 26)

Raz makes clear that insofar as the correlation between the right to rule and the duty to obey is concerned the right to rule is no different from any other right: for any right and its correlative duty the duty of the duty-bearer *is owed to* the right-holder. This leaves us in no doubt that the duty to obey, according to the conception of legitimate authority I am examining, stems from the right of *the authorities* to rule, and not, for example, from some general right of *the subjects* whose interests are protected by the ruling of a particular authority³.

Finally, Anscombe puts forward a more extreme thesis. She believes that any kind of authority, or rather any kind of practical authority, involves a right to be obeyed. If we restrict her general thesis to political authority, it is clear that she is another exponent of the common conception of the legitimacy of political authority. Anscombe claims:

³ Hart claims that the citizens do not owe a moral obligation to obey to the authorities but to their fellow citizens. The ground of this obligation is the fact that everyone is benefited by the existence of the co-operation network of society. Hart claims: '...when a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have benefited by their submission. The rules may provide that officials should have authority to enforce obedience and make further rules, and this will create a structure of legal rights and duties, but the moral obligation to obey the rules in such circumstances is *due to* the co-operating members of the society, and they have the correlative moral right to obedience' (Hart (1984), p. 85).

Hart's thesis is primarily a thesis about the source of political obligation and not about the legitimacy of political authority. It is not clear whether he does recognise a right of the authorities to rule, and if he does, how it is related to the moral obligation of every member of the society to his fellow-citizens. For a criticism of Hart's views about the justification of political obligation, see Simmons (1979), pp. 101 - 142.

'Authority on the part of those who give orders and make regulations is: a right to be obeyed. More amply, we may say: authority is a regular right to be obeyed in a domain of decision.' (Anscombe (1990), p. 144.)

Let me recapitulate the line of my argument so far. I have argued that the usual formulation of the third tenet of political authoritarianism reflects and should be understood in the context of a common conception of the legitimacy of political authority. According to this common conception, the essential feature of legitimate authority is that it involves a right to rule which is correlated with a moral obligation of the subjects to obey. In the remaining chapters of part two I will question the validity of this conception of legitimate authority. Two of the main issues I will deal with are: a) is the right to rule a 'typical' right? That is, is the right to rule of the same kind as those rights we take to be the paradigmatic, like the right of the promisee to the object of the promise of the promisor, the right of men not to be killed, or the right to freedom? And b) can it be the source of a moral obligation to obey? To deal with these issues properly I will probe the nature of rights and the relation of 'typical' rights to duties. But before proceeding I would like to elucidate the nature of authority, the general issue of the justification of political authority and the method I will follow in discussing the common conception of the legitimacy of political authority.

5. 2. The nature of authority.

Neither the use of force nor the exercise of persuasion are primary constituents of the authority-relation. To bring out the essential features of the authority relation we may use the following definition:

Two parties, *A* and *B*, stand in an authority relation iff the sole or the predominant reason for *B*'s compliance with *A*'s statements (decisions, directives, etc.) is the fact that *A* made these statements⁴.

For example, my father and I stand in an authority relation iff the sole or the predominant reason for my compliance with my father's statements is the fact that he made these statements. The same analysis applies to political authority: Tony Blair's government and the British citizens stand in an authority-relation, iff the sole or the predominant reason for the British citizens' compliance with the government's

⁴ Similar accounts of the authority relation are found in Peters (1967), Arendt (1969) and Friedman (1990). Peters elucidates the concept of authority using the following example: 'Suppose there is an explosion in a street or a fire in a cinema. Someone comes forward who is not a policeman or a fireman or manager of the cinema and who is quite unknown to all present - i.e. he is not regarded as 'an authority' in virtue of his personal history or known competence in an emergency. Suppose he starts issuing orders and making announcements. And suppose that he is unquestioningly obeyed and believed. Would we say that such a man exerted authority in a crisis? I think we would only say so if we thought that his orders were obeyed *simply because they were his*. ... Maybe the term 'authority' is necessary for describing those situations where conformity is brought about *without* recourse to force, bribes, incentives or propaganda and *without* a lot of argument and discussion, as in moral situations. We describe such situations by saying that an order is obeyed or a decision is accepted *simply because X gave it or made it.*' (Peters (1967, pp. 92 - 93).

In a similar manner, Arendt claims: 'Its [authority's] hallmark is unquestioning recognition by those who are asked to obey; neither coercion or persuasion is needed. (A father can lose his authority either by beating his child or by starting to argue with him, that is, either by behaving to him like a tyrant or by treating him as an equal.)' (Arendt (1969), p. 45).

Friedman equally believes that authority must be distinguished from persuasion. He claims: 'That a person possesses the authority to use force does not alter the fact that if he does use force to exact obedience, his subjects are not then obeying him out of respect for his authority. That force is rightfully or lawfully exercised does not alter the cause of obedience, though it may justify it....To defer to authority, then is to refrain from insisting on a personal examination and acceptance of the thing one is being asked to do (or to believe) as a necessary condition of doing it (or believing it).' (Friedman (1990), pp. 62 & 67).

directives is the fact that the government issued these directives. On the other hand, if I comply with my father's statements predominantly because he forced me by violence or threatened to do so, we do not stand in an authority relation, but my father simply exercises coercive power over me. Similarly, if I comply with his statements predominantly because I have evaluated them and found them correct or appropriate, then again my father and I do not stand in an authority relation. Authority requires what Friedman has called 'a surrender of individual judgement' by the party who defers (Friedman (1990), p. 63). In an authority relation, a person does not make his reasoning the guide of his actions, but abdicates his own judgement, and allows another person's judgements to guide his actions⁵.

This account of the authority-relation is purely descriptive. It states the necessary and sufficient conditions for two parties being in an authority relation. It is not an account of *de jure* authority nor, strictly speaking, of *de facto* authority. For *A* to have *de facto* authority it must be the case that *B* does, as a matter of fact, comply with *A*'s statements

⁵ The point, thus, is not that the person who defers does not formulate a judgement about a relevant issue or that it is necessary for the authority relation to hold that the party that defers has no judgement about a relevant issue. (For a similar point, see Raz (1986), pp. 38 - 42). To surrender one's own judgement is not to let the authorities do all the reasoning. It is *not to act* on one's own judgement. It is to treat someone else's judgements and not one's own judgements as the primary *reasons for action*. This means that authoritative directives do not figure simply as reasons for action on a par with other reasons for action an individual has. They are not simply among the other 'first order' reasons for action an individual has to balance. They also constitute 'second-order' reasons, that is, reasons for *not acting on the balance of the first order reasons* an individual has. That is, even if *A* has considered the relevant first-order reasons for doing or not doing *x* and the balance of the considered reasons is in favour of doing *x*, an authoritative directive *p* which forbids *x*, may figure as a (second-order) reason for not acting on the balance of his first-order reasons, that is, for not doing *x*. Raz calls these second-order reasons for action 'exclusionary' reasons. For Raz's analysis of exclusionary reasons and the role of authoritative directives in practical reasoning see Raz (1990b), especially ch. 1 and 2.

because *A* made these statements; or, to put it slightly differently, it must be true that *B*'s actual or real reason for complying with *A*'s statements is that *A* made these statements⁶. On the other hand, in order for *A* to have *de jure* authority over *B* it must be the case that *A*'s demand that *B* complies with his statements for the reason that *A* made the statements is legitimate; or, in the context of the common conception of the legitimacy of authority, it must be the case that *A* has a right to demand that *B* complies with his statement for the reason that *A* made these statements.

It must be clear from the above that whether *A* has *de facto* authority depends on the source of the motivation of the party that defers to his statements. That is, *B*'s sole or predominant motive for complying with *A*'s statements must be the consideration that *A* issued these statements. To settle the issue of whether *A* has *de facto* authority over *B* we have to look at the *explanatory* reasons of *B*'s behaviour or attitude of complying with *A*'s statements⁷.

⁶ It is not a sufficient condition for *A*'s having *de facto* authority that *B* simply complies with *A*'s statements. I may comply with the demands of the gangster (because he threatens me with a gun) but this does not mean that the gangster has *de facto* authority over me. The relation between myself and the gangster is not an authority-relation. In order for *A* to have *de facto* authority, it is necessary that *B* complies with his directives for a specific reason: for the reason that it is *A* who issued these directives.

⁷ We use 'reasons-statements' both to explain one's behaviour or attitude and to evaluate or prescribe a course of action. For example, 'John's reason for drinking Guinness is that he believes it to be a nutritious beer' states an explanation of John's behaviour; while 'the fact that Guinness is a nutritious beer is a reason for John to drink it' justifies and commends a particular action. I call 'explanatory reasons' reasons which merely explain a particular person's behaviour or attitude and 'justificatory reasons' reasons which justify a certain course of action or an attitude. For a more detailed account of the two kinds of reasons and the function of 'reasons-statements', see Raz (1990b), pp. 15-20, and Richards (1971) pp. 52-59. For the relevance of the distinction between explanatory and justificatory reasons to the distinction between internal and external reasons see 8. 1.

On the other hand, the issue of whether *A* has *de jure* authority depends on the properties *A* has, and, in particular, on whether *A* has a right to demand *B*'s compliance. If, according to the common conception of the legitimacy of authority, *A*'s right is a typical right and is correlated with a duty of *B* to obey, then it will be possible to decide whether *A*'s authority is legitimate by considering whether *B* has a duty to comply with *A*'s statements. But in this case, we should focus not on the actual motivation of *B* but on the *justificatory* reasons *B* has for complying with *A*'s statements.

The last point indicates a major difference between *de facto* and *de jure* authority. It is necessary (and sufficient) for *A* to have *de facto* authority that a) *A* is in some position of power and b) *B* is actually motivated to obey his commands by the consideration that it is *A* who issued the commands. But it is not a necessary (let alone a sufficient) condition for *A* to have *de jure* authority that there is anyone who is actually motivated to obey his commands. Assuming the common conception of the legitimacy of political authority, what is necessary for *A* to have a right to authority is that *B* has a justificatory reason to, or that *B ought to*, obey *A*'s commands⁸. Strictly speaking, even whether *A* makes any statements or utters any directives is irrelevant to the issue of whether he has a right to authority. While no one can be a *de facto* authority without exercising his authority, someone may be a *de jure* authority without exercising his authority. So, it makes sense to say, for example, that Salvador Allende's government was the legitimate government of Chile even after Pinochet's junta, while it is false to say

⁸ For the connection between 'there is a reason for *x* to ϕ ' and '*x* ought to ϕ ', see, 8. 1.

that Salvador Allende's government was the *de facto* government of Chile even after Pinochet's junta.

Of course the above considerations do not imply that *de facto* authorities may never be legitimate. Tony Blair's government is both the *de facto* and the *de jure* government of the United Kingdom. To simplify things we may divide the class of legitimate authorities into two sub-classes: a) legitimate authorities who are also *de facto authorities*, and b) legitimate authorities who do not currently exercise authority. The second sub-class includes authorities like Allende's government in the above example as well as Socrates' moral expert and Plato's philosopher-kings. Although the latter do not exercise authority, they are, at least according to Socrates' and Plato's standards, legitimate authorities. If there is some uneasiness about our calling non-*de facto* authorities 'legitimate authorities', this can be easily resolved once we recall that we did speak of Allende's government as the 'legitimate government of Chile'. In any case, if we want to avoid calling people who do not exercise *de facto* authority 'authorities' we can always speak of them as having the right to be in authority.

I would like to make a final comment about the relation between authority and coercive power. My distinction between the authority-relation and coercion was based on a distinction between two different kinds of compliance. Coercion was associated with coerced compliance while authority with free (non-coerced) deferential compliance. One might question the appropriateness of this distinction. It can be argued that, at least in so far as political authorities are concerned, a distinguishing mark of authorities is that the exercise of their authority involves the use of coercive force or power. And the term 'legitimate

authority' is not applied to those who have simply a right to demand (non-coerced) deference but to those who have a right to exercise coercive power.

There are two issues involved here. One is an issue about the meaning of 'legitimate authority' and the other is an issue about the validity of the distinction between political authority and political power. In so far as the first issue is concerned, one has to admit that 'legitimate authority' is quite commonly used to signify 'legitimate political power' or 'legitimate use of force'. But it is undeniable that 'legitimate authority' is also used in a more strict sense to signify 'the right to demand deference'. To avoid any confusion one has to keep the two senses apart.

The second issue is more important since it threatens the validity of the framework of the discussion of authority thus far. Again, one has to concede that the use of force is usually associated with the exercise of authority. But this by no means threatens the validity of the distinction between coercion and the authority relation. The fact that political authorities, as a matter of practical necessity, have to employ force, or, even, to some extent or another, rely on force does not show that the essential or primary characteristic of political authorities is the use of coercive power. If it were, there would be no significant difference between the way a gangster operates and the way a government operates. Further, the equation of political authority with the exercise of coercion would provide an impoverished and flawed account of the relation between political authorities and their subjects. It would not do justice to two important facts: a) that political authorities demand deference, not fear and b) that the subjects do not obey them (at least not most of the time) out of fear but out of respect.

5. 3. The justification of political authority

The issue of the justification of political authority is a complex one. We may distinguish two different clusters of issues: a) issues about the *justification of the institution of authority* and b) issues about the *legitimacy of a particular person's authority*. Issues like whether the recognition of authority is compatible with the moral autonomy of individuals, whether it succeeds in solving co-ordination problems in society, what types of authority are required by different social arrangements, are issues related to the justification of the institution of authority. Issues concerning the requirements a particular person should satisfy in order that his being in authority is legitimate, for example, whether the consent of the citizens suffices to make a government legitimate, whether it is always necessary, or whether the expertise of the leader plays an important role, etc., are issues about the legitimacy of a particular person's authority.

The difference between the issue of the justification of the institution of authority and the issue of the legitimacy of a particular person's authority may be brought out as follows. It can be said that in considering the issue of the justification of the institution of authority we are primarily concerned with the *function* of the authority relation; while in considering the issue of the legitimacy of a particular person's authority we are primarily concerned with *the properties a particular person should have for his authority to be legitimate*. Of course, the justification of the institution of authority is prior to the legitimacy of a particular person's authority. Unless the former issue has been settled

the latter does not arise. But the point is that by settling the former one does not automatically settle the latter. For assume that it is agreed that the institution of authority is the only way people have to solve co-ordination problems in their society and that they have thus strong prudential reasons to give to some people the reins of government. The fact that the institution of authority is justified makes considerations about the legitimacy of a particular person's authority possible and meaningful. Further, the fact that the institution of authority is justified *because it solves co-ordination problems* indicates that the person to be put in authority should be able to solve co-ordination problems. But a whole cluster of issues still remains unsettled: 'must that person possess some specialised knowledge?', 'is his specialised knowledge both a necessary and sufficient condition for his authority to be legitimate?', 'is the consent of the governed also required?', etc..

To see more clearly the difference between the issue of the function of the authority relation and the issue of the requirements a particular person should satisfy to be put in authority, let us consider the following example. Consider the case of a director of a big enterprise who decides that his enterprise should incorporate two smaller commercial companies. Here we may distinguish two different issues. The first is whether the decision of the director is justified and the second whether the director is the appropriate person to make the decision. His decision is justified if it is shown to serve the interests of his enterprise, that is, if the incorporation will increase the profits of the enterprise, or, in the case that the enterprise is close to collapse, if the incorporation will save it. When we ask the question whether the decision is justified, we try to find whether the decision is the appropriate decision in the specific

situation and, thus, it is reasonable for the director to take it. And we answer this question by examining the function of the decision. But, when we ask whether the director's decision is legitimate, the focus shifts from the decision itself to the issue of whether the director was the appropriate person to take this decision. That is, we are now interested in whether this particular decision falls within the range of the director's responsibilities, or, whether, say, it was the general shareholders' meeting that should have decided on this issue. We do not examine *what* should be done but *who* should do it.

Similarly, in the justification of the institution of authority we try to assess the function of the authority relation, that is, to evaluate its use and appropriateness for the social and political state of affairs. On the other hand, in examining the issue "when is a particular person's authority legitimate?", we try to assess who ought to be in authority⁹.

⁹ I believe that the neglect of the distinction between the justification of the institution of authority and the legitimacy of a particular person's authority has created some confusion in the general issue of *justifying* authority. I think that an important confusion concerns the theory of consent. In view of the above distinction I think it would be more appropriate to regard the theory of consent only as a theory of the legitimacy of a particular person's authority (that is, as a theory, according to which, a particular person's authority is legitimate only if his subjects have conceded to it); as a theory of the justification of the institution of authority the theory of consent leads to a very weird and, in my view, empty thesis. Namely, to hold that consent justifies the institution of authority is simply to hold that the institution is justified because the people have agreed to its existence. This is like saying that the director's decision in our example was justified because the shareholders agreed with it. But this cannot do. A decision or an action is justified if it is shown to serve the aims in view of which it was generated, that is, if it is proved appropriate for a certain state of affairs. The shareholders' agreement does not make the *decision* "appropriate". The question of whether the director's decision was justified remains meaningful even after it has been shown that the shareholders agree with it. Similarly, the consent of the people cannot justify the institution of authority. Why have they agreed to its existence? Have they acted on a general whim? If they have given their consent to it *for certain reasons*, perhaps because they have appreciated its appropriateness for solving certain problems (that is, its function), then it is the latter that really stands as a justificatory condition of the institution of authority and not their consent.

It must be clear from the above that what I have called the 'common conception' of the legitimacy of political authority is a conception of the legitimacy of a particular person's authority and not a conception of the justification of the institution of authority. According to this common conception, considerations about the requirements a particular person should satisfy for his authority to be legitimate are translated into considerations about under what conditions a particular person has a right to be in authority which is correlated with a duty of the citizens to obey him.

5. 4. A note about method

I would like to note two things about the way I will proceed in examining the common conception of the legitimacy of political authority and especially the issue of what kind of right the right to rule is. Firstly, I will treat the right to authority as a moral right and not as a legal one. This will be done for two reasons: a) according to the common conception of the legitimacy of political authority the right to rule is treated as a moral right¹⁰; similarly, the whole issue of the legitimacy of a particular person's authority is about when a particular person's authority is morally justified and not about when a particular person's authority is legally justified; and b) I assume that in a sense moral rights are an essential part of an important type of justification of legal rights. This is not of course to say that for every legal right there is a corresponding

¹⁰ See, the quotations from Wolff and Raz in 5. 1.

moral right having the same content and scope as the relevant legal right (although this may be true of some legal rights). For example, a billionaire may have a legal right to the repayment of the money he loaned to a poor family back, although he may have no corresponding moral right. Or, someone may have a legal right to watch pornographic films at home while lacking a moral right to do so. When I say that moral rights are part of a justification of legal rights, I mean that for every legal right there is at least one relevant moral right such that in conjunction with other moral and factual considerations it provides a justification for that legal right¹¹. So, for example, the legal right to watch pornographic films may seem to be justified on the grounds of general moral rights to freedom and privacy along with considerations of the consequences of monitoring what goes on in the houses of each individuals and the general scope of state-intervention. Or the legal right of the billionaire might seem to be founded upon the general moral right of the promisee to what the promisor has promised and some other considerations about the beneficiality of the policy of keeping contracts.

It is clear that by 'a justification of a legal right' I do not mean an exclusively *legal* justification, that is how a legal right is shown to follow from rights-conferring legal rules or legal precepts. And I do not mean a *moral vindication* of legal rights either, since, as it is clear from the examples I adduced, the demands of morality as such may be at odds with the content of a particular legal right. By 'a justification of a legal right' I mean the non-legal (moral and non-moral) reasons which have sufficient explanatory power to settle the issue of the appropriateness of

¹¹ This holds for both general and specific legal rights. For the distinction between general and specific rights, see 6.1.

a particular legal right. My point is that reference to relevant moral rights is an essential constituent of the provision of such a rationale. In this sense moral rights are logically prior to legal rights or else legal rights are dependent upon moral rights¹².

Secondly, I will try to define the nature of the right to political authority by relying on our moral and political intuitions. It will become clear from my subsequent discussion that, although I deal with a problem which can be described with a good degree of accuracy as a problem about the use of the term 'right to', the issue is neither exclusively nor predominantly linguistic. It is primarily a problem about the best articulation of our moral and political intuitions. The term 'right to' in expressions like 'the right to political authority' and 'the right to life' has two different senses because, as I will argue, our moral and political intuitions incline us to assert different things about the nature of the relevant right.

Reliance on moral and political intuitions neither presupposes nor rules out the existence of objective moral values. It may be the case that our intuitions accurately reflect, or are somehow causally connected with, objective moral values; or it may be the case that their source is exclusively located in our upbringing and in the social institutions which define our current political and moral context and that they are our sole

¹² This is of course only *one type* of justification of legal rights. It is not the *only possible* justification of legal rights neither the *only valid* justification of legal rights. My claim is not that it should be preferred to an exclusively legal justification or a moral vindication or even to a utilitarian justification of legal rights. I simply assume that it is a valid and informative justification which illuminates an important aspect of the links between law and morality. It may be true that it is more pertinent to a right-based moral theory, but I see in principle no reason why it cannot be equally employed, at least as a part of a valid justification procedure, by goal-based or a duty-based moral theories.

means of resolving moral disputes in the absence of any objective values. If the latter is the case, then the intuitions themselves and whatever they imply may be society-relative. So, the conclusion of my discussion which will use some of our current moral and political intuitions as premises may not aspire to have the status of an absolute, universal moral truth about the right to political authority.

I do not regard this consequence as particularly threatening and definitely not as a reason for disregarding reliance on moral and political intuitions. I will not claim to have established anything stronger than that our intuitions support a particular conception of the right to rule. There may have been different conceptions of the right to rule. I will assume that this is because they rely on different moral and political intuitions. My argument against these conceptions of the right to authority is that they are not ours, in the sense that our current moral intuitions cannot provide a proper justification for them. Whether they are objectively valid or whether our conception of the right to authority is better or closer to the truth, are issues I will not take a stance upon. Whether my thesis fails or holds should be decided solely on whether our intuitions do actually support the conception of the right to political authority I delineate.

CHAPTER SIX
THE NATURE OF RIGHTS - PART A
A CLASSIFICATION OF RIGHTS

6. 1. The vocabulary of rights

The following is a list of statements in which moral rights are mentioned.

- 1) The right to freedom is the most cherished right.
- 2) The way they treated John constituted a violation of his right to freedom.
- 3) John has the right to go to Maxies' pub at ten o' clock on Monday.
- 4) A committee of philosophers and doctors discussed whether smokers have a right to medical treatment for diseases related to smoking.
- 5) My right to the castle of my grandfather was never questioned by those who protested against the accumulation of wealth by the royals.
- 6) The promisee has a right to the object of the promisor's promise.
- 7) John has a right that Jack returns to him the money he owes him.

We may make some useful classifications of rights which will help us in our discussion of the nature of rights. Firstly, we may distinguish between *general* and *specific* rights. The rights mentioned in 1), 2), 4) and 6) are general rights, while the rights mentioned in 3), 5) and 7) are

specific rights. There are of course different levels of generality. We may speak of the right of an *individual* (as in 2), 3), 5) and 7)), of *a group of persons*¹ (as in 4) and 6)) or we may speak of a right without specifying who is the right holder (as in 1)). Further, the object of the right may be something *abstract* (as in 1)) or something *concrete* (as in 3) and 5)). To avoid any confusion, in the examples I will adduce I will treat as specific rights only those rights which are *both* rights of a specific individual *and* rights to a specific thing or action (see below). This means, for example, that a right of an individual to an abstract entity (like the right in 2) will be treated as a general right. The paradigmatic case of a general right will be a right to an abstract entity the right holder of which is not specified (as in 1).

Secondly, rights may be classified according to their objects. We may distinguish three types of rights: a) rights to *values* (as in 1 and 2)), b) rights to *goods* (as in 4) and 5)) and c) rights to *actions* (as in 3) and 7)). Rights to action may be divided into two classes: i) rights to *actions of the right holder* (as in 3)) and ii) rights to *actions of the duty bearer* (as in 7)). I will call the former *active* rights and the latter *passive* rights². In this chapter I will focus on this classification of rights according to their objects.

In our moral discourse about moral rights we usually invoke some rights in order to justify some other rights. I will call this kind of justification of moral rights *rights-based justification of moral rights*. Of course a rights-based justification of a moral right is not an argument

¹ The rights the subjects of which are groups of persons are not necessarily *collective rights* (neither 4) nor 6) are collective rights).

² For a different use of the terms 'active rights' and 'passive rights' see Feinberg (1973), p. 60

whose premises are exclusively statements asserting the existence of other moral rights. Other factual and moral considerations may be parts of a rights-based justification of a moral right. What distinguishes a rights-based justification from other kinds of justification of moral rights is that it includes statements of the existence of moral rights (other than the moral right to be justified). A quite common form of the rights-based justification of moral rights is an inference from general rights to specific rights. So, for example, we may treat the general right to freedom (in 1)) as the justificatory grounds of a specific right of a certain individual to perform a concrete action, say, to go to Maxies' pub at ten o'clock on Monday. Following a terminology introduced by Joseph Raz I will call the right which serves as the justificatory grounds of another right a *core* right and the right which is justified on the grounds of another right a *derivative* right (Raz (1986), p. 168).

The relation between core and derivative rights is not that of *logical entailment*. The existence of a general right to freedom does not logically entail that there is a right of mine to go to Maxies at ten o'clock on Monday but it may be the reason why I have such a specific right. Further, to use an example of a rights-based justification which is not an inference from general to specific rights, if I have purchased over a period of five years certain paintings of Degas, my right in the collection of paintings logically entails that I have a right in each of the paintings; but the fact that I have a right in the collection of paintings may not be the justificatory reason for the fact that I have a right in each of the

paintings. On the contrary, it is because I have a right in each of the paintings that I have a right in the collection³.

It can be easily inferred from the above that a core right is a right which gives *the reason why* of the existence of another right. To avoid any confusion we need to distinguish core rights from rights which merely provide *evidence* for the existence of a moral right. For example, the fact that *A* has a number of rights, like the right to go to the cinema, to walk on the street, to read the newspaper he likes, etc., may be evidence for the fact that *A* has a right to freedom. But this does not entail that the former rights are core rights and the right to freedom a derivative right. This inductive inference, whatever it may establish, it does not give the reason why of its conclusion. On the contrary, an inference from the existence of *A*'s right to freedom may give the reason why of the existence of *A*'s other relevant rights.

To recapitulate, I argued that there are moral rights of different levels of generality and that moral rights may be classified according to the nature of their objects into rights to values, rights to goods and rights to actions. I also argued that some rights may figure as the justificatory grounds of other rights. In the following two sections of this chapter, I will defend the distinction between rights to values, rights to goods and rights to actions and examine the implications of this distinction for the rights-based justification of moral rights.

6. 2. Rights to goods and rights to actions.

³ For a simialr point, see Raz (1986), p. 168.

Is the distinction between rights to goods and rights to actions valid and meaningful? I will try to answer this question by considering one class of rights, property-rights, which may be considered to include both what I call rights to goods and rights to actions. Take the following two lists of rights:

- a) The right to have a house, the right to have a car, the right to possess a bank account, the right to possess a factory.
- b) The right to sell one's own property, the right to invest one's own money, the right to paint the interior walls of one's house, the right to destroy one's own property.

Let us first focus on list a). List a) contains examples of rights to the possession of things. Now, what kind of things a particular person has a right to own is contingent upon the moral code accepted and some relevant factual circumstances. For example, a moral code may allow that a particular individual has a right to possess some goods, but not others. For example, while, according to one moral code, I may have the right to possess a house or a bank account I may lack the right to possess pornographic videos or guns. Again, it should be noted that the corresponding legal rights I may possess are not relevant. It may indeed be the case that the legal code of the society I live in may give me the right to possess pornographic videos or guns, but the moral code of my society, while it gives me the right to possess some goods (or else it allows that individuals may have a right to property), may proscribe the possession of pornographic videos or guns.

Further, it may be the case that, while the moral code of my society may permit the possession of a particular set of goods, say, diamonds or billions of dollars in my bank account, certain factual considerations may defeat my specific moral right to this set of goods at a

certain time. For example, the famine which hits the Sudanese people may render the accumulation of diamonds by their president morally impermissible, although their president may not have exploited the Sudanese people in order to find the money for his diamonds.

On the other hand, the examples of rights mentioned in list b) are not rights to the possession of certain goods but rights to the performance of certain actions. The rights in b) are closely connected with the general right to property and the rights in a). The range of actions (selling one's own property, investing one's own money, etc.) property-right holders have a right to perform specifies the area of social practice a particular person's general right to property affects. The rights in b) are necessary for the rights to goods to have any significant bearing on the right holders' life as well as the life of the society they live in. Indeed, my right to possess, say, a car would be empty if I did not have any right to use it.

Rights to actions make relevant rights to goods a significant part of social practice. The exact nature, however, of their relation to rights to goods seems elusive. Are they equivalent to rights to goods or are they conceptually distinct? Think for example of a particular person's right to have a car. What is the relation between that person's right to the possession of a car and his right to use or manage it⁴ (drive it, paint it, lend it to his friends, etc.)? (Note that the relation in question is not between the right to have a car and the right to use a car, but the relation between the right to have a car and the right to use that car.) The implications of this issue for my distinction between rights to goods and rights to actions are important. If rights to actions are shown to be

⁴ For the distinction between rights to possession of things and rights to use and manage things, see Honore (1961).

conceptually inseparable from what I called rights to goods, then the validity of the distinction between rights to goods and rights to actions becomes questionable.

The most powerful argument in favour of the thesis that rights to actions should be thought of as parts or necessary constituents of rights to goods is the one built upon a consideration I have already mentioned. Namely, the consideration that a right to the possession of a particular thing would be empty and of no significant consequence for the right holder and his fellow citizens if it was not somehow accompanied by some relevant rights to actions. For example, the right to own a car seems to be empty unless this right of ownership is accompanied by the right to do something with the car.

To this, however, it could be objected that the right to a thing by itself has some significance for the right holder and is of some consequence for the social practice. For example, my right to own a car, as distinct from the relevant rights to use this car, is the grounds of someone else's (a fellow citizen's or an authority's) duty to act in such a way as to protect my right. In this case my right to a thing suffices by itself to put me in a particular relation with my fellow citizens and affect in some way their behaviour towards me.

Further, the fact that *A* has a right to the possession of a certain thing does not logically entail that *A* has a right to use or manage that thing. The above statement admits of two readings, a strong and a weak one. According to the strong reading, this statement should be understood as denoting that it is not necessary for *A* to have a right to *x* that *A* has a right to use or manage *x*. According to the weak reading, this statement should be understood as denoting that, if one knows that

A has a right to x, one does not necessarily know what rights to use or manage x A has. Both of the statements are true. I may know that John owns a Land Rover, but I may not know what he has a right to do with it. And I do not need to have the latter knowledge in order to be able to validly say that he has a right to possess the Land Rover. Similarly, I may have a right to a thing without having a right to do anything with it. For example, when my country is at war I may have no right to drive my car in the streets, sell it, or use it in order to store goods in, although I may still own this car and nobody has the right to break its windows or take it from me.

If, then, rights to the possession of goods are not reduced to rights to use or manage these goods, what is the relation between the two kinds of rights? I believe that we may regard rights to the possession of goods as core rights upon which rights to use or manage these goods are grounded within the context of a rights-based justification of rights. That is, they are an essential part of an inference which provides the reason why of the existence of the relevant rights to use or manage these goods.

Till now I used property rights as examples of rights to goods. This should not create the mistaken idea that rights of ownership of goods are the only class of rights to goods. 'Rights to goods' may include goods as diverse as the right of a patient to the required medical treatment, the right of children to have a teacher, the right of children to proper nourishment, the right of an invalid to appropriate entrance to public buildings. My claim is that all of these rights to goods have

justificatory priority to relevant rights to actions: they provide the grounds for relevant rights to actions⁵.

A last remark concerns rights to actions. Right holders may have a right to act in a particular way or a right that someone else acts in a particular way. For example, John may have a right to sell his house or a right that Jack repairs the door of John's house. My claim that rights to actions are grounded upon relevant rights to goods holds for both types of rights to actions; that is for both *A*'s right that he acts in a particular manner and *A*'s right that *B* acts in a particular manner. For example, my right to paint my house and my right that John does not destroy my house are both grounded upon my right to possess the house.

6. 3. Rights to values.

There are however rights which cannot be said to be either rights to goods or rights to actions. Think, for example, of the right to education, the right to life, the right to freedom of conscience, the right to free speech, the right to political participation, or the right to property (when 'property' is not understood as a short name for things like cars, houses, etc. but expresses the notion of 'ownership'). Education, life, political participation, etc. are neither goods nor actions; they are 'values'.

⁵ I do not claim that every right to action is grounded upon a certain right to a good and that it is never the case that a right to action may be the core right to a right to a good. My claim is that rights to goods are the justificatory grounds of *relevant* rights to actions. The way in which a right to an action is *relevant* to a right to a good should be understood on the model of the relation between my right to possess *x* and my right to use or manage *x*.

I use the term 'value' in a sense that is not directly relevant to the context of the distinction between values and facts. That is to say, I do not use the term to stress the normativity of some concepts, the fact that they are 'actions guiding' as opposed to 'world guided'⁶. Rather I utilise the obvious conceptual connection between 'value' and 'valuable'. 'Valuable' is taken somewhat narrowly to signify what is important from the human beings' point of view. From this perspective valuable is what is important for human beings in the respect of advancing or preserving their well-being. Similarly, values are agent-centered in the following sense:

Value is a condition of the agent, considered in abstraction, which society deems to be necessary for the well-being of each and every agent under normal circumstances C.

Let me make the following clarifications about this account of value.

- A) 'Value is a condition of the agent...'. Freedom as a value in this sense amounts to the ability of the agent to act without external constraints. And we can equally speak of conditions of the agent like having ownership, being educated, etc. which are values in the required sense.
- B) '...considered in abstraction...'. The condition of the agent which is value is not specific enough to rule out conflicting interpretations. 'Being educated', for example, is vague about and allows different interpretations of what counts as education, what standard of learning a particular person should achieve to be validly considered 'educated', what the educational practice should be, etc.. But the vagueness and

⁶ I borrow these terms from Williams (1995).

indeterminacy of values are not pathological features. In moral discourse the necessarily vague and indeterminate abstract concepts play a significant role. In this respect, values are on a par with abstract norms and principles, virtues, moral universals (like 'good', 'right', 'just'). The latter, although they lack a concrete content to provide the agent with sufficient information about what exactly to do in a particular situation, do nevertheless set certain limits to what he is allowed to do and considerations like 'I ought to be just', 'I ought to do the right thing' or 'I ought to follow the demands of justice' are part of what motivates him to act. Further, they give the defining characteristics of a moral code and can be used as a generally trustworthy criterion of the identification of moral codes. For example, by examining the abstract principles, conceptions of virtue and moral universals like 'good', and the values of the ancient Greeks we are able to identify the differences between their moral code and ours. Finally, the vagueness and indeterminacy of moral principles, virtues, values, etc. makes it possible for the moral agents to be less passive as recipients of moral doctrines and ideas and to furnish our conception of moral autonomy. They leave enough room for exercise of deliberation, reliance on intuitions, involvement of imagination, responsibility for decisions and meaningful moral disputes. In other words, they are at least partly responsible for some central features of our notion of autonomous moral agents.

C) '...which society deems to be necessary...'. My suggestion that the criteria for whether a particular condition of the agent is a value are society's beliefs may seem questionable. The two rival candidates could have been the beliefs of the agent, on the one hand, and objectivity (what conditions of the agent *really* contribute to his well-being), on the other.

Both are in my view deficient, though for different reasons. The first misrepresents the manner in which we think of beneficial conditions of the agent and ascribe values in the required sense to individuals. The second fails to do justice to the social dimension of the practice of values and raises some awkward questions about the foundation of values in human nature.

I will first explain why relativising values to beliefs of the agent about what contributes to either his own or the general well being of all humans conflicts with the way we think about what condition of the agent considered in abstraction is beneficial for him. Firstly, in our normal practice of characterising a condition of the agent as necessary for his well-being the agent's views about what contributes to his well-being are neither the sole nor the most important standard. Consider, for example, the case of a young woman who after her affair has an unfortunate end falls into depression and wants to take her life. She finds no meaning in her life and sees suicide as salvation. Are we going to say that life is not a value for her (or even more that she has no right to life)? Surely not. What she believes to contribute to her well-being does not have significant bearing on assessing whether life is a value for her.

Secondly, not only are the beliefs of the agent about what contributes to his well-being not significant, but even his more general beliefs about what contributes to the well-being of all humans do not determine our conception of a condition of that agent as a value. Consider, for example, the case of someone who is horrified by the development of technology and science and believes that all human beings would be happier if they were uneducated savages . Our man

considers education to be bad not only for his well-being but for the well-being of all humans. But the important thing to note is that his views about what contributes to human happiness do not affect our view that education is a value for him and that he has a right to it. Our recognition of a particular state considered in abstraction as a value for him does not depend upon his views about what contributes to the well-being of humans.

The above examples illustrate the following point: *it is not a necessary condition for a particular state S considered in abstraction to be a value for A that A believes that S is necessary for his own well-being or that S is necessary for the well-being of all men.*

Why then not claim that value is a condition of the agent which is objectively necessary for the well-being of any agent, that is, independently of what the agent himself or a third party believes? All in all, it is probably true that, when we ascribe values in the required sense to individuals, we do seem to mean that the relevant conditions of the agent are objectively beneficial. The answer is located simply in the nature of the inquiry I am concerned with here. My aim is purely descriptive in the sense that I try to give an account of what it is as part of a social practice to treat conditions of the agent considered in abstraction as values. My question is 'what conditions a particular state of the agent considered in abstraction should satisfy in order for it to be thought a value in a society, that is, to be thought worthy of being preserved by society and achieved by all men?'

Defining values as conditions of the agent considered in abstraction which objectively contribute to human well-being fails to capture the basic source of normativity of values and their impact on

social practices. Values affect the lives of individuals in society only in so far as they are recognised by society. And since I am concerned with the phenomenology of values in social practice, to define value in a way which allows for a condition of the agent to be a value without having been recognised by society is of no use. Nothing can be a part of a social practice unless it has been somehow recognised by members of a society. Consider for example, as it is quite probably the case, that there is a state S which is objectively beneficial to humans but which has not being recognised as such by a society. Would it have any impact on the way some social institutions are constructed, on the behaviour of the citizens, on the moulding of their moral rights and duties? If not, then the issue of whether a particular state of the agent considered in abstraction is objectively necessary for the well-being of men should be left out of my account of value.

The above considerations do not of course imply that one cannot call 'values' states of the agent which are objectively beneficial. But if one does so, then one moves from descriptive inquiry in the sense I specified above to metaphysical considerations about the nature of values as states of the agent. My account of value leaves open the possibility for what in a society is considered to be value not to be objective value. So, my account allows a further question to be raised, namely, whether what in my account is a value is *really* a value. But it *does not require* that this question can be raised, that it makes sense, or that there is an answer to it. In this respect my account is neutral between two ethical theories which adopt opposing views about the metaphysics of values, social relativism and ethical objectivism. This neutrality has a methodological advantage. It enables meaningful talk about values

without requiring that problems about the metaphysics of values have been settled.

D) '...under normal circumstances...'. By 'circumstances' I mean both physical and psychological conditions of the agent and external factors. Two issues are of relevance here. The first is what counts as normal and the second is why what happens in normal circumstances has a bearing on an account of value.

Generally speaking, it can be affirmed that normal physical and psychological conditions of the agent exclude serious physical and psychological deficiencies, such as serious brain damage, extended mutilation, terminal diseases, madness, mental deficiency. It is difficult to draw a concrete line between the normal and the pathological, but for our purposes the basic criterion is whether a particular person's physical and psychological deficiencies are so enormous as to differentiate him from the rest of his fellow human beings in respect of even the most basic necessary conditions for his well-being. For example, the basic needs of a person with serious brain damage may be so different from the needs of a generally healthy person as to make what is necessary for the well-being of the former incompatible with the well-being of the latter.

The distinction between normal and exceptional in the case of external factors is even more difficult to draw. Some examples of exceptional 'external' circumstances may be dramatic climatic changes, famine, or nuclear accidents. For our purposes, the basic criterion for something to count as an exceptional external factor is whether, even when the physical and psychological conditions of a particular agent are not affected, it suffices to differentiate him from other agents in respect of even the most basic conditions of his well-being. For example, the basic

needs of a person who faces the prospect of famine in his country may be extremely different from the basic needs of a person who faces no such danger.

It should be clear from the above that the 'normal circumstances requirement' makes values sensitive and, thus, relative to historical conditions. For, if we assume, for example, that for some reason, say as a result of a nuclear war, both our psychological and physical conditions and the environment dramatically change and what it is now normally the case becomes exceptional, then our basic needs may change and, thus, many, or even all, of our values. And possibly changes in both men's psychological and physical conditions and external circumstances account for the difference in values between, say, some ancient cultures and our culture.

The normal circumstances requirement has two main functions in my account of what a value is. Firstly, it restricts the force of the universality requirement, namely, the requirement that for a condition of the agent to be a value it should be necessary for the well-being of every agent and, thus, rules out the obvious objection from the fact that the basic needs of people do actually differ. Secondly, it brings to the fore a generic feature of values and subsequently of rights to values, namely, that they are born out of considerations of what is normally the case and not of the nature of ideal situations. That is, what gives rise to them and defines their nature is not the human mind's contemplation of utopias but shared experience of what in most cases humans need to flourish in the world they live in.

The above discussion of the nature of values differentiates my account of rights to values from a fashionable conception⁷ of the right to life, the right to freedom, the right to education, etc. According to my account, these rights are not simply 'right-categories', under which fall a number of type or token rights to goods or rights to actions which exhaust their content. They are not general terms, used for convenience to refer to classes of specific rights which alone have a concrete object. They do have a specific object, a particular abstract condition of the agent which is necessary for or a constituent of the well-being of every agent. For example, on my account, the right to education is not simply a category name which covers specific rights like the right to go to school, to have a teacher, to learn basic mathematics, etc. but itself has an object, the right holder's state of being educated.

Thus far, I have distinguished three kinds of rights, rights to values, rights to goods and rights to actions on the basis of the characteristic features of their objects. What is the relation between a right to a particular value and relevant rights to goods and actions? I have already noted the abstract character of values and the fact that they are not sufficiently informative about what a particular person should do in a specific case so as to figure as trustworthy guides to action. It is due to this feature of values that rights to values cannot be taken to logically entail any relevant rights to goods or actions. For example, nothing follows from the fact that I have the right to own things about what things I have a right to possess or how to use them. But rights to values may be the ultimate justificatory grounds for rights to goods or rights to

⁷ For this conception of what I call rights to values, see Thompson (1990) and Halpin (1997)

actions in the following sense: they may constitute the rights which in conjunction with certain other moral or factual considerations suffice to ultimately justify why a particular person has a relevant right to a good or an action within the context of a rights-based justification of moral rights. For example, my right to ownership as a value is the right which in conjunction with other moral and factual considerations ultimately justifies my right to have a car.

This means that rights to values may be taken to be the ultimate core rights: they are an essential part of an inference which provides the ultimate reason why of the existence of other rights, rights to goods or rights to actions. This may create the presumption that the term 'core rights' should be preserved only for rights to values and that only a justification of a right which mentions rights to values may be a valid or complete rights-based justification. I want to resist this suggestion for the following reason. There can be different kind of justifications of something and of different degrees of depth, each of which may be validly called justification. The same holds for scientific explanations of physical phenomena. It is perhaps possible to explain all physical phenomena in terms of the function of atoms and molecules; but phycisists provide other kinds of explanations which do not refer to relations of the microcosm while nobody questions the validity of these explanations. Similarly, in the case of rights-based justification of moral rights, I may justify my right to the performance of an action by referring to a relevant right to a good that I possess or to a relevant right of mine to a value. Both of these justifications may be valid, sufficiently informative. Sometimes all I need to know is the existence of a relevant right to a good; sometimes I need to know whether I have a right to a value. But each of these rights-

based justifications may be validly called justification and each of the relevant core rights may be validly called a core right. If a distinction needs to be drawn here, we may call the rights-based justifications in which rights to values figure as justificatory grounds of other rights *ultimate rights-based justifications* and the rights to values *ultimate core rights*.

6. 4. Rights as entitlements

Till now I have been treating rights exclusively as *rights to*. This is consistent with one conception of rights according to which rights are essentially *claims to* or *entitlements* of the right holder. I fully subscribe to this conception of rights. A comprehensive defence of it has been given by McCloskey (1965). McCloskey claims:

'If we look at *moral rights*, in particular at what we intend to claim when we claim a right, we find ...that a right is an entitlement. It may be an entitlement to do, to demand, to enjoy, to be, to have done for. Rights may be rights to act, to exist, to enjoy, to demand.' (McCloskey (1965), p. 117)

'We speak of our rights as being *rights to* - as in the rights to life, liberty and happiness - not as *rights against*, as has so often mistakenly been claimed....My right to life is not a right against anyone. It is *my* right and by virtue of it, it is normally permissible for me to sustain my life in the face of obstacles. It does give rise to rights against others *in the sense* that others have or may come to have duties to refrain from killing me, but it is essentially a right of mine, not an infinite list of claims, hypothetical and actual, against an infinite number of actual, potential, and as yet non-existent human beings.' (*ibid.*, p. 118).

The entitlement theory of rights holds for both what I called general and specific rights. I may have an entitlement to life or I may have an entitlement to that piece of bread which is now on my table. Further, the conception of rights as entitlements of the right holder

creates no problems for the account of rights-based justification of moral rights I have presented. Some entitlements may be the justificatory grounds of other entitlements a particular person may have. For example, my entitlement to life may be an essential element in a rights-based justification of my entitlement to that piece of bread which is now on my table.

Another important feature of the entitlement theory of rights is that it holds for all of the four kinds of rights, claim-rights, liberty-rights or privileges, powers and immunities, which Hohfeld has distinguished. I will examine in some detail Hohfeld's classification of rights in the next chapter. For the present I want to stress that the entitlement theory is not purported to account only for what Hohfeld takes to be the paradigmatic cases of rights, namely, claim-rights, but for all kinds of rights. McCloskey treats rights such as the right to play tennis or to worship, which on Hohfeld's classification would figure as liberty-rights as entitlements of the right-holder⁸. And the power-right of the mother to give to her eldest daughter her own wedding ring or my immunity-right not to become slave can be equally considered entitlements of the right holder.

The entitlement theory is usually contrasted with the view that rights are essentially or primarily *rights against*. This is quite clear from the second quotation from McCloskey above, in which he stresses that his conception of rights as entitlements is at odds with the conception of rights as rights against. Talk of rights against is quite common in modern discussions of rights but not everyone conceives rights against in

⁸ See, McCloskey (1965), p. 118 and p. 117 respectively.

the same way. It seems to me that philosophers use the term 'rights against' to signify two different things: a) a separate class of rights and b) an essential feature of all rights. But, quite often, they create confusion by not explicitly drawing the distinction.

So, for example, McCloskey uses rights against as an essential feature of all rights, when he argues that rights are essentially entitlements and not claims against. But he treats rights against as a separate class of rights when he qualifies his theory by claiming that some special rights may be rights against. He claims:

'Special rights are sometimes against specific individuals or institutions -e. g. rights created by promises, contracts, etc. The wife has rights against the husband, the creditor against the debtor, but these are special rights, non-general rights which differ from the characteristic cases of general rights, where the right is simply a right to (i.e. an entitlement to) - e.g. of the man to marry the woman of his choice.' (McCloskey (1965), p. 118)

Joel Feinberg (1980b) equates rights against with claims against and holds that claims against are an essential element of all (claim) rights⁹. Thus, he uses 'rights against' in the second of the above distinguished senses. But, when he admits that what he calls 'manifesto-rights', which roughly correspond to my rights to values, are not essentially claims against anyone, but rather purely entitlements or claims to, he speaks of rights against as being a separate class of rights.

Is there a special reason to distinguish rights against as a special class of rights? Let us first discuss McCloskey's point. Are there any special rights which are rights against rather than rights to? For the distinction to be valid, rights against must not be entitlements to

⁹ Feinberg discusses only what Hohfeld takes to be the paradigmatic cases of rights, claim-rights.

something. But they clearly are. My right against my debtor that he returns the money he owes me is an entitlement of mine to the sum of the money he owes me or to his action of returning the money to me. Similarly, the right of the wife against her husband that he does not commit adultery is an entitlement of the wife to the devotion of her husband.

Should we, then, agree with Feinberg that all rights (with the possible exception of what he calls *manifesto-rights*) are both rights to and rights against? Feinberg holds that the difference between general and special rights which McCloskey draws is not a distinction between rights which are held against no one and rights which are held against someone; it is a distinction between rights which are held against everyone, or 'the world at large' and rights which are held against determinate individuals¹⁰. So, all rights are both rights to (or claims to) something and rights against (or claims against) someone.

The problem with Feinberg's thesis is that it seems that the notion of claims against adds to the conception of rights as entitlements or claims to. Consider the following statement: 'A has a right against B that B returns to A the money B borrowed from A'. Now, this statement clearly expresses the fact that A has an entitlement or a claim to a particular action of B. Further, given the fact that, one of the main functions of rights in moral practice is to generate obligations or duties, we may infer from this statement that B owes a duty to A to return to A the money he borrowed from A. I will focus on the relation between duties and rights in the following chapter. For now it suffices to note

¹⁰ General and special rights are similar to legal rights *in rem* and *in personam* respectively.

that the statements 'A has a right against *B* that *B* returns to *A* the money *B* borrowed from *A*' and '*B* owes a duty to *A* to return to *A* the money he borrowed from *A*' are not *equivalent* in the sense of having the same meaning. For, as Gewirth has rightly argued, their normative contents are different (Gewirth (1982), p. 333). The first describes something which can be called an asset of *A* (an entitlement), while the latter ascribes a burden to *B* (a duty). Further, it seems that *A*'s right is the justificatory grounds of *B*'s duty. That is, it is because *A* has a right that *B* returns the money to *A* that *B* has a duty to return the money to *A*. But it is then clear that from the fact that *A* has an entitlement or a claim to *B*'s returning the money to him and the fact that rights generate (in the sense of being the justificatory grounds of) duties we may infer that *B* owes a duty to *A* to return the money to *A*. But then the question is what role the expression 'right against' play in the statement '*A* has a right against *B* that ...'. What additional information do I convey when I say that *A* has a claim *against B*, that is, what kind of information do I convey which is not included in my saying that *A* has claim *to* an action of *B*?

We may distinguish two different answers. One answer is that the notion of a 'claim against' is redundant. To see this more clearly, consider the statement '*A* has a right that *B* returns to *A* the money he borrowed from *A*'. This statement has the same meaning as the statement '*A* has a right against *B* that *B* returns to *A* the money he borrowed from *A*'. The expression 'against *B*' in the second statement is a pleonasm. The information it gives is contained in the description of the object of *A*'s right. It merely indicates that the person to whose action *A*

has a right or a claim is *B*. But this is what we learn from the description of the object of *A*'s right.

A different answer might be that the expression 'against *B*' signifies the fact that *B* has a duty to *A* to act in the way the right of *A* requires. In this case, a) the statement '*A* has a right against *B* that *B* returns to *A* the money he borrowed from *A*' should be understood as a complex statement containing two statements: the statement '*A* has a right that *B* returns to *A* the money he borrowed from *A*' and the statement '*B* has a duty to *A* to return to *A* the money he borrowed from *A*'. And b) given that, as I have argued, rights and duties do not express the same normative relations and are conceptually distinct, the notion of a claim against as signifying the duties the duty bearer owes to the right holder cannot be said to be part of the concept of a right.

To recapitulate, Feinberg holds that two separate notions, the notion of claim to and the notion of claim against, are parts of the concept of right. I argued, *contra* Feinberg, that the notion of claim against is not part of the conception of right. It is either redundant account of the notion of entitlement or claim to, or used to signify a concept different from that of a right.

Until now, I have discussed rights to actions of the duty bearer, since both Feinberg and McCloskey focus on rights to actions of the duty bearer to test their theses about what the essential feature of our concept of a right is. But my thesis that the notion of claim against is not part of our concept of a right is also meant to hold for rights to actions of the right holder, rights to goods and rights to values. Take, for example, the case of a right an ill person in the desert, call him *A*, has to drink all the

water in the flasks of his friends, call them *B* and *C*¹¹. This is clearly a right of the right holder to the performance of an action of his. We may describe his right simply as a right to drink all the water in the flasks of *B* and *C* or possibly as a right *against B and C* to drink all the water in the flasks of *B* and *C*. We can treat the statements '*A* has a right to drink all the water in the flasks of *B* and *C*' and '*A* has a right against *B* and *C* to drink all the water in the flasks of *B* and *C*' in two ways. a) We can treat the second statement as a complex one which is composed of three statements: the statement '*A* has a right to drink all the water in the flasks of *B* and *C*' and the statement '*B* has a duty to *A* to allow or help *A* to drink all the water in his flask' and the statement '*C* has a duty to *A* to allow or help *A* to drink all the water in his flask'. In both cases, as I have argued, the notion of a right against or a claim against cannot be said to be part of our concept of a right.

The following qualifications should be made to this account of the function of the expression of 'right against' when used in descriptions of rights to actions of the right holder. i) If 'right against' is taken to signify the duties of the duty bearer, it should be noted that the description of the object of the right holder may not be informative about the exact nature of the object of the duties owed to the right holder. For example, it is not clear which specific duties of *B* and *C* the right of *A* to drink all the water in the flasks of *B* and *C* generates. What can be inferred from the fact that *A* has a right to drink all the water in the flasks of *B* and *C* is that the latter owe to *A* some duties of non-interference or positive assistance, but we need to take into account some further factual and

¹¹ For more on this example, see 7. 2.

moral considerations to be able to specify which duties of non-interference or positive assistance *B* and *C* owe to *A*. ii) The right of *A* to drink all the water in the flasks of *B* and *C* may not generate only duties of *B* and *C* but also duties of other persons. The person responsible for the expedition in the desert, call him *D*, may have a duty to exercise his power over *B* and *C* to give to *A* their flasks because *A* has a right to drink all the water in the flasks. More generally, we may say that in order to infer from the fact that *A* has a right to do something, who owes to *A* some duties of non-interference or positive assistance, we need to take into account other moral and factual considerations.

b) It may be argued that, when we claim that a right to an action of the right holder is (also) a right against someone, we mean that this right to an action of the right holder generates rights to actions of the duty bearers. For example, *A*'s right to drink all the water in the flasks is also a right against *B* in the sense that it generates a right of *A* that, for example, *B* gives to *A* his flask. This is quite possibly true but it does not affect my point that the notion of right against is not a distinct part of our concept of a right. For, as I have already argued, a right to an action of the duty bearer is still an entitlement or a claim to of the right holder and the expression 'right against' is either redundant or used to signify the existence of a duty.

If b) is correct, then the expression 'right against' may be understood as another name for the class of rights I called 'rights to the action of the duty bearer'. So, again, when I say that *A* has a right *against B* to do something, the expression 'against *B*' does not identify an essential feature of our concept of a right, it is not meant to convey any information about what it is for something to be a right; it merely

conveys the information that the right of *A* to an action of his is the justificatory grounds of some rights (or entitlements or claims) of *A* to actions of the duty bearers.

I do not think that a further argument is needed to the effect that the notion of right against does not identify an essential feature of rights to goods or rights to values. If one calls a particular right to a good or a value a 'right against', then he either wants to identify the persons who owe to the right holder some duties of non-interference or some duties of positive assistance or bring to our attention the fact that that right to a good or a value is the justificatory grounds of some relevant rights to actions of the duty bearer. In the case of rights to values, however, a further semantic consideration shows how misleading it is to characterise rights to values as right against. This semantic consideration has been forcefully presented by Joel Feinberg:

'My right in this sense is *to* education ... and not simply to other people's dutiful efforts. More likely my right in this sense (if I have one) entails not simply a duty to try but a responsibility to succeed; but even this doesn't do the whole job of translation, for there is a MUST HAVE here not wholly translatable into any number of MUST DO'S.' (Feinberg (1980a), p. 141)

But it is not only rights to values which it is misleading to describe as rights against. Certain specific rights may not be validly described as rights against. Imagine, for example, that before I go fishing at Loch Lomond I buy a loaf of bread. Then, at noon, I feel hungry and want to eat it. I have a right to eat at twelve o' clock the loaf of bread I bought. But I am alone there and no man can be found for miles. Against whom is my right? Against everyone? Does a Scot in Edinburgh have a duty

not to eat my bread¹²? Against someone who may be in a position to take my loaf from me? But there is none. Against any potential thief? But what does this mean? It makes no sense to characterise my right as a right or a claim against¹³. It is simply an entitlement to.

The fact that this specific right does not actually generate duties of anyone, or else is not a right against anyone does not imply that this specific right cannot generate any duties or else cannot be the justificatory grounds of any duties. If the expression 'right against' is used in a description of a right to signify the person who owes a duty to the right holder, and if, as a matter of fact or on a certain occasion, no one owes to the right holder a relevant duty¹⁴, then it is inappropriate to characterise this right as a right against, or else it is inappropriate to use the expression 'right against' in the description of this right. What is, however, necessary for a particular right to generate or be the justificatory grounds of duties is not the fact that it actually generates duties, but that it is such that it can generate duties. The upshot is that

¹² It is absurd to claim that people owe specific duties of non-interference to holders of relevant rights when it is practically impossible for the former to do anything which may threaten the satisfaction of the object of the latter's right. Of course people have certain general duties, like the duty not to murder, not to invade another person's property, etc.. But what does it mean to say that people have specific duties to people whose lives they are totally unable to affect? How can the right of someone living in South Africa to paint the front door of his house create a duty to an Inuit in Alaska not to interfere with his action? What are the practical consequences of the recognition of such duties? What is the point of ascribing to every human being an indeterminate number of duties which are of no importance at all to moral practice? And if we do not allow the fact that someone is totally unable to bring about the slightest change to the life of another person to affect our ascription of duties, then what should stop us from ascribing duties to our contemporaries not to interfere with rights of people who lived, say, at the time of Plato?

¹³ This is not of course to say that my right has no moral implications. It implies that I was morally justified in eating my loaf of bread. So, if someone questions the moral appropriateness of my action, (why, for example, I did not keep it to give it to my wife later), I may justify my action by asserting that I had a right to do so.

¹⁴ That is, owes a duty to the right holder *because of* the fact that the right holder has this right.

the notion of right against and the notion of right as the justificatory grounds of duties should not be conflated. One may validly say that a right r is a right against only if there is at least one person y who owes to the holder x of r a duty d because of the fact that x has r ; but a right r may be validly said to be such as to have justificatory priority over duties even though there is no y which owes to x a duty d because x has r . This modal aspect of the notion of right as the justificatory grounds of duties (that is, the fact that it is what the right is *possible* to do in a justification procedure which counts) allows us to say that my right to eat my loaf of bread at twelve o' clock has justificatory priority over any possible duties although it does not in my example actually ground any duties¹⁵.

Further, to deny that the notion of a right or a claim against is not part of the concept of a right is not to deny that the possession of rights by a certain individual may not justify him (or someone else acting on his behalf) in putting forward certain demands against others when his rights have been violated. The fact that it is a common feature of rights that they provide the justificatory grounds of such demands has been forcefully argued for by Haksar (1978). Haksar claims:

'...talk of rights is linked with demands, or claims, or complaints, that can validly be made by the person who has the right, or by those who speak on his behalf.' (Haksar (1978), p. 183.)

Haksar's starting point is the consideration that the right holder has been wronged if his right has been violated. And, since he has been wronged, he (or someone else speaking on his behalf) may validly

¹⁵ So, my thesis that the notion of a right or claim against is not part of the concept of a right does not entail that rights are not justificatory grounds of duties.

complain against those who have violated his rights or to the authorities. And he can demand that the object of his right be satisfied. The fact that when he gets what he has a right to the right holder may have no grounds for complaint does not tell against this 'demand (and complaint)' theory of rights, as Haksar names it (Haksar (1978), p. 184). For the demand theory of rights involves the counterfactual claim that if a particular person's right is not respected, he (or someone else on his behalf) could put forward relevant demands¹⁶. Similarly, no problems arise for the demand theory of rights from the fact that a particular right holder may not actually press any demands when his right has been violated. The truth of the demand theory does not depend on what right holders actually do but on what they could do if their rights have been violated¹⁷.

The demand theory of rights does not provide a definitional account of rights. A demand is not a defining feature of a right; its validity depends upon the existence of a right. In other words, rights have justificatory priority over demands to the satisfaction of the objects of the rights or complaints.

In this section I tried to defend the thesis that rights are entitlements or claims to of the right holder. My arguments presupposed a particular conception of the relation between rights and duties, namely that rights are the justificatory grounds of duties. I will argue for the

¹⁶ According to Haksar, '...such cases can be analysed in terms of hypothetical demand statements. Thus suppose that I possess and live in a house, and that every one in fact respects my right to the house; such a case can be analysed in terms of hypothetical demand statements, e. g. if others began taking over my house without my consent, I could validly demand (and not just request) that they should be prevented from doing so.' (Haksar (1978), p. 183)

¹⁷ Thus, the notion of demands based on rights has modal aspect similar to the one the notion of the justificatory priority of rights over duties has.

justificatory priority of rights over duties in chapter 7. But even when a satisfactory account of the relation between rights as entitlements and duties has been provided, there seems to remain a genuine question about the validity of the entitlement theory of rights. One may accept that, when we ascribe to someone a right, we ascribe an entitlement to him, but argue that the notion of entitlement cannot be understood without reference to the concept of a right and thus any attempt to define rights in terms of entitlements results in a vicious circular definition. The challenge is, therefore, to provide an explanatory account of what entitlements are and of the conditions under which a particular person has an entitlement which does not presuppose the notion of a right. I take up this challenge in chapter 8.

CHAPTER SEVEN
THE NATURE OF RIGHTS - PART B
RIGHTS AND DUTIES

7. 1. Hohfeld's classification of rights

In the literature about legal rights four different kinds of rights have been distinguished and philosophers discussing moral rights have also accepted this fourfold distinction. This classification of legal rights has been first put forward by Hohfeld (1919). It is argued that a right (moral or legal) may be a claim-right, a liberty (or privilege), a power, or an immunity. An example of a claim-right may be the right of the creditor that the borrower returns his money to him. My right to look at the garden of my neighbour is usually taken to be a liberty, while the right of the mother to give to her elder daughter her own wedding ring could be considered to be an example of a power. Finally, my right not to be sold as a slave is an immunity.

The difference between liberties and claim-rights is usually presented as a difference in their correlatives and their opposites. The correlative of a claim-right is a duty and its opposite a no right, while the correlative of a liberty is a 'no-right' and its opposite a duty. The basic idea is that while *A*'s claim-right imposes upon *B* a relevant duty, *A*'s liberty does not impose upon *B* any duties; and if *A* does what he has a liberty to do, then no right of *B* has been violated, since *B* has no relevant

right. This schema of the relations between claim-rights and liberties and their correlatives was first suggested by Hohfeld in the context of a discussion of legal rights and it has been since variously criticised especially for the notion of opposite it involves. I will not deal with this controversial issue but focus instead on the correlation between claim-rights and duties.

7. 2. The correlation between claim-rights and duties - Claim-rights as the grounds of duties.

The correlation between claim-rights and duties is understood by some as expressing an equivalence and by others as expressing a justification-relation. In the second case, *A*'s claim-right is considered to be the grounds of *B*'s duty. In the first case, the equivalence expressed may be either equivalence of meaning or logical equivalence. According to the thesis that (claim) rights and duties are equivalent in meaning, any description of the right of *A* is fully translatable into a description of a duty of *B* and the latter description provides a good semantic 'explication' of the former (Brandt (1992), pp. 179 - 180); duties and rights refer to the same normative relation (Benn & Peters (1959), p. 89), and because it is assumed that the notion of duty is more familiar and less troublesome than the notion of right, the notion of duty may be used as a 'surface definition' of a right. Expressions containing 'duties' are 'adequate replacements' of expressions containing 'rights' and their main advantage is that they contain words which we understand better (Brandt (1992), p. 180). This means of course that rights are redundant and what we

express using a 'rights-jargon' can be expressed by a 'duties-jargon' without any loss. The supporters of the thesis that rights and duties are semantically equivalent do not resist this implication of their thesis. They seem to hold that it is only pragmatic considerations which give talk of rights some credit. It more economical to speak of the right of someone to something instead of giving a list of the equivalent duties people owe to him (Brandt (1996), p. 157).

As I have already stated in the previous chapter, I do not think that rights and duties are equivalent in meaning. I agree with Gewirth (1982) that their normative content is different: rights ascribe benefits or, more generally, assets to their holders while duties ascribe burdens to their bearers. But a full appreciation of the implausibility of the thesis that rights and duties are semantically equivalent can be reached only after we have examined the thesis that rights and duties are logically equivalent.

According to the latter thesis, statements of rights are logically equivalent with statements of duties. In normal accounts of the logical equivalence thesis, statements of rights are of the type 'A has a right against B to...' and statements of duties are of the type 'B has a duty to A to...'; the first imply the second and vice versa and thus their truth values are the same. But are these two types of statements really logically equivalent, and, if so, how are we to account for their equivalence? Let us consider the following statements: 'A has a right against B that B ϕ -es' and 'B has a duty to A to ϕ '. Does the first statement logically entail the second and vice versa? To answer this question we should take into account the following considerations. Firstly, as I argued in the previous chapter, since the notion of a right or claim against is not part of the

concept of a right, one way of understanding the expression 'against B ' in the first statement is as asserting that B has a duty to A to ϕ . So, the statement 'A has a right against B that B ϕ -es' should be understood as a compound statement containing the statements 'A has a right that B ϕ -es' and 'B has a duty to A to ϕ '. Secondly, people may have duties which are not duties *to* someone else. My duty to preserve the cultural heritage of my country, or my duty to do my military service are not duties to anyone. Further, it is not a necessary feature of all moral codes that even some duties are duties *to* someone. It is arguable that in Plato's perfect city (at least according to the interpretation that Plato had an organic theory of society¹) people had duties, but none of these were duties *to* their fellow citizens. So, to say of someone's duty that it is a duty *to* someone else is to provide information about a particular extra feature of this duty which is not a necessary feature of all duties. It is clear of course that duties *simpliciter* and duties *to* are not different in kind; they share a common feature which is best expressed by the notion 'something is required by someone'². Thirdly, there are duties which, although they are duties owed to a particular person, do not seem to be correlated with rights of that person. For example, I may have a duty to visit to the hospital a person who in the past saved my life, although he cannot be said to have a right that I do so³.

The last point shows that it is not the case that statements of the type 'B has a duty to A to ϕ ' logically entail statements of the type 'A has a right that B ϕ -es'. But even if we question the validity of this point

¹ For this interpretation of Plato, see, Popper (1962).

² Cf. Feinberg (1973), p. 63.

³ For other examples of duties to not correlated with rights, see Raz (1986), pp. 210 - 213.

(either by claiming that 'duties to' which are not related to rights are idiosyncratic, or by rejecting that what B owes to A when A has no relevant right may be validly called 'duties') and assume that B has a duty to A only if A has a relevant right, my second point alone creates serious problems for the logical equivalence thesis. If my second point is correct, then the notion of being owed to is not part of the concept of duty, since it is not a necessary feature of all duties that they are owed to someone. And if we assume that someone has a duty to someone else only if the latter person has a relevant right, then we could take the statement ' B has a duty to A to ϕ ' as a compound statement containing the statements ' B has a duty to ϕ ' and ' A has a right that B ϕ -es'.

So, we may now see why the statements ' A has a right against B that B ϕ -es' and ' B has a duty to A to ϕ ' are equivalent. The first is in fact the compound statement ' A has a right that B ϕ -es and B has a duty to ϕ ' and the second the compound statement ' B has a duty to ϕ and A has a right that B ϕ -es'. There is no doubt that these two compound statements are not only logically equivalent but are in fact the same statement; but this is hardly evidence for the thesis that claim-rights are equivalent to duties or that a (claim-) right statement is logically equivalent to a duty statement. For the latter thesis to hold it must be shown that the statements ' A has a right that B ϕ -es' and ' B has a duty to ϕ ' are logically equivalent. But it is clear from what I have argued so far that the statement ' B has a duty to ϕ ' does not logically entail the statement ' A has a right that B ϕ -es'. For it may be the case that B has a duty to ϕ without it being the case that ' A has a right that B ϕ -es' as it is the case with my duty to preserve the cultural heritage of my country and my duty to do my military service. The mistake of the supporters of the

logical equivalence thesis was to build their account on the examination of statements of rights against and duties to which are compound statements: they assert both the existence of a right to and the existence of a duty.

The supporters of the logical equivalence thesis may attempt a last retort. They could claim that they use the term duty in a somewhat 'technical' manner to denote the kind of requirement imposed on *B* by *A*'s right. The duties which are correlated with rights, on this view, are duties to a particular right holder. A thesis like this has been put forward by Thompson in her defence of Hohfeld's use of 'duty'. Thompson claims:

'We already knew that *A*'s having the right against *B* constrains *B*'s behaviour; what Hohfeld does offer is to offer the name "duty" to refer to the kind of behavioural constraint - whatever precisely it may be - which, as we already knew, *A*'s having the right against *B* imposes on *B*. And we understood Hohfeld's "duty" in that we took it to be the name of that kind of behavioral constraint, whatever precisely it may be.' (Thompson (1990), p. 64)

Whatever the appropriateness of the introduction of a technical term 'duty', it is clear that, on this view, duties lose the explanatory priority the supporters of the semantic equivalence between rights and duties claim duties have over rights. For, as Thompson herself seems to acknowledge, this technical sense of duty presupposes and is defined by reference to the notion of right. So, it cannot be claimed that duty in this sense is a more familiar notion than right or less troublesome or offer a semantic explication of right. In addition, right statements and duty statements are not, on this view, only logically equivalent but are in fact the same statement. For both '*A* has a right against *B* that *B* ϕ -es' and '*B* has a duty to *A* to ϕ ' will express something like 'there is a constraint on

B's behaviour imposed by *A*'s having the right against *B* that *B* ϕ -es'. But then we will have given up any hope of gaining any insight into the nature of rights by reference to their correlative duties and the thesis that rights and duties are equivalent (in meaning or logically equivalent) will have lost its point.

Till now, I have been examining the paradigmatic cases of claim-rights (which are described by formulae like '*A* has a right against *B* that *B* ϕ -es' and argued that the thesis that they are equivalent (in meaning or logically equivalent) is problematic. But the equivalence thesis faces further problems with other types of claim-rights.

Consider the difficulties which arise when the logical equivalence thesis is invoked to account for claim-rights like children's rights to nurture, care and love. Statements of the type 'a child has a right to be fed' or 'John's child has a right to be fed' are widely used in moral contexts and are perfectly meaningful. In this type of statement neither the possible duty bearers nor the exact content of the possible duties of the duty bearers is specified. I will first examine the problems which arise from the fact that the duty bearer is not specified. To which duty statement is the statement 'John's child has a right to be fed' equivalent? Is it equivalent to the statement 'everyone has a duty to feed John's child'? This is certainly absurd. It cannot be the case that the world at large has a duty to feed John's child; for few people only will it be practically possible to provide food for John's child. Is it then equivalent with the statement 'there is at least one person who has a duty to feed John's child'? But assume that the practical conditions are such that neither the parents nor the government nor anyone else is able to feed John's child. Assume, for example, that the child's parents are dead and

the unfortunate child stays with other children in a deserted area difficult to reach by conventional means of transport. In this case it is clear that the statement 'John's child has a right to be fed' does not entail the statement 'there is at least one person who has a duty to feed John's child'.

The supporters of the equivalence thesis could probably retort that when there is no person who has a duty to feed John's child it is a mistake to think that John's child has a right to be fed. I find this suggestion dubious. To judge its validity we may focus on the ought statements the statements 'John's child has a right to be fed' and 'someone has a duty to feed John's child' entail. Apparently, both statements entail the statement 'someone ought to feed John's child'. But this statement is ambiguous and its ambiguity is due to an ambiguity of the scope of ought to. The statement may be taken as equivalent either to 'it ought to be the case that John's child is fed (by someone)' or to 'it is true of someone that he ought to feed John's child'. Only the latter statement is a statement of moral obligation or duty, since only in the latter statement does the use of ought express a property of the agent. In the former statement it does not express a property of the agent (what someone has a duty to do), but expresses a property of a state of affairs. Consequently, the truth values of the two statements may differ. The truth of the statement 'it is true of someone that he ought to feed John's child' crucially depends on what the agent *can* do. If the agent is unable to do something, then he may not have a duty to do that thing. On the contrary, the truth of the statement 'it ought to be the case that John's child is fed' does not depend on nor, of course, entail the truth of the statement that there is someone who can feed John's child or has a duty

to feed John's child. So, while it may not be true that it is true of someone that he ought to feed John's child, it may still be true that it ought to be the case that John's child is fed.

To return to our example, the fact that there is no one who can feed John's child entails that there is no one who has a duty to feed John's child. So, in our example, the statement 'it is true of someone that he ought to feed John's child' is false. But this of course does not entail that the statement 'it ought to be the case that John's child is fed' is false as well. This means that the truth of the suggestion that, when no one has a duty to feed John's child, John's child does not have a right to be fed depends on what ought statement the statement 'John's child has a right to be fed' entails. The suggestion is correct only if 'John's child has a right to be fed' entails 'it is true of someone that he ought to feed John's child' and not 'it ought to be the case that John's child is fed'. I beg to the contrary. The point of John's child's right to be fed and of the general right of all children to be fed is that a particular state of affairs ought to obtain and not that it is true of someone that he ought to do something. The importance of the right stems from the value of the state of affairs in which the object of the right is satisfied and is not affected by the possible absence of duty bearers.

Rights like a child's right to be fed create another problem for the equivalence thesis: it is not clear with what duties these rights should be thought to be equivalent⁴. Take for example the right of John's child to be fed and assume that John is alive and able to care for his child. There seem to be various different duties of John in relation to his child's right

⁴ A similar point is made by Waldron (1993), p. 212.

to be fed. For example, John may have a duty to provide food for his child, to prevent someone else from taking the food of his child, to help his child eat the food, etc. It is not easy to see how the equivalence relation should be formulated in this case.

This problem becomes more acute when the claim-right is a right to an action of the right holder and not to actions of the duty bearer. It is true that the paradigmatic cases of claim-rights are normally considered to be rights arising from promises or contracts which are of the form 'A has a right that $B\phi$ -es' and Hohfeld in his account of claim-rights focuses exclusively on rights which have this form. But if the primary and distinctive feature of claim-rights is, as Hohfeld himself acknowledges, the fact that they are correlated with duties in a way that liberties, powers and immunities are not, then there seems to be no good reason to deny that some rights to actions of the right-holder, or indeed some rights to goods or rights to values are claim-rights. Indeed, it would be a great deficiency of Hohfeld's classification of rights, which intends to be exhaustive of the kinds of rights there are, if it were unable to account for rights which are correlated with duties in a way liberties, powers or immunities are not but not have the form 'A has a right that $B\phi$ -es'.

Let me give an example which will clarify this issue. Imagine that there are three friends in the Sahara resting at a place which is one day's journey from the nearest village. Two of them, B and C , are quite healthy and vigorous. One of them, A , is seriously ill and desperately needs to drink water. In their flasks there is enough water only for one, and, if B and C do not drink any of the water, they will be able to reach the village without any danger for their health. But A 's condition is critical. I believe that we can validly say that in this case A has a (moral)

right to drink all the water in the flasks which is correlated with certain duties of *B* and *C*. *A*'s right can be neither a liberty nor a power nor an immunity on Hohfeld's account; it is not like my liberty to look at my neighbour's garden, or the power of the mother to give her own wedding ring to her eldest daughter, or my immunity not to be sold as a slave. What is it if not a claim-right of *A*?

But, if *A*'s right to drink all the water in the flasks is a claim-right correlative with *B*'s and *C*'s duties, and claim-rights and duties are taken to be equivalent, it is difficult to see how the equivalence relation should be formulated. Two points are of relevance here. The first is that it seems that *B* and *C* do not each owe to *A* only one single duty but a class of single duties. For example, each of them has a duty to give the water in his flask to *A*, a duty to prevent the other from drinking the water in his flask, a duty to be careful in carrying the flask, to prevent the camels from throwing the flasks down, etc. It is not clear how we are meant to formulate the equivalence relation. Is the claim-right equivalent with the conjunction or the disjunction of each of these single duties? Or, perhaps, is it equivalent only with the general duty of *B* and *C* to act in such a way as to allow or enable *A* to drink all the water in the flasks? The latter formulation of the equivalence, however, is not informative and involves a vicious asymmetry. While *A*'s claim-right is a single right and has a quite precise object or content (to drink all the water in the flasks), *B*'s and *C*'s duties are general and vague. This has the undesirable consequence of leaving unsolved the problem about the relation between a single specific claim-right and a single specific duty, say, the duty of preventing the camels from throwing the flasks down. The question remains: what is the relation between *B*'s and *C*'s open

class of single duties and *A*'s single right to drink all the water in the flasks?

The second point is that *B*'s and *C*'s duties may change or new duties may be added to the class of duties of *B* and *C* depending on the external circumstances⁵. This means that the class of the duties of *B* and *C* correlated with *A*'s right is neither determinate nor closed. But a change in the external circumstances may not entail a change in the right of *A*. For example, assume that a fourth traveller appears. *B* and *C* have new duties added to their class of duties (they both have a duty to prevent *B* and *C* from drinking the water in their flasks). But *A*'s right has not changed. How can two things be equivalent when, while one remains the same in different states of affairs, the other is susceptible to change⁶?

Let me recapitulate the main points of my discussion of the thesis that claim-rights are equivalent with duties. First, I distinguished two variants of the equivalence thesis, one according to which duties and rights have the same semantic content and another according to which right-statements and duty-statements are logically equivalent. Second, I focused on the paradigmatic cases of claim-rights, that is, rights of the form '*A* has a right against *B* that *B* ϕ -es', and argued that both the thesis that claim-rights of that form and duties are semantically equivalent and the thesis that they are logically equivalent are problematic. Finally, I examined some claim-rights which are not rights to actions of a specific

⁵ Raz thinks calls the fact that rights may generate new duties 'the dynamic aspect of rights and believes that this is a feature of all rights (Raz (1986), p. 171).

⁶ The truth-value of the statement '*A* has a right to drink all the water in the flasks' remains the same in both circumstances *C*₁ (absence of a fourth traveller) and *C*₂ (presence of a fourth traveller). But the statements expressing the duties *B* and *C* have in *C*₁ and *C*₂ do not have the same truth-values.

duty-bearer and I argued that there is no way of establishing a valid equivalence relation between this kind of claim-rights and duties.

The justification reading of the correlation between claim-rights and duties does not face any of these problems. On the one hand, it does justice to the difference in the normative content between claim-rights and duties. According to it, *A*'s right to *x* (an action of the duty bearer, an action of the right holder, a good or a value) is the justificatory grounds of *B*'s duty to *A* to act in such a way as to allow or enable *A* to attain *x*. *A*'s claim-right is what justifies (along with other moral or factual considerations) *B*'s duty. The burden which *B*'s duty imposes upon him exists for the sake of the asset which *A* entertains by having a claim-right and not vice versa.

Similarly, the thesis that claim-rights are the justificatory grounds of duties avoids all the problems associated with the thesis that claim-rights and duties are logically equivalent. It requires neither that 'being owed to someone' is an essential attribute of all duties nor that all duties which are owed to someone are correlated with rights. It does not have the questionable implication that the absence of a duty may entail the absence of a correlated right. So, for example, even if there is no one who has a duty to feed John's child, this does not entail that John's child has no right to be fed. If claim-rights and duties were equivalent, the absence of a duty would entail the absence of the correlated right, but obviously the thesis that claim-rights are the justificatory grounds of duties does not have this implication. The absence of a duty entails that the relevant claim right is not the justificatory grounds of a duty but not that the claim-right does not exist. Finally, there is nothing problematic in the idea that the same claim-right may be the justificatory grounds of

an open class of duties or of different duties depending on the external circumstances. For the logical equivalence reading to be meaningful and informative specific claim-rights and relevant specific duties should be considered to be strictly logically interentailed in a sense which requires that the relevant duties are fixed and defined by the equivalence relation. But obviously no such requirements arise for the justification reading.

7. 3. The form of rights-based justification of duties

This rights-based justification of duties is closely connected with the rights-based justification of rights. To see the possible relations between the two let us consider some basic principles of rights-based justification of rights and rights-based justification of duties.

A

1) Rights-based justification of rights.

Some rights have justificatory priority over other rights.

2) Justificatory priority of rights over rights

R_1 has justificatory priority over R_2 iff a statement of the existence of R_1 together with other moral and factual statements are premises of a sound argument the conclusion of which is a statement of the existence of R_2 .

3) Core rights

R_1 is a core right of R_2 iff R_1 has justificatory priority over R_2 .

4) Ultimate or complete core rights

R_1 is the ultimate or complete core right of R_2 iff R_1 has justificatory priority of R_2 and there is no other R which has justificatory priority over R_1 .

5) Ultimate or complete rights-based justification of a right.

The rights-based justification of R_2 is ultimate or complete iff it identifies an R which is the ultimate or complete core right of R_2 .

B

1) Rights-based justification of duties.

Rights have justificatory priority over duties.

2) Justificatory priority of rights over duties.

R_1 has justificatory priority over D_1 iff a statement of the existence of R_1 together with other moral and factual statements are premises of a sound argument the conclusion of which is a statement of the existence of D_2 .

3) Ultimate or complete rights-based justification of duties

A rights-based justification of D_1 is ultimate or complete iff it identifies an R which has justificatory priority over D_1 and R is an ultimate or complete core right.

I would like to make the following remarks concerning A and B.

a) A3) and A2) show that core rights are to be identified by the role they play in rights-based justifications of rights. The same right can be both a core right and a derivative right. That is, it can both be the case that the same right is the justificatory grounds of another right and its existence can be justified by the existence of another right.

b) It must be clear from the above that it is not only complete core rights which may have justificatory priority over duties. For a particular right to have justificatory priority over a particular duty it must satisfy condition B2). But there is no reason why a derivative right may not satisfy B2). For example, John's child's right to be fed or A 's right to drink all the water in the flasks of B and C may have justificatory priority over John's duty to provide food for his child or B 's and C 's duties to give their flasks to A respectively, although both rights may be thought to derive from, say, a right to a value, the right to life. A valid argument which uses a statement of the existence of a right of A to drink all the water in the flasks of B and C as a premise may establish the existence of a duty of B to give his flasks to A . This justification of the existence of a duty of B may not be complete and one may query whether A has actually a right to drink all the water in the flasks. Within the context of a rights-based justification of rights a further argument may

be adduced to establish the existence of *A*'s right to drink all the water in the flasks of *B* and *C* which may use as a premise a statement of the existence of a relevant right to a value, or else identify an ultimate or complete core right from which *A*'s right may derive. This would be an ultimate or complete argument for the existence of *A*'s right. And it would also play a crucial role in the justification of the duty of *B*. For it can be argued that the first argument for the existence of the duty of *B* offered an incomplete rights-based justification of the existence of the duty because it did not include an argument for the rights statement which was its basic premise, the statement of the existence of *A*'s right. Of course, the most this means is that the first justification of the existence of *B*'s duty was not a *complete* rights-based justification. It does not mean that it was not a justification.

It is not necessary for a complete rights-based argument for the existence of a duty to involve inferences which establish all the relevant rights derived from an ultimate core right. It may be possible to provide a complete argument for the existence of *B*'s right using as a premise only one right-statement, the statement of a relevant right to a value. The latter statement together with other moral and factual statements may provide a valid justification of a statement of the existence of a duty of *B*. But this kind of complete rights-based justification need not be considered to be paradigmatic. It may be more pertinent to some contexts than others.

In general, it can be said that it is the context of the discussion upon which the appropriateness of a specific rights-based justification of duties depends. That is, in some discussions all that is required to convince someone of the fact that John has a duty to feed his child is an

argument the basic premise of which is a statement of the existence of a right of John's child to be fed. In other discussions, a complete rights-based justification for the existence of the duty may be needed.

This is the main reason why I would count arguments which use as a premise a statement of the existence of a right to an action of the duty bearer as valid rights-based justifications of the existence of a duty. That is, even Hohfeld's paradigmatic cases of claim-rights, rights of the type 'A has a right that B ϕ -es' have justificatory priority over duties. In certain contexts if someone doubts the existence of a duty of B I may justify the existence of the duty by an argument from the fact that A has a right that B ϕ -es. One may always question the completeness of such a justification but not, I believe, its being a justification⁷.

c) In 7.2. I examined the relation between claim-rights (both of strict Hohfeldian and of a more general form) and duties and argued that claim-rights have justificatory priority over their correlated duties. But B above should not be understood as holding only for claim-rights. As I will argue, all the kinds of rights Hohfeld distinguishes have justificatory priority over duties.

7. 4. Liberty-rights and duties - Liberty-rights as the grounds of 'capacity-protective duties'

⁷ I disagree thus with Philip Montague who denies that Hohfeldian claim-rights are justificatory grounds of duties. Montague claims: 'One cannot *justify* the judgement that A is obligated not to lie to B by stating that B has a right not to be lied to, because the two statements are logically equivalent' (Montague's italics, Montague (1980), p. 375). As I argued in 7. 2. rights statements and duties statements are not logically equivalent. And as I explain in the paragraph in the main text there is no reason why a Hohfeldian claim-right statement should not be considered to justify a duty statement.

According to Hohfeld, one of the main distinctions between claim-rights and liberty-rights is that it is only the former which are correlated with duties. If the claim that claim-rights and duties are correlated is meant to purport the idea that claim-rights are equivalent with duties, then, as I have already argued, it is false, and thus Hohfeld's argument for the distinction between liberties and claim-rights fails. It remains to see, however, whether it is true that liberties are not correlated with duties in the sense that they are not the justificatory grounds of any duties. This is the issue I will focus upon in this and the next section.

Let us see how the claim that liberties are not justificatory grounds of any duties is supported. Consider, for example, *A*'s liberty to look at *B*'s garden. In contrast with *A*'s claim-right to drink all the water in the flasks, *A*'s liberty is not supposed to provide the grounds for any duties of *B*. *B* is not considered, for instance, to have a duty to *A* not to build a fence around his garden which will make it impossible for *A* to look at *B*'s garden, or to cut some branches of his trees so as to enable *A* to look at his garden. This was not the case, however, with *A*'s claim-right to drink all the water in the flasks. *A*'s claim-right imposed upon *B*, as we have seen, a number of duties to act in such a way as to enable or allow *A* to do what he had a claim-right to.

I believe that this account of liberties is mistaken and it suggests a misleading distinction between claim-rights and liberties. In this section I will challenge the thesis that liberties are not grounds of any duties and argue for a different way of bringing out the distinction between liberties and claim-rights. In the next section, I will consider two main objections to my account.

The fact that *B* has no duty in virtue of *A*'s liberty to do or refrain from certain acts, like building a fence, or cutting some branches of his trees, which will enable or allow *A* to do what he has a liberty to do, seems uncontroversial. But it also seems that there are some duties *B* owes to *A* in virtue of *A*'s liberty. *B*, for example, has a duty not to blindfold *A*, or put his hands in front of *A*'s eyes so that *A* will not be able to look at *B*'s garden or, more generally, not to interfere in some ways with *A*'s liberty. And it is not only *B* who owes these duties to *A* but any third person *C*, who is in the proximity. Further, both *B* and *C* have duties to prevent one another, or indeed any other person, from blindfolding *A*, or putting their hands in front of *A*'s eyes.

My point is that liberties do seem to generate some duties, although the duty bearers in the case of liberties are not required to do as much as the duty bearers in the case of claim-rights. To account for this difference we need to find a way of differentiating between what the duty-bearer owes as a duty to the claim-right holder and what the duty-bearer owes as a duty to the liberty-right holder.

In the desert example, the duty-bearer owes a duty to the claim-right holder to perform some acts (or refrain from others) which have as a result or have a significant causal contribution to the claim-right holder's achieving the object of his claim-right, namely, drinking all the water in the flasks. The acts or omissions of the duty-bearer aim at the realisation of what the right-holder has a right to. The duty-bearer is not discharged from his duty unless (other things being equal) the right-holder realises the desired state of affairs, to which he is entitled by his claim-right.

There are two central notions involved here. The first is the *realisation of the object of the right* of the right-holder and the second is *the acts and omissions* which have a significant causal contribution to the realisation of the object of the right of the right-holder. What states of affairs amount to the realisation of the object of a right is quite straightforward. If the object of the right is an action of the right-holder, then the object of the right is realised, when the right-holder performs that action. If the object of the right is an action of the duty-bearer, then the object of the right is realised when the duty-bearer performs that action. If the object of the right is a good, then the object of the right is realised when the right-holder obtains that good. If the object of a right is a value, say, freedom, then the object of the right is realised when these conditions are met which are necessary for the right-holder enjoying freedom.

Discerning which acts and omissions have a significant causal contribution to the realisation of the object of a right is a more contentious task. To get a clear grasp of them we need to distinguish them from other actions and omissions which affect not the realisation of the object of the right-holder but something conceptually distinct, what I shall call *the capacity of the agent* to achieve the object of his right. Think, for example, that *B* ties *A*'s hands, which makes *A* unable to hold the flasks and thus drink the water in them. It is obvious that *B*'s action poses a significant obstacle to the realisation of *A*'s right to drink all the water in the flasks. But it does so by impairing the right-holder's ability to drink the water in the flasks and not by bringing about a change in the external circumstances. (*B* would be affecting the external circumstances if, for example, he emptied the content of the flasks on the sand.) His

action in this case has a direct effect on the right-holder's capacity to perform the action he has a right to, but not to the external state of affairs (that is, things other than the right-holder's states or conditions), which are at least necessary for the right-holder to obtain the object of his right.

We need to elaborate on the notion of the capacity of the right-holder to achieve the object of his right. Firstly, there is a conceptual difference between the capacity of A to ϕ and his actual ϕ -ing. Secondly, not only are A 's capacity to ϕ and his actual ϕ -ing conceptually distinct, but A 's mere possession of a capacity to ϕ does not entail that A will actually ϕ . The fact that A has the capacity to ϕ is at most a necessary condition for his ϕ -ing but not a sufficient one as well. Thirdly, statements about what A has a capacity to do are not equivalent to statements about what A *can* do. In some cases *can*-statements may denote what someone has the capacity to do. For example, the statements 'John can speak' or 'John cannot fly' express the fact that John has or lacks a certain capacity respectively. But the statements 'John can be in Aberdeen on time' or 'John cannot meet Jack at Maxies tomorrow' do not denote the possession or the lack of a relevant capacity. They are best understood as conveying the idea that the external circumstances are such that they make it possible or probable, impossible or improbable that John will do or will not do something. Fourthly, the term 'capacity' is not restricted only to the description of the physical or biological powers of men. We can meaningfully speak of psychological, or more loosely, of institutional capacities of men. There is nothing wrong about speaking of a psychopath as lacking the capacity to reach a rational decision or of a extremely morally degenerate person as lacking

the capacity for moral deliberation. Similarly, one may speak of the capacity of the court to punish the evildoers within the institution of the law. Fifthly, at the core of the concept of capacity is the idea of the agent's *being able* to do something *in virtue of* his (physical, biological, psychological or institutional) status, or conditions. Finally, capacities or abilities are normally associated with what von Wright (1963, pp. 36 -37) calls 'generic acts' or 'act-categories'. These are type acts as opposed to token acts. For example, 'speaking French' is a type-act while 'speaking French at t_1 ' is a token-act. But we can make sense of the idea of a capacity to perform a token-act. If we treat 'A has a capacity to ϕ ' as roughly equivalent to 'there is a state S of A which is such that, if circumstances C obtain at t_1 , if A has S at t_1 and A wants to ϕ , A will ϕ ', then we can equally treat 'A has a capacity to ϕ at t_1 ' as equivalent to 'A is in a state S at t_1 which is such that, if at t_1 circumstances C obtain, if A wants to ϕ , A will ϕ '. Two things are of importance here: the first is that the capacity of a particular individual to perform a type-act is defined on the basis of whether it is possible for him to perform a token-act and the second is that it may be true that A has a capacity to ϕ at t_1 even if circumstances C do not obtain at t_1 . For what is required for 'A is in a state S' to be true is that the conditional 'if circumstances C obtain ...A will ϕ ' is true and not that 'circumstances C obtain' is true.

The above show that it is possible to reach a distinction between the capacity to perform a certain act and the external states of affairs which are necessary for the successful performance of an act. Now, in the examples of claim-rights and liberties we have been discussing, some acts of a third person directly affect the states and the conditions of the right-holder, while others affect, not the states and the conditions of the agent,

but only the external states of affairs which are necessary for the realisation of the object of the right-holder's right. It is in view of this distinction that I reserve the expression 'acts and omissions which have a significant causal contribution to the right-holder's realisation of the object of his right' for the latter acts and omissions alone. For, although only if the right-holder's capacity for attaining the object of his right is unaffected would the realisation of the object of his right be possible, the realisation of the object of the right requires that the external states of affairs are affected as well. And, since some acts and omissions are more closely connected with changes in the external states of affairs which contribute to the realisation of the object of the right, it is more natural to apply the relevant expression only to them.

Now, if we go back to the example of *A*'s liberty to look at *B*'s garden, we will see that *B* owes to *A* duties to acts and omissions which affect *A*'s capacity to look at *B*'s garden, but no duties to acts and omissions which have a significant causal contribution to the realisation of the object of *A*'s liberty-right. *B*'s duty not to put his hands in front of *A*'s eyes, or his duty to prevent anyone else from doing so are duties which aim at the protection of *A*'s capacity (understood in the way I explained above) to look at *B*'s garden. But *B* has no duty to cut off the branches of the trees in his garden, or not to build a fence, that is, he has no duties to *A* to act or refrain from acting so as to bring about a change in the state of affairs so that the object of *A*'s right is realised. Thus, we have a distinction between two classes of acts and omissions which enables us to account for the difference in kind of the duties claim-rights and liberties are grounds of.

I will call duties to acts and omissions which have a significant causal contribution to the realisation of the object of a right 'substantive duties' and duties to acts and omissions which protect the capacity of the right holder to achieve the object of his right 'capacity-protective duties'. It must be clear from the above that I regard claim-rights to be the grounds of both substantive and capacity-protective duties, while liberties to be the grounds of capacity-protective duties alone. In addition, further distinctions may be drawn depending on whether both substantive and capacity-protective duties are positive (duties to certain actions) or negative (duties to omissions). The following provide a helpful, I hope, formalisation of the relations that hold between the two different kinds of duties I distinguished above and claim-rights and liberties. I will treat as paradigmatic cases claim-rights and liberties to actions of the right-holder. Using A , B , and C to signify different individual agents, ϕ_A , ϕ_B and ϕ_C corresponding actions of these agents, C_A , ϕ_A the capacity of A to ϕ_A and ' \rightarrow ' 'having a significant causal contribution to the bringing about of' we get the following accounts:

a) Positive substantive duty.

B has a positive substantive duty to A to ϕ_B iff B has a duty to A to ϕ_B because A has a right to ϕ_A and $\phi_B \rightarrow \phi_A$, or B has a duty to A to ϕ_B because A has a right to ϕ_A and $\phi_B \rightarrow \sim\phi_C$ and $\phi_C \rightarrow \sim\phi_A$.

b) Negative substantive duty.

B has a negative substantive duty to A to $\sim\phi_B$ iff B has a duty to A to $\sim\phi_B$ because A has a right to ϕ_A and $\sim\phi_B \rightarrow \phi_A$.

c) Positive capacity-protective duty.

B has a positive capacity-protective duty to A to ϕ_B iff B has a duty to A to ϕ_B because A has a right to ϕ_A and $\phi_B \rightarrow C_A, \phi_A$, or B has a duty to A to ϕ_B because A has a right to ϕ_A and $\phi_B \rightarrow \sim\phi_C$ and $\phi_C \rightarrow \sim C_A, \phi_A$.

d) Negative capacity-protective duty.

B has a negative capacity-protective duty to A to $\sim\phi_B$ iff B has a duty to A to $\sim\phi_B$ because A has a right to ϕ_A where $\phi_B \rightarrow \sim C_A, \phi_A$

The above accounts do not require that the (substantive or capacity-protective) duties of B are also non-discretionary rights of B (that is, that B has also a right to do what he has a duty to A to do) or unilateral liberties (that is, that B has also the liberty to do what he has the duty to A to do). For they do not preclude that, when B has, for example, a positive substantive or capacity protective duty to A to ϕ_B , other moral considerations (say, a right of C , a moral principle, family ties, etc.) do not impose upon B a conflicting duty to $\sim\phi_B$. Thus, the above accounts allow for the possibility of conflicts of duties of the duty bearer.

Now, with the exception of cases of tragic moral dilemmas, one of the conflicting duties can be shown to have more weight than other, and it is that duty that I *ought to* do, all things considered. Some philosophers are willing to call the duty which has less weight a *prima facie* duty and the duty that has more weight an *absolute* duty, or a duty *all things considered*. Now, this distinction between *prima facie* duties and absolute duties or duties all things considered is valid, only if it is taken to represent the difference in the moral weight conflicting duties may have. But it is usually taken by the philosophers who employ it to imply (and this implication is signalled by the term '*prima facie* duty') that the *prima facie* duty is not a real duty. This has the undesirable

consequence of denying the obvious fact that there are actual conflicting situations and makes it impossible to understand what the duty to be followed overrides.

John Searle (1978) has proposed a different way of describing the relation between conflicting duties which dispenses with the *prima facie* jargon altogether. According to Searle, the relevant distinction in cases of conflicting duties or obligations is that between duties and what the duty bearer ought to do all things considered. Both the conflicting duties are actual or real duties on this account; the overriding duty, that is, the duty which the agent ought to fulfil in a particular situation is not a special kind of duty or a duty which falls under a special category, the category of absolute duties. A deontic concept different from that of a duty needs to be invoked to account for the case of conflict, namely, that of the thing which all things considered the agent ought to do in a particular situation. What the agent ought to do all things considered is not to be specified solely by consideration of the duties he may have; other moral and factual considerations need to be taken into account to show which of the duties is defeasible.

My account of substantive and capacity-protective duties allows for the duty of *B* to be defeasible. My account allows that the substantive or capacity-protective duty *B* owes to *A* may not be what *B* ought to do all things considered. *B* may have a conflicting duty and the relevant moral and factual considerations may show that *B*'s duty to *A* ought not to be fulfilled, all things considered. But even if *B*'s duty to *A* is actually overridden by a conflicting duty of his, it is, as Searle shows, still an actual or real duty, and this is all that is required for my account.

Thus far, I have tried to show that, *contra* a fashionable formulation of the relation between duties and liberties, liberties are grounds of duties: they are grounds of capacity-protective duties. Their main difference with claim-rights is not that they are not grounds of any duties at all, but that they are not grounds of one type of duties, what I have called 'substantive duties'. In contrast with liberties, claim-rights maybe the grounds of substantive as well as capacity-protective rights.

7. 5. Objections to the thesis that liberties are grounds of duties

My thesis that liberties are the grounds of some duties, the capacity-protective duties, needs to be contrasted with and defended against two different accounts of the relation between liberties and duties. Both of these accounts have been constructed within the context of a discussion of legal liberties, but they straightforwardly bear upon the relation between moral liberties and duties. The first has been put forward by Hart in his discussion of Bentham's account of legal rights and the second has been more recently articulated and defended by Halpin. Hart's thesis may be reconstructed as follows. Liberties in the legal context are not strictly speaking grounds of any duties but there are protected by a perimeter of duties of non-interference based on other claim-rights. In other words, liberties are vested with a perimeter of duties which result in the legal protection of the actions the agent has liberty to do, although they do not stem from or are not grounded upon the liberties themselves. Halpin, on the other hand, argues that liberties should not be considered as a different kind of right from claim-rights,

but are in fact *constituted* by protecting claim-rights which alone have correlative duties. Thus, Halpin reduces liberties to claim-rights and dispenses altogether with the issue of the relation between duties and liberties.

The difference between Hart's and Halpin's theses may be brought out as follows. Halpin is a reductionist about liberties while Hart is not. The perimeter of the protective duties does not exhaust the content of liberties, it only makes them possible. Liberties can be said to be created by protective duties (and thus by their correlative claim-rights) in the sense that the building up of blocks of flats leaves in between some unbuilt area. Liberties are what is left to a person after the duties of others have been independently specified. Halpin's account, however, suggests a different picture. The area of the actions which the agent has the liberty to do is not to be specified as what is left once the relevant protective duties of the duty-bearers have been defined. The liberties are identified with the protecting claim-rights which give rise to the relevant duties.

7. 5. 1 Liberties and protective duties

I will first discuss Hart's account as applied to the case of moral rights. Hart illustrates the relation between liberties and protective duties with the following examples: a) '...my right to scratch my head is protected, not by a correlative obligation upon others not to interfere with my doing an act of the specified kind, but by the fact that obligations to refrain from assault or trespass to my person will generally preclude

effective interference with it.' (Hart (1982) p. 171). b) 'The fact that a man has a right to look at his neighbour over the garden fence does not entail that the neighbour has a correlative obligation to let himself be looked at or not interfere with the exercise of this specific liberty-right. So he could, for example, erect a screen on his side of the fence to block the view. But though a neighbour may do this if he wishes, and so he has himself a liberty-right or bilateral liberty to erect such a fence, there are other things that, in most countries, he cannot legally do to prevent his tormentor looking at him.' (Hart (1982) p. 167). For example, he cannot enter into the tormentor's garden and beat him up. So, he owes certain duties to the tormentor, which although not correlated with (or grounded upon, in my account) the tormentor's liberty to look at him over the garden fence, do in fact protect the tormentor's liberty. In view of Hart's subsequent discussion in his article we can plausibly identify these duties with the protective parameter of a liberty.

Hart does not reserve the term 'liberty-rights' only for bilateral liberties but allows that, at least some, unilateral liberties may be included in liberty-rights. A unilateral liberty to ϕ is a liberty to ϕ associated or coexisting with an obligation to ϕ . Hart recognises that, in many cases, to speak of the liberty of a particular person to ϕ , when he is at the same time obligated to ϕ , as his *right* is not at least a useful way of describing that person's normative properties. But he insists that in certain contexts this may, not only be intelligible, but be instead useful and appropriate. Thus, for example, in certain contexts, a policeman might meaningfully refer to his liberty to arrest a suspect as a right, although he also has an associated duty to arrest the suspect. However, there is a tendency in Hart's article to treat bilateral liberties as the

paradigmatic cases of liberty-rights and in any case the thesis which concerns me here about the protective perimeter of liberties applies exclusively to bilateral liberties.

The first remark about Hart's account I would like to make concerns the types of protective duties he mentions in his examples. Hart mentions negative duties such as refraining from causing serious physical harm to the liberty-right bearer or invading his property and treats them as part of the protective perimeter of particular liberty-rights, such as the liberty-right to scratch my head or to look at my neighbour's garden. These negative duties, although they undeniably have a significant bearing on the capacity of the liberty-right holder to perform the actions which constitute the object of his liberty-right, are not a suitable starting point for considerations about the relation between liberty-rights and duties; they affect the general capacity of the right-holder for well-being and not, more narrowly, his specific capacity to exercise the object of his liberty-right. Focusing on these kinds of negative duties may cause misunderstanding no less because these negative duties may accompany specific positive claim-rights and, even then, they may not be grounded, or at least not exclusively grounded, upon them. Thus, in my desert example, *B* and *C* may equally owe to *A* a duty to refrain from assaulting him or causing serious bodily harm, although their negative duty may not be directly linked with *A*'s claim-right to drink all the water in the flasks. It may be true, as Hart's examples imply, that, in normal circumstances, men owe to one another general negative duties of this kind which protect men's capacities to perform several actions they have a right (claim-right or liberty-right) to do. But focusing on these general duties is of no assistance in the task of

determining which specific rights serve as justificatory grounds of which specific duties. For the fact that some rights may not be grounds of these negative duties does not show that there are no other duties more directly linked with the relevant rights, which are indeed grounded upon them. To return to my desert example, one would not validly infer from the fact that *A*'s right to drink all the water in the flasks was not the grounds of the negative duty of *B* and *C* to refrain from assaulting him that no other duties are grounded on *A*'s right, or that the negative duty of *B* and *C* is part of the protective perimeter of *A*'s right, at least in the way in which Hart claims that a similar negative duty is part of the protective perimeter of liberty-rights. Consideration of these negative duties and their relation with claim-rights and liberty-rights is just not a satisfactory starting point. In so far as liberty-rights are concerned one should consider instead duties which are more narrowly related with the liberty-rights one is examining.

I have already mentioned such duties which do not fall into the category of general negative duties related with the protection of men's general capacity for well-being. In the case of *A*'s liberty-right to look at *B*'s garden, such duties may be the duty of *B* to refrain from putting his hands over *A*'s eyes or blindfolding *A*. No serious threat to the capacity of *A* for well-being is posed if *B* puts his hands in front of *A*'s eyes or blindfolds him so as to make it impossible for him to look at his garden. Further, there may be cases in which someone may have the right to put his hands in front of someone else's eyes or blindfold him. Thus, it cannot be a general right of *A*, such as his right to well-being, which exclusively accounts for the imposition of the relevant specific negative duties upon *B*. After all, *A*'s liberty-right may be thought to be grounded upon,

within the context of a rights-based justification of rights, *A*'s general right to freedom. If the existence of a general right of *A* needs to be invoked to account for the existence of the duties not to interfere in some ways (not to blindfold *A*, etc.) with *A*'s liberty, then the general right of *A* to freedom seems the most plausible candidate. It is surprising that Hart, in his account of the relation between liberties and duties, does not consider the fact that men owe duties to one another not to interfere with their freedom. But once this point is acknowledged there seems to be no reason why we should not consider a derivative specific liberty-right of *A* to have justificatory priority over certain relevant duties. As I have argued in section 7. 3., it is not only complete core rights (like the right to freedom) which have justificatory priority over relevant duties but statements of the existence of rights which are grounded upon them may equally figure as premises in an argument which establishes the existence of a duty. So, there is no reason why *A*'s right to look at *B*'s garden should not be considered to have justificatory priority over *B*'s duty not to blindfold him or put his hands in front of his eyes.

The above discussion has shown, I believe, that, *contra* Hart, liberty-rights may give rise to certain duties and thus should not be defined as what the person is allowed to do after duties to that person have been independently grounded. Let me now turn to the discussion of Halpin's thesis, according to which, not only can liberty-rights be identified before certain protective duties have been independently established, but liberty-rights are indeed constituted by protecting claim-rights independently identified.

7. 5. 2. Liberties as protecting claim-rights

We need to understand what is meant by the thesis that liberty-rights are constituted by protecting claim-rights. It is by no means straightforward what it is for a right to be a constituent of another right and Halpin does not clarify his thesis in this respect. It is clear, however, that it would not do justice to his thesis to treat protecting claim-rights simply as parts of a liberty-right. The reason is that this understanding of Halpin's thesis allows for there being some part of liberty-rights which is not identical with protecting claim-rights and whose presence is necessary for rendering a right a liberty-right. But the way Halpin formulates his account of liberty-rights suggests that protecting claim-rights exhaust the content of liberty-rights or else that liberty-rights are reduced to protecting claim-rights. How, then, are we meant to treat the expression 'liberty-right'? Probably, 'liberty-right' is taken to be the name of a right-category, or, to follow a terminology introduced by Judith Jarvis Thompson (1990, p. 55), whose thesis is in some respects similar to Halpin's, is taken to signify a cluster of claim-rights. On this account, liberty-rights are simply right-categories, or names for clusters of claim-rights. Thus, on this account, there is nothing which is an object of a liberty-right, and only do the particular protecting claim-rights for whose class a liberty-right is a name have objects.

This explanation of what liberty-rights are faces serious difficulties. Firstly, the reductionism of liberty-rights to claim-rights does not do justice to their different normative content. A liberty-right entitles the right-holder to the performance of an action of his and entails that the right-holder is morally justified in performing that action. A

protecting claim-right, on the contrary, entitles the right-holder to the performance of an action (or an omission) of the duty-bearer and entails that the right-holder is morally justified in *demanding* from the duty-bearer the performance of that action (or that omission). It is difficult to see how a moral justification of my doing *x* may be in fact equivalent to a moral justification of my demanding from someone else that they do *y*.

Secondly, Halpin's thesis makes the identification of liberty-rights impossible. If liberty-rights are reduced to a set of protecting claim-rights, how are we meant to know which right-category is appropriate for a cluster of claim-rights? Take, for example, two different liberty-rights, *A*'s liberty-right to look at *B*'s garden and *A*'s liberty-right to look at *B*'s living-room through *B*'s windows. If liberty-rights had objects, then we would be able to identify these liberty-rights by referring to their different objects. But, since liberty-rights are merely right-categories, this possible way of identification of rights is not open to us. The different liberty-rights have to be identified by reference to the protecting claim-rights which they are thought to be reducible to. But obviously the set of protecting claim-rights for both liberty-rights is the same. For example, *A* has a protecting claim-right against *B* not to blindfold him, not to put his hand in front of *A*'s eyes, not to assault him, not to threaten him, and to prevent anyone else from doing all these things to *A*., in both cases. Thus, protecting claim-rights do not provide conditions of identity for liberty-rights.

On the contrary, it seems that we are unable to identify clusters of protecting claim-rights associated with liberty-rights, unless we have first identified the relevant liberty-rights. For consider that we begin by enumerating different protecting claim-rights. How are we meant to

classify them so as to be informative about what someone is at liberty to do? Why choose one conjunction of protecting claim-rights and not another? Or is it the case that the conjunction of any protecting claim-rights necessarily amounts to at least one liberty right? These problems are avoided if we take liberty-rights to have an object and not merely to be right-categories. In this case, we can understand protecting claim-rights as being grounded on full-blooded liberty-rights and we have a means of identifying both different liberty-rights and the protecting claim-rights each of the different liberty-rights is a grounds of.

Thirdly, if reductionism of liberty-rights to clusters of protecting claim-rights were correct, a similar reductionism of any claim-right to actions of the right holder to relevant protecting claim-rights would hold. For the relation between positive claim-rights to action and relevant duties of non-interference seems to be the same as the relation of liberty-rights and relevant duties of non-interference. To understand this point we should consider the means by which Halpin tries to make his reductionist thesis work.

The philosophical motivation behind Halpin's account of liberty-rights is the desire to attack Hohfeld's pluralism of the fundamental conceptions of rights and show that all talk about rights can be meaningfully maintained by invoking only the concepts of claim-rights and duties. His attack on Hohfeld's account is twofold: a) he reduces liberty-rights to claim-rights of non-interference, aiming thus to refute its status as a fundamental legal concept in Hohfeld's account; and b) he correlates liberty-rights as protecting claim-rights with duties, attacking thus Hohfeld's main argument for the logical difference between liberty-rights and claim-rights, namely, that it is only the latter and not the

former which are correlated with duties. It is his second attack which opens Pandora's box for claim-rights to acts of the right holder. For once we start fragmenting liberty-rights to acts of the right-holder into a series of protecting claim-rights of the right-holder to acts or omissions of the duty-bearer, which are alone associated with correlative duties, there is no reason why we should not apply the same method of fragmentation to claim-rights to actions of the right holder. That is, we can start fragmenting claim-rights to actions of the right-holder to a series of protecting claim-rights of the right-holder to actions or omissions of the duty-bearer, which are alone correlated with duties, resulting in fact with no precise duties correlated to claim-rights to actions of the right-holder.

To see this more clearly, let us go back to our desert example. In this example, we identified a specific claim-right of *A* to a specific action of his, namely, to drink all the water in the flasks. And we also said that there are some duties of *B* and *C* correlated with (in the sense of being grounded upon) *A*'s right to drink all the water in the flasks. (We also made in the context of this example a distinction between substantive and capacity-protective duties, but, since there is nothing in Halpin's account which suggests this distinction, I will leave it aside.) Now, the fragmentation procedure which Halpin used in the case of liberty-rights can be used in a similar way here. We can start fragmenting *A*'s claim-right to drink all the water in the flasks into series of protecting claim-rights of *A*. For example, we may start differentiating protecting claim-rights like *A*'s claim-right that *B* does not drink any of the water in the flasks, or that *B* prevents *C* from drinking any water in the flasks, or that *B* prevents the camels from throwing the flasks, or that *B* does not assault *A*, or that *B* does not tie *A*'s hands, etc. each of which is correlated

with a particular duty of *B* towards *A*. And this fragmentation-procedure may go on and we may start differentiating different claim-rights of *A* to, say, positive assistance, for example, a claim-right that *B* brings the flasks near *A* (so that *A* can easily reach them), or that *B* helps *A* to drink the water in the flasks, etc..

The result of this fragmentation procedure is that *A*'s active claim-right to drink all the water in the flasks is reduced to a series of different passive claim-rights of *A*, which are alone correlated with specific duties. *A*'s active claim-right appears to have no real object and seems nothing more than a right-category or the name for a cluster of passive claim-rights. (It is easy to see that if the fragmentation procedure is to be followed all active rights are reduced to a series of passive rights.) But this is hardly a satisfactory state of affairs. The fragmentation of *A*'s claim-right to an action of *A* into a series of claim-rights of *A* to actions of *B* and *C* faces the same problems as the fragmentation of *A*'s liberty-right into a series of claim-rights of *A* to actions of the duty-bearers. It does not do justice to the fact that a statement of an active claim-right has a semantic content which is significantly different from the semantic content of a conjunction of statements of passive claim-rights. And it makes impossible the identification of active claim-rights, and leaves us with no way of telling which conjunction of passive claim-rights is equivalent with a specific active claim-right⁸.

⁸ This fragmentation procedure also renders meaningless any substantial rights-based justification of rights. Given the fact that rights-based justification of rights are widely used and constitute an integral part of reasoning about rights, the fragmentation procedure may be further criticised for being at odds with rights-based justification of rights. It fails to capture the importance of the fact that the active claim-right is the justificatory grounds for the passive claim-rights and cannot thus be reduced to the status of the name of a right-category and be just a name for a cluster of passive rights with no real object of itself. For it is because *A* has an active claim-right to drink all the

Perhaps what gives rise to the fragmentation procedure is the mistaken understanding of the relation between rights and duties as that of logical equivalence. That is, the basic motivation behind the fragmentation procedure might be the need to come up with some rights for which their logical equivalence to duties is clearer or can be more easily established. Thus, someone may think that it is more obvious that *A*'s (passive) claim-right that *B* does not drink the water in the flasks is logically equivalent to *B*'s duty that he does not drink the water in the flasks than that *A*'s (active) claim-right that he drinks the water in the flasks is logically equivalent with *B*'s duty not to drink the water in the flasks. But, as I have already argued in 7. 2, it is a mistake to treat claim-rights and duties as logically equivalent.

There is a significant pragmatic consideration that should be mentioned at this point. In our attempt to identify the moral rights and duties people have under specific circumstances, we tend to focus on some basic relevant rights and make them the starting point of our quest instead of dealing indiscriminately with the indeterminate number of rights and duties that are involved in this situation. This simply facilitates our discussion and gives it a focus. What rights are relevant depends on the particular nature of our quest, the types or aspects of people's conduct we want to explore. In the desert example, we chose to focus on *A*'s need to drink all the water in the flasks out of all the possible needs the three friends might have and we tried to figure out what, given the circumstances, this need of *A* entailed for the rights and the duties

water in the flasks that *A* can be thought of as having all the series of passive claim-rights the fragmentation procedure identifies. Unless we recognise the importance of *A*'s active right to drink all the water in the flasks, we have no means of justifying why *A* has a series of passive rights against *B* and subsequently why *B* owes any duties to *A*.

the three friends. Subsequently, we focused upon *A*'s active claim-right to drink all the water in the flasks and tried to account for the duties of *B* and *C* on the basis of this claim-right. We did not try to spell out all the possible protecting claim-rights *A* had and there was no need to do so, since *A*'s active claim-right proved sufficient to account for the relevant duties of *B* and *C*. In fact, it is hard to see what our discussion might have gained by introducing some protecting claim-rights of *A* which are grounded, as we have seen, on *A*'s active claim-right and examine their relation with *B*'s or *C*'s duties. Our procedure was economical and we lost nothing of substance.

This is not of course to deny that in some contexts description of protecting claim-rights a particular person has may be appropriate. But it does seem that protecting claim-rights (and rights to positive assistance) cannot be identified unless a relevant active claim-right has been specified as their justificatory grounds. Protecting claim-rights cannot appear out of the blue but an explanation of their presence needs to be spelled out. And, as I have argued, this explanation should involve reference to relevant specific active claim-rights which are supposed to be protected by them.

7. 6. Powers and immunities

Let us now turn to powers and immunities. On Hohfeld's account these would also not have any correlated duties. But we are now in a position to reject Hohfeld's account. Powers as well as immunities are capacities. To assert that a mother has a moral power to give her

wedding ring to her daughter is to assert that the mother's capacity to give her wedding ring to her daughter is morally justified. It is the mother's *capacity* to give her daughter her own wedding ring that we focus upon and take to be morally justified and not the actual act of the mother, namely, her giving her wedding ring to her daughter. This illuminates a crucial feature of moral powers, which almost all philosophers and legal theorists have recognised: a power is predominantly an ability or capacity to do certain things and when powers are considered to be rights it is the abilities or capacities of the right-holder that are the core of moral or legal consideration. Subsequently, it is easy to see that no substantive duties may be associated with power-rights, since a power-right is not to be viewed primarily as a demand of the right-holder that the object of his right be fulfilled, but as a demand of the right-holder that his capacity to do what the object of his right describes is to be respected. If this is so, however, powers cannot be the grounds of any substantive duties, but are the grounds solely of capacity-protective duties. That is, A 's power to ϕ_A is the grounds of B 's duty to ϕ_B where ϕ_B has a significant causal contribution to the protection of A 's capacity to ϕ_A . To return to our example, the mother's power to give her own wedding ring to her daughter is not the grounds of a duty of her daughter to accept the ring (since all we assert, when we say that the mother has a power-right to give the ring is that her capacity to do so is morally justified), but is the grounds of duty of her daughter and indeed of any third person, which can affect the situation, to refrain from actions which will affect the mother's morally justified capacity.

The term 'power-right' is applied to two different kinds of rights. Sometimes it characterises the capacity of the right holder to perform an act which will have as a result a change in the legal or moral position of someone else. So, for example, the mother's giving her own wedding ring to her daughter makes the latter the owner of the ring and thus gives to the daughter certain rights of ownership and use of the ring which are in turn the grounds of certain duties of others to the daughter. Sometimes, however, the term 'power-right' may be used to describe a capacity of the right-holder to certain actions which do not affect the legal or moral position of someone else. An example may be the power of the owner of a garden to build a conservatory in his garden. The realisation of the object of his right does not entail any change in the legal or moral status of others.

In the second example it is difficult to distinguish the power of the owner of the garden from his liberty to build a conservatory in his garden. Perhaps the appropriate distinction turns on which aspect of the normative property of the right-holder we focus on in the context of our discussion. If we focus on the range of actions the right-holder is allowed to do, then we may be speaking of his liberty to build a conservatory in his garden. If, on the other hand, we want to stress the relation between the agent and his action and investigate what legitimises this particular agent (in contrast to other agents) in so acting, then we may be speaking of his power to built a conservatory in his garden. In the latter case, when we assert that *A* has a right to built a conservatory in his garden, we seem to assert, *inter alia*, that *A* is the appropriate person (say, as opposed to other individuals, *B*, and *C*) to perform this action.

The contrast between the right-holder and other agents who do not have the relevant power and the stress on the relation between the right-holder and his action seems to be implicit even in the case of those power-rights which assert that the right-holder's capacity to act in a way which will affect the moral status of others is legitimate. In our wedding ring example, part of what we assert when we say that the mother has the relevant power is that the mother is the most appropriate person from a moral point of view to do what she has a capacity to do; we lay the stress that it is *the mother*, and *not someone else*, who has the morally justified capacity to give the wedding ring. To put it in another way, powers tend to stress that the capacity of the right-holder is *exclusive*.

Of course, 'power' is sometimes treated as merely synonymous with 'capacity' and is used without having the implication of appropriateness or exclusivity of the right-holder to what he has the capacity to do. It is mainly in this sense that power is taken to be the core of all kinds of rights, or a defining characteristic of what a right is. In this sense of power every right, that is, claim-rights, liberties, powers (as described above) and immunities, can be said to have power as a constituent. To avoid confusion I will retain the term 'power' for those rights the realisation of the object of which may affect the moral status of others and which include an implication of appropriateness or exclusivity .

Immunities of a particular person are normally identified by the absence of any powers of others over that person. So, for example, I have an immunity against John if John lacks any power to make me his slave. In this case my immunity entails that I have the capacity to remain free. In general, we may say that *A's* immunity against *B* entails *A's* capacity to perform or refrain from performing certain actions. In our example,

my immunity against John entails that I have the capacity to visit my parents without asking his permission or to refrain from working in his fields without receiving any payment. It is easy, thus, to see that immunities can be grounds for capacity-protecting rights.

We have discussed four different kinds of rights and their connection with duties. The main criterion for distinguishing these kinds of rights was semantic; we saw that assertions of rights may have different semantic contents. So, sometimes we may use the term 'right' in the sense of claim-right, sometimes in the sense of liberty, etc.. It should be noted that the sense in which the term 'right' is used in a particular case is determined by the relevant context of the moral discussion. Thus, it is possible that in different contexts the assertion that *A* has the right to the same action or omission may have different senses. In a certain context of moral discussion, it may mean that *A* has a liberty, in another that he has a power, and so on. This depends on which aspect of the normative situation we focus upon or want to stress. So, for example, sometimes by asserting that *A* has a right to do something we want to stress that he is free to do it and sometimes that he has the power to do it. This indicates that it is wrong to assume that what kind of right a particular right is may be decided solely on the basis of its object or content. In addition we need to consider the context of the moral discussion in which reference to the particular right occurs.

The fact that all four kinds of rights may be the *grounds* of duties allows us to treat all these kinds of rights as entitlements of the right-holders. We have seen that rights are not equivalent to duties and an assertion of right is not reduced to the assertion of a relevant duty. Rights primarily ascribe certain privileges to right-holders, or else

entitlements to certain actions, omissions, goods or values. Since rights are not logically equivalent with duties, it is possible to identify a particular person's entitlements prior to or independently of considerations of someone else's duties. In fact, as we have seen, the prior or independent identification of the right is a necessary condition for the identification of the relevant duties. Rights are what Gewirth has called 'normative properties' of the right-holders; the consideration that someone has a right, any of the four kinds of rights we distinguished, is a moral reason for others to do some things or refrain from others. It is this normative feature of rights we will examine in some detail in the next chapter.

CHAPTER EIGHT

THE RIGHT TO AUTHORITY AS A TASK-JUSTIFICATION

RIGHT

8. 1. Rights, duties and reasons for action

I concluded the last chapter by saying that rights are moral normative properties of the right holder in the sense that they provide moral reasons for action of the duty bearer. And throughout the previous chapter I defended the thesis that rights are the justificatory grounds of duties. These two theses are intrinsically connected. The notion of rights as moral reasons for action may be invoked to elucidate the specific kind of *grounding* of duties rights provide. The claim is that rights are the justificatory grounds of duties because the fact that *A* has a right is a valid moral reason for *B* to act in a certain way. Let us see how this claim may be supported.

The first consideration we should take into account is that all duty statements seem to entail moral ought statements. By this I mean that statements of the form '*B* ought to ϕ ' entail statements of the type '*B*

morally ought to ϕ '. Some philosophers take statements of the type ' B ought to ϕ ' to mean something equivalent to ' B must or has to ϕ '. That is, they take 'ought' in a strong sense meaning that B absolutely has to ϕ '. In this case of course duty statements may not entail moral ought statements, since as I have already argued, what someone has a duty to do may not be what he morally must do. It is doubtful whether 'ought' has only this strong sense in English. It is quite normal in English to distinguish between 'ought' and 'must' or 'have to'². In any case, 'ought' in ' B ought to ϕ ' above is taken in a weaker sense. The weak sense of ought allows for two conflicting statements of the form ' B ought to ϕ ' and ' B ought not to ϕ ' (on the same occasion) to both be true. In what follows I will use 'ought' in the weak sense.

Although all duty statements may entail moral ought statements, it is not the case that all moral ought statements entail duty statements. For a moral ought statement of the form ' B ought to ϕ ' may not only express the fact that something is morally required, but that something may be merely acceptable or praiseworthy from a moral point of view without being morally required. For example, we may say that John

¹ Most notably, Thompson (1990), ch. 3.

² Cf. Harman's criticism of Thompson's use of ought in Harman (1993).

ought to give a lift to Jack after a tiring day at the university, although it may not be the case that John has a duty to give a lift to Jack³.

Secondly, ought statements of the type '*B* ought to ϕ ' seem to be logically equivalent to reasons statements⁴. This seems to hold for both the moral ought and the ought of rationality. For example, the statement 'John ought to apply for the job' is logically equivalent to the statement 'there is a reason for John to apply for the job'; similarly, the statement 'John ought to give to Jack the money he borrowed from Jack' is equivalent to 'there is a reason for John to give to Jack the money he borrowed from him'. In the above ought statements 'ought' is used in its normal (weak) sense and in the above reasons statements 'reason' denotes 'non-conclusive reason'. As there may be conflicting things a particular person ought to do on a certain occasion, so there may be conflicting reasons for a person on a certain occasion. Statements of conclusive reasons are logically equivalent to statements of what a particular person ought to do all things considered.

There are two kinds of reasons: justificatory reasons and explanatory reasons. The function of explanatory reasons is to explain

³ Thus, moral ought statements of the type '*B* ought to ϕ ' are not logically equivalent with duty statements of the form '*B* has a duty to ϕ ' because the former may be read either as 'it is true of *B* that *B* ought to ϕ ' or as 'it ought to be the case that *B* ϕ 's'. (meaning something like it would be good from a moral point of view if *B* ϕ -ed' It is only under the first reading that ought denotes a property of a person and expresses the fact that *B* has a relevant duty.

⁴ For an elaborate defence of this thesis, see Raz (1990), pp. 28 - 33. For an account which reduces ought statements to reason statements, see Harman (1978).

the agent's behaviour and statements of explanatory reasons are normally of the type 'A's reason for ϕ -ing is'. For x to be a valid explanatory reason of A's behaviour it is necessary that A is aware of the existence of x. For example, for the statement 'John's reason for leaving his house was his fear of robbers' to be true it is necessary that John was actually afraid of the robbers. On the other hand, the function of justificatory reasons is to evaluate or guide action. For example, the statements 'there were good reasons for John to resign from his positions as headmaster' and 'the fact that this medicine will cure John is a reason for John to take it' are statements of justificatory reasons; in the first statement 'reason' is used for evaluating an action, while in the second statement 'reason' is used for recommending an action. In contrast to what happens in the case of explanatory reasons, it is not necessary for x to be a justificatory reason for A to ϕ that A is aware of the existence of x. That is, it is not necessary for the fact that a certain medicine can cure John's disease to be a valid justificatory reason of John's action that John is aware of that fact. Similarly, it is not necessary for certain facts to be justificatory reasons of John's action to resign from the post of headmaster that John is aware of these facts⁵.

⁵ This formulation of justificatory reasons for action is compatible with internalism about reasons. Internalism about reasons does not deny that something may be an internal reason for A even though A is not aware of its existence (see, Williams (1981a), p. 103). What internalism denies is that A has a reason to ϕ even when there is no appropriate element in his motivational set S which is satisfied by his ϕ -ing. For example, if John did not care about his life, it would be false, according to internalism

I adopt Raz's thesis that justificatory reasons are facts (Raz (1990), pp. 16-20). Raz elucidates his thesis as follows:

'When saying that facts are reasons I am using the term 'fact' in an extended sense to designate that in virtue of which true or justified statements are true or justified. By 'fact' is meant simply that which can be designated by the use of the operator 'the fact that...'. A fact is that of which we talk when making a statement by the use of sentences of the form 'it is a fact that...'. In this sense facts are not contrasted with values, but include them ('It is a fact that human life is the supreme value', 'The fact that human life is an important value has long been recognised in all human societies'). Similarly facts include the occurrences of events, processes, performances and activities.' (*op. cit.* pp. 18 - 19)

It must be clear from the above that it is only statements of justificatory reasons which are logically equivalent with ought statements. Given the notion of explanatory reasons I described, a statement of explanatory reasons does not describe what an agent ought to do, but merely explains the behaviour of the agent. On the contrary, statements of justificatory reasons do show what the agent ought to do, since they are used for evaluating or guiding action.

We are now in a position to see how to support the claim that rights are moral reasons for actions of the duty bearers. We have seen

about reasons, that the fact that a certain medicine can cure his disease is a reason for him to take it.

that duty statements entail moral ought statements and that ought statements are logically equivalent to reasons statements. This means that duty statements entail a certain kind of reason statements, moral reason statements. That is, statements of the type '*B* has a duty to ϕ ' entail statements of the type 'there is a moral reason for *B* to ϕ '. Now, in some cases the moral reason for *B* to ϕ is the fact that another individual, *A*, has a right (to a good, to a value, to an action of his, to an action of *B*). It is in this sense that rights may be the justificatory grounds of duties. They constitute moral justificatory reasons for actions of the duty bearers.

8. 2. Normative properties of persons

The fact that rights are moral justificatory reasons for actions of the duty bearers explains why we may call them moral normative properties of persons. In this section I will try to elucidate the notion of normative properties of persons. Let me begin by providing an account of normative properties in general:

(NP) 'F is a normative property of A iff, if there is a B to whom certain background reasons R apply, the fact that A is F can be an operative reason for B to act or refrain from acting in manner z'.

I borrow the term 'operative' reason from Raz (1990, p. 33). For our purposes an operative reason will be defined as follows:

p is an operative reason for B to ϕ or refrain from ϕ -ing iff, given circumstances C which make it possible for B to ϕ or refrain from ϕ -ing and given that B knows that C obtain, B will try to ϕ or refrain from ϕ -ing if B believes that p.

The qualification that B can act or refrain from acting introduces the well-know maxim that ought implies can. It is clear that I have no reason to do what I am unable to do. The qualification that B knows that he can act or refrain from acting is introduced in order to explain the formulation of the motivation of B to act or refrain from acting. We cannot expect someone who believes that he cannot do something to try to do it. The conjunction of the two qualifications states an important feature of operative reasons for action. In order for a reason for action to identified as an operative reason it must be such that the formulation of the relevant attitude to act⁶ by the agent will depend on his right belief that it is possible for him to act. Imagine, for example, that a man in the

desert, who desperately needs to drink water, hallucinates that there is a lake in front of him. He has no reason to formulate an attitude to drink water because, although he believes that there is water in front of him, there is actually no water in front of him and, thus, no means to quench his thirst. This situation will not help us to identify an operative reason for our man to act, say his belief that drinking water is good for him. Whether his later belief is an operative reason for him to act should be tested by looking at the attitude he formulates in cases in which he is able to do what he has a reason to do.

Operative reasons have the strength to create attitudes to act or refrain from acting in certain ways. They are to be distinguished from auxiliary reasons whose main function is to identify the actions one has the attitude to perform and, thus, make concrete the general attitude the operative reason generates. To illustrate their difference let us consider the following example. John wants to buy Jack a copy of *The Times Atlas* for his birthday. John finds a copy of *The Times Atlas* in James Thin bookstore. John buys this copy or his wife infers that John ought to buy this copy. Here John's desire to buy Jack a copy of the *Times Atlas* for his birthday would count as an operative reason for John's buying the copy at James Thin's if, and only if, John's belief in the existence of his desire would generate a general attitude of his to buy a copy of the *Times*

⁶ Raz calls this attitude 'practical critical attitude' (see, Raz (1990), p. 33).

Atlas. The fact that there is a copy in James Thin's is an auxiliary reason which may explain why, given the existence of the above mentioned operative reason, John actually bought this copy at James Thin's, or may figure as a minor premise in a practical syllogism about the concrete action John ought to perform in the relevant circumstances.

The way I formulated the definition of operative reasons is neutral between externalist and internalist accounts of reasons for actions. I proposed a descriptive account⁷ of what it is for someone to have an operative reason for action in which the crucial feature of an operative reason is given by a conditional: 'if *B* believes that *p*, he will have a general attitude to ϕ '. It is not a necessary condition for *p* to be an operative reason a) that the agent actually believes that *p* or b) that *p* is entailed by his set of motivational beliefs *S*, although nothing in my account indicates that the latter (b)) internalist requirement is ruled out from the beginning. It is compatible with my account of operative reasons that *p* is an operative reason for *B* to ϕ even if a) he does not actually believe that *p* or b) *p* is not entailed by the set of his motivational beliefs, but the latter (b')) externalist point is not part of my account.

Equally neutral between internalism and externalism about reasons for action is my formulation of NP. For my formulation of NP by

⁷ That is, not a prescriptive account of which reasons should be operative reasons.

itself does not take a stance on the issue of whether it is necessary for the proposition that A is F is a reason for B to ϕ to be true that there is some element in B 's motivational set from which he could through a process of sound deliberation infer that he ought to ϕ because A is F . But there is a reason for opting for a kind of externalist reading of NP which is related with the particular scope of my inquiry. I am interested in the phenomenology of ascriptions of reasons for actions to agents as part of a social practice and I want to understand what is involved when *we* as members of a community or a form of life ascribe to someone a reason to act. There is a sense in which *we* ascribe a reason to act to someone without relating our ascription to the agent's desires, evaluations or other elements in his actual motivational set. For example, we may treat institutional requirements, laws or the decrees of authorities as reasons for someone to act in a certain way independently of what his actual motivational set includes. That is, we may say that there is a reason for an anarchist to obey the law, or that a football player has a reason to comply with the decisions of the referee. In these cases we do not regard the truth-conditions of the ascriptions of reasons for action to agents as dependent on the existence of a relevant motivation in the agents' motivational set. As a matter of our social practice we do not seem to treat these ascriptions as false if there is nothing in the anarchist's

motivational set which will move him to obey the law or if the footballer had no interest or desire in complying with the rules of football.

Given the above qualification of how we should understand the formula 'p is a reason for x to ϕ ' we can turn to an example of a normative property some people may have within an institutionalised practice such I have already mentioned. We can say that being a referee in a football game is a normative property of *A* since, if there is a *B* to whom some background reasons independently apply (for example, that he is a football player, that he plays in the game *A* referees, etc.) the fact that *A* is a referee is an operative reason for *B* to form an attitude to comply with his decisions. What is important here is the correct description of *A*'s properties. It is obvious that it is under a particular description that *A* has a normative property, that is, a property which is for *B* a reason to form a particular attitude to act or refrain from acting. The fact that *A* wears a black shirt and short trousers or that he holds a whistle lacks the required normative power. Even if all referees hold a whistle or wear shirts and short trousers of a specific colour it is not because of these properties that *B* has a reason to comply with their decisions. The property 'referee in a football game' has a normative power because it is taken to mean someone with whose decisions players of a football game ought to comply. That 'referee in a football game' has the meaning it has is given by the very conception of a football game as we understand and

play it. A normative dimension is built into the meaning of 'referee in a football game' in virtue of our conception of the actual practice of football.

A normative property of a person which is for someone else a *moral* operative reason to act or refrain from acting in a particular way is a moral normative property. Rights are in this sense moral normative properties of the right-holders. As part of our moral practice we take the fact that *A* has a right (claim-right, liberty, power, immunity) to be a moral reason for someone else, *B*, to try to act or refrain from acting in specific ways (given of course some reasons which apply independently to *B*, say, that he is in the proximity, that he can perform the required actions, etc.). This account aims to cover both substantive and capacity-protective duties of *B* and thus the actions or omissions of *B* may aim (depending on the kind of right *A* has) at the realisation of the object of *A*'s right or the protection of the capacity of *A* to realise the object of his right.

8. 3. The interest theory of rights - Rights as fair needs

What is the source of normativity of rights as properties of persons? R. Hare (1981) has given I think a quite accurate account of our intuitions:

'If a person's rights are, as he thinks, infringed, he will be likely to complain that he has suffered an injustice, that he has been wronged, that a wrong has been done to him, that what has been done to him was wrong (not right), and ought not to have been done...' (p. 148).

Hare's remark captures a basic intuition about violations of rights which is equally an intuition of the agent and a third person. If someone's rights are violated, then we see the right-holder as having suffered an injustice, as being the subject of unfair treatment.

What is the object of considerations of fairness when violations of rights occur? Here the interest theory of rights best accommodates our intuitions. According to the interest theory of rights, a right is essentially an interest of the right-holder which ought to be advanced or protected. Combining the interest theory of rights with our intuitions about violations of rights, we may say that a right is best understood as an interest of the right-holder which it would be unfair to the right-holder not to obtain.

8. 3. 1. Rights and needs

But what do we mean when we say that x is an interest of A ? A statement of the form ' x is an interest of A ' is ambiguous. It may mean

either that *A* is interested in *x* or that *x* is in *A*'s interests. In the first case our ascription of an interest to *A* is related to considerations about what *A* wants or desires. In the second case, the ascription of an interest to *A* is related to considerations about what *A* needs. As White puts it:

'What one is interested in is a sub-class of what one wants, namely, what one wants - and feels inclined - to give one's attention to; whereas one's interests are at most a sub-class of what one needs, namely what one needs for one's well-being.' (White (1975), p. 119)

The proponents of the interest theory of rights seem to think that *A* has a right to *x* if *x* is in *A*'s interest rather than if *A* has an interest in *x*. Consider, for example, the accounts of rights provided by two of the main proponents of the interest theory of rights. Raz gives the following account of rights:

Definition: "X has a right" if and only if X can have rights, and, other things being equal, an aspect of X's well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty.' (Raz (1986), p. 166.)

MacCormick gives the following definition of moral rights:

'To ascribe to all members of a class *C* a right to treatment *T* is to presuppose that *T* is, in normal circumstances, a good for every member of *C*, and that *T* is a good of such

importance that it would be wrong to deny it or withhold it from any members of C.' (MacCormick (1977), p. 204)

They do not, however, point to a link between a particular person's interests and what a particular person needs. Two issues need to be addressed: a) is it the fact that people have desires or wants or the fact that people have needs which gives rise to rights? And b) what is the relation between what is a particular person's interest and his needs?

Let me start with a). What is the basis of rights? Do people have rights because of the fact that they have desires or because of the fact that they have needs? Or, to put it slightly different, is it the fact that *A* desires *x* or the fact that *A* needs *x* which gives rise to considerations about the possible rights *A* may have? These questions make sense only if there can be a meaningful distinction between desires and needs. The possibility of a meaningful distinction between desires and needs has been challenged. According to one view, needs cannot be distinguished from desires and they are nothing else but a class of strong desires or preferences.

I think that this view is mistaken. Need has its own semantic identity. I will not offer a detailed defence of the semantic irreducibility of needs. I will only provide three main arguments for the thesis that there is a meaningful distinction between desires and needs.

Firstly, 'desire' (or 'want') is clearly an intentional verb, that is, it generates intentional or opaque contexts, while 'need' is not. If *A* who is a diabetic desires to eat a Mars bar and his eating the Mars bar will make him ill, it does not follow that he desires to eat something which will make him ill. But things are different with needs. As Wiggins puts it, 'I can only need to have *x* if anything identical with *x* is something I need' (Wiggins (1998), p. 6). Secondly, if *A* desires *x* because *x* is *F*, then it is necessary that *A* believes that *x* is *F*. But it is not necessary for it to be true that *A* needs *x* because *x* is *F* that *A* believes that *x* is *F*. It may be true that *A* needs *x* because *x* is *F* even though *A* does not believe that *x* is *F* or he falsely believes that *x* is not *F*. Thirdly, the truth of the statement '*A* desires *x*' depends on whether *A* has a certain mental state, a desire for *x*. But this psychological element is absent from needs. The truth of the statement '*A* needs *x*' depends, not on *A*'s mental or psychological condition, but on the way the world is (that is, on whether it is necessary that *A* has *x* at *t*' for it to be possible that *A* attains an certain end-state at *t*').

Since there is a meaningful distinction between desires and needs, the question about which of the two, the fact that men have desires, or the fact that men have needs, is the basis of rights makes sense. I believe that it is the fact that *A* needs *x* as opposed to the fact that *A* desires *x* which gives rise to considerations about the possible rights of *A*.

Firstly, if the fact that men desire some things was the basis of rights, then we would validly ascribe rights to particular persons only if they had a particular mental or psychological state, only if they had a desire. But this would fail to account for a wide range of ascriptions of rights to particular persons which we take to be valid. For it seems that we are willing to ascribe to a particular individual a right even though he lacks a relevant desire. This general statement requires elucidation. We may distinguish the following cases: a) We ascribe rights to particular persons even if they are unable to have any desires. For example, we say that someone who is in a comatose state in a hospital has certain rights, although we do not (and, it seems to me, we cannot) ascribe to him any desires at all. b) We ascribe to particular persons rights to x even though they do not desire x. For example, we ascribe to a child a right to food, although the child may not want to eat. Similarly, we do not deny someone who finds life meaningless and wants to commit suicide a right to life.

Secondly, there is a significant conceptual link between the fact that a particular person needs some things and considerations of fairness, while there seems to be no evident conceptual link between the fact that a particular person desires certain things and considerations of fairness. It is part of the meaning of statements of the type 'x is a need of A' that, if A does not get x, then he would be somehow harmed. But it is

not part of the meaning of statements of the type 'A desires x' that, if A does not get x, he would be somehow harmed. Now, cases of personal harm are cases in which considerations of fairness are due and which constitute primary objects of considerations of fairness. But the fact that A desires x does not seem to invite in any direct way considerations of fairness.

Thirdly, the fact that A may desire x under one description but not under another creates a further problem for the thesis that the fact that men desire things is a necessary condition for men to have rights. For, although the statement that A desires x under description y may be true but the statement that A desires x under description z false, it is not the case that A may have a right to the same thing under one description but not under a different description.

One could argue that I have overstated the thesis that needs, as opposed to desires, are the basis of rights. For, could one argue, to have desires and have some of my desires satisfied is an important component of my well-being and thus it is possible that in some cases my right to some things is based on the fact that I desire these things. But a supporter of the thesis that needs are the basis for rights should not be worried about this argument. If to have desires and to have my desires satisfied is necessary for my well-being, then I *need* to have desires and to have my desires satisfied. The basis of a possible right of mine to some

things I desire is not the fact that I desire them but the fact that I need to have some of my desires satisfied.

To fully appreciate this point we should examine the relation between needs and well-being. And this leads us nicely to the issue of the relation between what is in a particular person's interests and a particular person's needs. Let us begin by examining the logic of the verb 'need'.

Consider the statement 'John needs £10 to buy a pair of gloves'. This statement seems to express the fact that it is necessary for a particular state of affairs to obtain (John's having a pair of gloves) that some other state of affairs precedes. Or to put it more formally (following Wiggins's ((1998), pp. 7 - 8) analysis of 'need (verb) statements) 'it is necessary (relative to time t and relative to the t circumstances c) that if John has a pair of gloves at t'' then he has £10 at t' .

This analysis of need (verb) statements makes clear two things. The first is that the verb 'need' is a modal verb. The second is that a complete need statement requires the identification of an end-state, that is, what A needs x *for*. A statement of the form 'A needs x ' is elliptical; what is missing is the identification of the purpose, the end-state for which A needs x .

In some elliptical need statements of the form 'A needs x ' the end-state should be understood to be A 's well-being. An example of such an

elliptical statement may be 'John needs to have freedom of speech'. In this case the meaning of the complete need statement is that unless John was free, he would be somehow harmed. Wiggins thinks that it is the word 'need' in particular which carries this sense and denies that statements like 'John needs to have freedom of speech' are elliptical statements (*op. cit.*, pp. 9 - 11). Wiggins believes that in such statements 'need' is used in an absolute or categorical sense. It is not clear to me that there is an absolute sense of need and that we may identify two separate classes of need statements, one in which 'need' is used in an absolute sense and another in which 'need' is used in an instrumental sense. In any case it would be difficult to identify the sense in which 'need' is used in a statement of the form 'A needs x' without any reference to the context. (For example, 'need' in 'John needs to have freedom of speech' may be used in what Wiggins calls an absolute sense but also in an instrumental sense if 'John needs to have freedom of speech' is elliptical for 'John needs to have freedom of speech to undermine the constitution'.)

Whether or not there is an absolute sense of the verb 'need' has no bearing on the subsequent discussion. What is important for the elucidation of the relation between a particular person's needs and what is in a particular person's interest and the relation between need as a verb and need as a noun is to clarify the notion of well-being. The notion

of well-being to which there is reference in the absolute sense of the verb 'need', according to Wiggins, or in some complete need statements, does not seem to have any moral connotations, or to be necessarily connected with a specific account of human nature. In ordinary discourse about needs we accept as meaningful and true statements like 'a gangster needs freedom', 'a paedophile needs to have sex with children', 'a drug addict needs heroine', when understood as containing reference to the well-being of the relevant agents. Of course, we may treat these kinds of needs as morally evil, even despicable, or as betraying an extremely problematic human nature and we may even go so far as to argue that a life which generates such needs is not worth living. But we do call these states of dependency 'needs' and we do seem to believe that, if the agent does not satisfy these needs, they will be in a sense impaired persons, their well-being will have been affected somehow, they will have been harmed in some way.

The relation between need as a noun and need as a verb may be described as follows. A statement of the form 'A has a need for x' entails a statement of the form 'A needs x' but the reverse entailment does not hold. For example, the statement 'John has a need for food' entails the statement 'John needs to have food'; but if John needs to be at the airport at five o'clock (to catch his flight), it is odd to say that John has a need to be at the airport at five o'clock. The reverse entailment seems to hold

only when the end-state of *A*'s need in the statement '*A* needs *x*' is *A*'s well-being or 'need' has an absolute sense, as Wiggins maintains. So, there seems to be a strong conceptual link between the needs a particular person has and his well-being. We may give the following account of 'need' as a noun: '*A* has a need for *x* iff *A* needs *x* and unless *x* obtains *A* will be harmed'. We should note again that the notion of well-being involved in this account has no moral connotations. This allows us to speak, for example, of a gangster's need for freedom, a paedophile's need for sex, or a drug-addict's need for heroine, etc.

We can now understand the relation between what is in a particular person's interests and a particular person's needs. What is in a particular person's interests is what promotes his personal well-being. So, given the conceptual link between what a particular person needs and his well-being, we may say that if a statement of the form '*x* is in the interests of *A*' is true, then a statement of the form '*A* needs *x*' is true if the latter is understood as elliptical for '*A* needs *x* for his well-being' or 'need' is used in an absolute sense, as Wiggins maintains, and vice versa. Further, we may say, on the basis of the account of the logic of the noun 'need' I provided in the previous paragraph, that if *x* is in *A*'s interests, then *A* has a need for *x* and vice versa. It seems thus that it holds that a statement of the form '*x* is in the interests of *A*' is logically equivalent to a statement of the form 'there is a need of *A* which is satisfied by *x*'.

I would like to make the following explanatory remarks. The first is that 'need' (noun) is ambiguous. It may mean either *a state of dependency* (the fact that *A* needs something) or *the thing needed* (the thing which *A* needs, or the thing which satisfies *A*'s need in the sense of state of dependency). Throughout the rest of the chapter 'need' (noun) will be used to denote a state of dependency.

The second is that what I have said so far about needs (as states of dependency) applies equally to both basic and non-basic needs, both entrenched and not entrenched needs, both urgent and not urgent needs. Although classifying needs may have informative results, I will not attempt any classification of needs. What I say in the remainder of this chapter about needs applies to all needs and not only to some categories of needs.

The third is that specific needs or interests of a particular person may conflict. There may be two cases of conflicts of specific needs or interests of a particular person: a) *A* has two different specific needs which may be satisfied by two different things, *x* and *y*, but the world is such that *A* can have only *x*, or only *y*. For example, *A* may need to buy a box of aspirins which costs £5 because he has a headache and *A* may need to buy a kebab which costs £5 because he is hungry and *A* has only £5; and b) *A* has two different specific needs one of which is satisfied if *A* gets *x* and the other if *A* does not get *x*. For example, *A* may need to get a

specific drug because he would die otherwise and *A* may need not to get this drug because this drug will destroy the cells of his brain. In a) *A*'s specific needs are not necessarily conflicting needs, since it is not the case that there is no possible world in which *A* may get both *x* and *y*. In b) *A*'s specific needs necessarily conflict, since there is no possible world in which *A* can both get *x* and not get *x*. In both cases *A* has conflicting needs because different aspects of his well-being conflict.

My claim that needs are the basis of rights holds only if needs are understood as states of dependency. But I see in principle no reason why different kinds of needs (basic, non-basic, entrenched, etc.) as well as conflicting needs may all be bases of rights. It is true of course that basic needs must take precedence over non-basic needs and the satisfaction of the basic needs of individuals is one of the primary concerns of society and an important demand of justice. Further, in cases in which needs of a particular person conflict considerations of the basicness, the entrenchment, or the urgency of the conflicting needs may help us resolve the conflict and identify the needs which ought to be satisfied at the expense of the others. To fully appreciate these facts about needs one needs to construct a systematic theory of needs. I will not undertake this task here. My sole aim in this section has been to support the thesis that needs are the basis of rights; and nothing in the subsequent discussion of this chapter depends on a particular hierarchy of needs of individuals.

8. 3. 2. Rights and fairness

Let me now turn to the role of fairness in the context of the interest theory of rights. It is clear that reducing rights to simply interests or needs of the right-holder is a mistaken option. People may be validly said to have various interests and needs, but only a part of them gives rise to rights. It may be in the interests of a gangster to avoid being arrested by the police, but he can hardly be said to have a right not to be arrested. Or, it may be in John's interest to get £5000 from Jack, but again, unless other considerations apply, we cannot say that John has a relevant right. Considerations of fairness help us identify which interests of people turn into rights.

The proponents of the interest-theory of rights have not provided a satisfactory account of what the relevant interests are and how considerations of fairness apply to them. Let us focus on a right to an action of the right-holder, A 's right to ϕ . According to the interest theory of rights, for A to have a right to ϕ it must be the case that ϕ -ing is a fair interest of A . But what is it exactly to ascribe to A a *fair* interest? In the previous section I distinguished between needs as states of dependency and things needed. In our example, we should distinguish between A 's

need as a state of dependency and his action which is the thing which satisfies or serves this need. How do considerations of fairness apply in this case? We need to distinguish between the fairness of *A*'s need (as a state of dependency) and the fairness of the action which satisfies this need. Some needs are intrinsically evil, like the need of paedophil to have sex with a child, and we can safely say that we can never ascribe to someone a right to an action on the basis of the fact that it may satisfy an intrinsically evil need of his. But the fairness of a need does not solely depend on the intrinsic nature of the need. Since in particular circumstances the needs of different persons may conflict considerations of fairness help us to single out the most important needs and give them a privileged status. So, in the context of conflicts of needs in particular circumstances, a need of a particular person may not turn out to be fair. But the fairness of the need of a particular person does not suffice to establish that he has a right to an action which satisfies this need. The fairness of the action itself should be examined as well. For it may be the case that while *A* has a fair need which is satisfied by a particular action the latter may be extremely harmful to others and thus unfair.

There is a further criterion a particular person should satisfy in order to be validly said to have a right to perform a particular action. In addition to having a fair need which is satisfied by the performance of a fair action, he must also be the *appropriate* person to perform that action.

For example, although I may have a fair need which is satisfied by the arrest of someone and fairness requires that a criminal is arrested, I may still not have a right to arrest that criminal because a policeman and not I is the appropriate person to arrest that criminal. I will examine the implications of this condition later in some detail. Now, I will just recapitulate the three conditions a particular person should satisfy in order to be said to have a right to a particular act; a) he must have a fair need, b) the action which satisfies this need must be fair and c) he must be the appropriate person to perform that action.

In 6. 4. I recognised that, unless we provided an explanatory account of entitlements which does not contain reference to rights the thesis that rights are essentially entitlements of the right holder would lead to a vicious circularity. The interest theory of rights provides such an explanatory account. Rights can be validly said to be entitlements of the right holder because they are fair interests⁸ of the right holder.

8. 4. Objections to the interest theory of rights

Before proceeding I would like to consider two objections to the interest theory of rights. These objections are: a) that *A* may have a right

to x , although x is not in his interests and b) that, in some cases, although x may be in A 's interest (and it is a fair interest of A in the sense I explained above) A may not be validly said to have a right to x . If a) is correct, then having an interest is not a necessary condition for having a right. If b) is correct, having a fair interest is not a sufficient condition for having a right.

The first objection concerns both rights to values and rights to goods or actions of a particular person. So, we may distinguish two different versions of the first objection: according to the first version, A may be said to have a right to a value (life, freedom, etc.), although to attain this value (to live or to be free) may not be in his actual interests; according to the second version, A may be said to have a right to a good or an action, although to obtain that good or perform that action may not be in his actual interests.

Let us focus first in the second version of this objection. Think of the following example. John may be said to have a right to drink whisky in a bar; but assume that John suffers from hepatitis B and any consumption of alcohol may destroy his liver. It is clear that it is not in his interest to drink whisky. But this does not entail that he has no right to drink whisky in a bar. Thus, according to the first objection, having an interest is not a necessary condition for having a right.

⁸ I will use the term 'fair interest' to denote an interest of A which satisfies all three

A supporter of the interest theory of rights need not worry about such cases. What happens in the above example is that John has two conflicting needs. The right of John to drink whisky in a bar is a liberty right and is based on John's need for freedom. In this example, John's need for freedom is in conflict with his need for a healthy life. His right to drink whisky in a bar is based on one of the conflicting needs, his need for freedom, which we assume for the sake of the argument to be fair (that is, to satisfy the three conditions of fairness I specified in 8. 3. 2.). These cases do not show that people do not have rights because they have interests.

In John's example John may be validly said to have a general need for freedom which his being able to drink whisky in a bar serves. But there may be cases in which one can doubt that a particular person has such general needs, for example, to be free, or to continue living, which specific actions may satisfy or serve. Is it true that in these cases a particular person has rights to specific actions which promote his freedom or secure his life or rights to freedom or life?

To understand what is involved in these cases let us recall our desert example. In this example, *A* was said to have a right to drink all the water in the flasks of *B* and *C* because he could not survive otherwise. But suppose that *A* suffers from a terminal disease, his life is miserable

and full of pain, and he hates the fact that he might suffer for long and put an enormous emotional and financial burden on his family. It might be better for him to die in the desert than to go on living such a miserable life. It might be the case that it is in his interests to die from thirst. Does he still have a right to life and a right to drink all the water in the flasks? And if our moral intuitions lead us to assert, that he has these rights, does this not show that there is something problematic with the interest theory of rights?

I will not deny that it is ever in a particular person's interests to die rather than to live. Nor will I challenge the claim that our moral intuitions make us assert in this example that *A* has both a right to life and a right to drink all the water in the flasks. The interest theory of right can be defended even when we grant these points.

First, is it legitimate to ascribe to *A* a right to life? His right to life is a right to a value. In 6. 3. I explained that in assessing whether a certain state of the agent, considered in abstraction, is a value of his, we do not take into account either the agent's beliefs about whether this state is good for him, or whether it is at a certain time and under specific circumstances good for him; we call a certain state of the agent a value of his if it is a necessary condition or a constituent of his well-being *in normal circumstances*. Consequently, we ascribe a right to a value to someone not on the basis of whether that state is in his interests at a

certain time and in specific circumstances, but on the basis of whether it is in his interests in normal circumstances. So, since our ascription of a right to a value to a particular person is driven by considerations about what is good for him in normal circumstances and since life is a good for *A* in normal circumstances, we are justified in our example to ascribe to *A* a right to life.

Second, can we legitimately say that *A* has a right to drink all the water in the flasks? According to my account of the interest theory of rights, in order for *A* to have a right to drink all the water in the flasks, it is necessary that drinking all the water in the flasks satisfies a need of *A*. We may identify such a need of *A*; it is the need of *A* to live. Of course, we have assumed that the circumstances are such that it is actually better for *A* to die. So, we may say that *A* does not have a need to live. What does justify our intuitions that *A* has actually a right to drink all the water in the flasks? It is the fact that we are willing to ascribe to *A* a right to life (for reasons I explained in the previous paragraph). Since *A* has a right to life and since rights to values have justificatory priority over rights to actions within the context of a rights-based justification of rights, we may infer from the fact that *A* has a right to life that he has a right to an action which secures his life. This means that we may ascribe to someone a right to a particular action even though it is not, strictly speaking in his interests, or it does not satisfy a need of his, if this

particular action would under normal circumstances satisfy a need of his. This qualification of the interest theory of rights is required if the interest theory is to be able to account for such hard cases and do justice to our intuitions about these hard cases.

We can now turn to the second objection, namely, the objection that in some case although x may be a fair interest of A , A may not have a right to x . For example, Jack may promise John that he will look after John's mother while John is on holiday. In this case, John may have a right that Jack keeps his promise, but his mother does not have the right, although it is in his mother interests that Jack keeps his promise to John.

This is a standard objection to a particular version of the interest theory of rights, the 'direct benefit' theory of rights. According to the latter, a particular person has a right if he is the direct beneficiary of interest theories of rights. In the example above, John's mother seems to be the direct beneficiary of Jack's duty. But John's mother cannot be said to have a right that Jack looks after her while her son is on holiday. It is John who has a right to Jack's actions.

My version of the interest theory of rights does not face this difficulty. According to it, in order for John's mother to have a right that Jack looks after her, she must satisfy the following conditions: a) she must have a need which is satisfied by Jack's actions; b) her need must

be fair; c) Jack's actions must be fair; and d) she must be the appropriate person to demand from Jack that he acts in a particular way. She cannot be said to have a right that Jack looks after her because she fails to satisfy condition d). (I assume for the sake of the argument that she satisfies all a), b) and c).) John of course has a right that Jack looks after his mother, since John satisfies all four conditions.

8. 5. Rights as fair interests and rights as normative properties

Let me bring together the basic threads of my argument thus far. I assumed that the interest theory of rights provides the best account of what rights are: rights are fair interests of the right holder. This account of the nature of rights brings us close to the reason why rights may be considered normative properties of persons. Rights are properties of persons since rights are interests of the right holders. They are also normative because they are *fair* interests of the right-holders. The fairness of the interests of the right holders makes them valid moral reasons for actions.

8. 6. Task-justification rights

There are some rights, however, which cannot be accommodated within the interest theory of rights. I will focus on two examples, the right of the doctor to treat his patient, and the right of the government to rule. The following questions will concern us. Are these 'typical' rights? And do they provide moral reasons for action?

Let us begin with the first question. It is clear that we face major difficulties in trying to accommodate these examples within the interest theory of rights as I have formulated it above. When the object of these rights is not fulfilled the supposed right-holder does not seem to have been harmed. No relevant interest of his seems to be at stake whether or not he does what he is said to have a right to do. Why is this so?

Take for example the right of the doctor to treat his patients. If there are any interests which are relevant in this case, these are the interests of the patient and probably of a society as a whole that has established specific procedures and conventions for dealing with diseases and medical issues. The grounds on which we ascribe to the doctor a right to operate on a patient is not any fair interests of the doctor but precisely the expertise the doctor has along with the consent of the patient or his family. It is the doctor *qua* doctor, that is, *qua* someone who has medical knowledge and the necessary formal qualifications, who has this right. The fact that someone has a right to operate on a patient

because he is a doctor is further manifested by a particular sense of the proposition 'a doctor has a right to operate on his patient'. When we assert this proposition we want to convey the idea of the *appropriateness* of that particular person who is a doctor to operate on the patient: we imply that it is legitimate for that person *and not for someone else* to operate on the patient. 'Right' in 'a doctor has a right to operate on his patients' has this semantic implication because it is ultimately a power-right, as it is the mother's right to give her own wedding ring to her daughter. But while the mother's power is a fair interest of hers which explains why it is her right, no interest of the doctor seems to explain why his power is a right of his.

Have we discovered a different kind of right, which is not a fair interest of the right-holder? Before giving a positive answer let us consider a counterargument. We may assume that the doctor has a general right (in the sense of a fair interest) to work from which we may infer that he has a specific right (in the sense of a fair interest) to treat his patients. Let us treat this right as a right to value, that is, let us assume that work is a necessary condition or a constituent of the well-being of each and every human being under normal circumstances (at least of each and every human being after God threw us out of Eden). Let us think of work as giving to human beings a great amount of satisfaction, as strengthening their self-esteem, as increasing their sense

of dignity, and let us treat these things as necessary components of a particular person's well-being under normal circumstances. We can elaborate on the idea of work as a value as much as we like, but it seems that these considerations should play a central role in any conception of work as a value. Now, the question is whether from this right to a value it follows that operating on a patient is a fair interest of the doctor on a specific occasion. An easy answer may be that a particular interference of a third person cannot be seriously considered to impair in any important way the satisfaction, or the sense of self-esteem, the doctor gets from the exercise of his profession. But let us make a harder case. Think, for example, of the case of a doctor who works in a prison hospital run by a brutal officer who does not allow the doctor to treat any sick prisoners. The officer believes that as a form of punishment the prisoners should be allowed to suffer or even to die. The officer may be quite friendly to the doctor, he may like him and in any case his actions are not motivated by the intention to cause frustration to the doctor. The doctor nevertheless is frustrated, not only because he cannot help the prisoners, but also because he gets no satisfaction from his profession. The question is: has the right of the doctor to treat his patients been violated, or else is he the subject of an unfair treatment?

Two points are of importance here. The first is that in the example mentioned above there is no conflict of rights. The right of the patients to

receive medical treatment is not in conflict with a possible right of the doctor to treat them. Nor are these rights in conflict with a possible right of the prison officer, since the latter does not have a moral right to forbid the doctor to treat the patients or to cause them suffering. More importantly, the possible right of the doctor to treat the patients is compatible with the right of the prisoners to receive medical care.

The second point relates to a distinction I made in my discussion of rights as fair interests. I argued that in ascribing to *A* a right to ϕ two of the conditions he needs to satisfy are: a) that the need of *A* *A*'s ϕ -ing satisfies is fair and b) that *A*'s ϕ -ing is fair. So, in our case in order for the doctor to have a right in the sense of a fair interest, it must be the case both that he has a fair need which is satisfied by his treating the patients and that the treatment of the patients is fair (or, at least, causally necessary for a state of affairs which is fair).

Let us begin with condition b). It is clear that the treatment of the patients is fair. Or, at least for the sake of the argument, I will assume that, in the example I have formulated, there are no strong moral reasons which make the suffering of the patients morally acceptable, let alone desirable, and such as to override the moral reasons for reducing their suffering. So, it seems that condition b) is satisfied. But what about condition a)? Given the existence of an abstract right to work as a value, it is tempting to think that there is a basic need of the doctor which can

be satisfied by his treating the patients and which appears to be fair. There is no obvious reason to deny the existence and importance of this basic need, but how considerations of fairness apply in this case is not altogether clear. On the one hand, the need of the doctor is not like the need of a paedophile to have sex with a child. Obviously, the need of the doctor does not fail to satisfy the demands of fairness in the way the need of the paedophile does: the nature of the need of the doctor is not intrinsically evil. On the other hand, the fairness of the need of a particular person does not solely depend on the intrinsic nature of the need. To find out whether a particular person's need is fair we also need to weigh up of the needs of other people who are affected by the action which satisfies the need of the supposed right holder. Of course, people have a great range of needs which may be affected by someone's action and a first requirement is the identification of the needs which are more directly affected and are more important for the agent. Considerations of fairness, however, do not seem to govern only the process of weighing up the selected needs, but also the process of selecting the appropriate needs to be weighed. This is so because the mere fact that some needs are singled out and selected for moral weighing gives to them and the people who have them a special moral status, affects the fairness of the particular moral weighing, and becomes a criterion for the morality of the character of the moral deliberator. There is something deeply

unsatisfactory and unfair in weighing up *A*'s need to scratch his head against *B*'s need for medical treatment, even though the moral deliberator may in fact get the 'right' result and give to *B*'s need the morally required precedence. Such selection of the needs to be weighed bespeaks a lack of respect for *B* as a person, it devalues him, at least in comparison with *A* and, thus, may be legitimately regarded as an instance of injustice towards *B*.

This is not of course to say that *A*'s need to scratch his head is not a real need of his, or that there may not be circumstances in which it is possible to ascribe to *A* a right (in the sense of a fair interest) to scratch his head. The point is that in certain cases, when the needs of different persons are weighed in order to determine who has a right to a particular action which affects the satisfaction of the needs of the others, considerations of fairness demand that some needs are ruled out of the process of weighing. The fact that some needs are not selected for the weighing does not entail that they are not actual needs or that under no circumstances will they be selected; it merely shows that these needs are somehow 'silenced', that fairness precludes that they acquire the status they may have in other cases.

Considerations of fairness about the selection of the needs of persons to be weighed when the task in question is the assessment of a particular person's right to action do not arise only when there is a

conflict between the needs of different agents. The silencing of some needs may be required by considerations of fairness even in cases in which the issue is the ascription to a particular person of a right to an action which may satisfy equally non-conflicting needs of different persons. In these cases some needs of certain persons may be much more basic and more significant than the needs of certain others and it may be unfair to the former even to single them out as possible candidates for the relevant moral weighing. It may be unfair to them since, given the fact that the selection of particular needs for moral weighing gives a significant moral status to them and to those who have them, it may be a sign of their moral devaluation.

I believe that, in the example of the frustrated doctor considerations of fairness require the silencing of the relevant need of the doctor to get satisfaction from treating the prisoner patients. The relevant need of the prisoners to medical care is far more important and more basic than the above mentioned need of the doctor and it would be unfair to attribute to both a similar status⁹.

⁹ The silencing of the need of the doctor does not of course mean that the need of the doctor is not an actual need of his or that it can never be considered fair. In the case of the right of someone with the required medical qualifications to get a job as a doctor the fairness of his need to receive satisfaction from exercising his profession, bolstering his self-esteem, etc. partly justifies our ascription to him of a right to get a job as a doctor. In this case, although the other-directedness of the profession of the doctor requires that the needs of the future patients of the doctor are taken into account, fairness does not require that the need of the doctor is silenced. The fact that in one case the need of the doctor is silenced and in another it is not is to be explained on the basis of the difference between instances of the actual practice of an other-directed profession and the allotment of other-directed offices to individuals. In the latter case, our moral considerations focus on the need of the candidate and not selecting his need for the relevant moral weighing would mean treating him unfairly.

The silencing of the need of the doctor makes impossible the inference from the abstract right of the doctor to work as a value to his specific right to treat his patients. So, it seems that the right of the doctor to treat his patients is not a 'typical' right. Firstly, the semantics of our ascription to the doctor of a right to treat his patients indicates that we do not focus on the interests of the doctor and we do not want to convey the idea that doctor has a fair interest in treating the patients. Secondly, not only does not the right of the doctor to treat his patients mean 'the fair interest of the doctor to treat the patients', but considerations of fairness require that any relevant interests of the doctor are silenced.

What kind of right then is the right of the doctor to treat his patient? We have already seen that in ascribing a right to a particular person to treat a patient we intend to convey the idea that he is the appropriate person to treat the patient and we focus on the substantial and formal qualifications of that person. In general, we can say that *A* has a right to ϕ in this sense iff the sole reason for ascribing to *A* a right to ϕ is the fact that *A* is the appropriate to ϕ . I will call this kind of right a 'task-justification right', or simply a 'justification right', since the stress lies on the idea that the right-holder is (morally) justified in performing a particular action in the sense that he is the appropriate person to perform that action. By contrast, I will call rights which are fair

interests of the right-holders 'substantive' or, for reasons which will become clear later, 'normative' rights.

Of course, even when we ascribe to *A* a substantive right to ϕ we do think and perhaps want to convey the idea that *A* is (morally) justified in ϕ -ing. But the reasons why we think that *A* is justified in ϕ -ing, when we ascribe to him a substantive right to ϕ are different from the reasons why we think that *A* is justified in ϕ -ing, when we ascribe to him a justification-right to ϕ . In the first case *A* is justified in ϕ -ing because *A* has a fair need which is satisfied by his action and his action is fair. In the second case, *A* is (morally) justified in ϕ -ing because *A* is, on the basis of some properties he possesses, the appropriate person to ϕ independently of whether he has any interest in ϕ -ing and whether his ϕ -ing is fair.

Justification-rights may be parts of substantive rights. As we have already seen, one of the conditions a particular person should satisfy in order to have a right to perform a particular action is that he and not someone else is the appropriate person to perform that action. So, it seems every substantive right has a justification-right as a part. But, as the example of the right of the doctor to treat his patients indicates, there may be justification-rights which are not parts of substantive rights and may exist even in the absence of a relevant substantive right. So, the doctor may have a justification-right to treat his patients, even though he

has no substantive right to treat them. To stress this difference I will call justification-rights which are not parts of substantive rights 'proper justification-rights'.

An important feature of proper justification-rights is that it is not a necessary condition for a particular person to have a justification-right to ϕ that ϕ -ing is fair. Or, to put it slightly differently, considerations about the fairness of a particular action are not part of the considerations we take into account in deciding who has a justification-right to perform that action. And, while expressions like 'A has a (justification-) right to do what is unfair' may sound odd, there is nothing odd in the idea that someone has a justification-right to an action which may not be fair. It is possible to come up with examples in which say a doctor decides to treat one patient with minor injuries instead of someone with substantive injuries and thus commits an unjust action but this by no means affects his justification-right to treat the former patient. He is still the appropriate person to treat the patient with the minor injuries and this is all which counts in ascribing to him a relevant justification-right. To see a problem there is to confuse the notion of 'justification-right' with the notion of 'the right thing to do'.

Keeping this distinction between justification and substantive rights in mind we can now address the question of what kind of right political authorities have *qua* political authorities. It is clear that the

rights of political authorities, say, the right of the government to rule, to impose taxes, etc. is like the right of the doctor to treat his patients. It is a justification-right and not a substantive one. When we say that the government has a right to impose taxes, we mean that the people comprising the government have all the necessary formal and substantial qualifications which make them appropriate to perform that action. It is not a substantive right since in ascribing a right to government to impose taxes, we do focus on any relevant interests the government might have and their fairness. Indeed, the government cannot be validly said to actually have any relevant interests. We have seen that in the case of the right of the doctor, the exercise his profession could be said to be in the interests of the doctor, stemming from a basic need of his to obtain those components of his well-being associated with the exercise of a profession. But, and here the analogy between government and the doctor breaks down, it is difficult to achieve a morally acceptable conception of politics as a profession. There is something morally spurious, let alone politically dangerous, in treating politics as one of those professions the exercise of which may allow the politicians to achieve some necessary components of their well-being. In other words, we cannot associate the right to work as a value with the activities of politicians. Politics is the paradigmatic other-directed activity and is not associated with the interests of its practioners.

Thus far, I have argued that the right of political authorities and professionals to exercise political power and their professions respectively is not a substantive right. Now I will turn to the question whether it is a moral normative property of the right-holders, or, more generally, whether the fact that A has a justification-right to ϕ_A is an operative moral reason for B to ϕ_B .

8. 7. Are justification rights normative properties of the right holder?

Substantive rights are normative properties of the right-holders, that is, they provide others with operative moral reasons to act in a particular way. In our desert example if B believes that A has a substantive moral right to drink all the water in the flasks, and given that he is in the proximity and can help A , he ought to form an attitude to act in such a way as to enable A to realise the object of his substantive moral right. The normativity of A 's substantive right to drink all the water in the flasks, or else the fact that it generates operative moral reasons for B to act in a particular way is explained by the fact that the substantive right of A is a fair interest of his. The normativity of substantive rights is grounded on the fairness of the interests of the

right-holders. This allows us to label rights in the sense of fair interests of the right-holder as 'normative'.

But are justification-rights normative? Does the fact that the doctor has a justification-right to treat his patients give me an operative moral reason to act in a particular way? As I have already argued, the right of the doctor is a proper justification-right and the ascription to a particular person of a proper justification-right to perform a certain action is independent of considerations about the fairness of that action. So, since the justification-right of the doctor is not dependent upon the fairness of the action the doctor has a justification-right to perform, the latter cannot be the source of a possible normativity of the justification-right. Of course we do feel that we ought to assist a doctor, when possible, or that we ought not to interfere with his treatment of patients, but this is not because the doctor has a relevant justification right, or else, because person x who is a doctor is the appropriate person to treat the patients. If we do have an operative moral reason to act or refrain from acting in these ways, this is because the action the doctor has a justification-right to is fair, or because the patients have a substantive right to be treated by the doctor. Indeed, there seems to be no operative moral reason stemming from the justification-right of the doctor. Or else the justification right of the doctor is not a normative property of his.

What holds for the justification right of the doctor must also hold for any proper justification right, and thus the justification-rights of political authorities. But in the case of the rights of political authorities a puzzle is generated due to some intrinsic features of our conception of political authority. As I have already mentioned in the introduction to this chapter, the common conception of legitimate political authority (as opposed to *de facto* political authority) is that it involves a right to rule which is correlated with an obligation to obey. Further, the authority-relation in general is best understood as follows: *A* and *B* stand in an authority relation iff the sole or predominant reason for *B*'s compliance with *A*'s directives is the fact that *A* uttered these directives. This account of the authority-relation expresses the idea that the authority-relation involves what Friedman has called a 'surrender of judgement' on the part of the one who defers and intends to distinguish the authority-relation from power and persuasion. If the sole or predominant reason for *B*'s compliance with *A*'s directives is the fact that *B* is afraid of or threatened by *A*, then *A* has power and not authority over *B*. And again if the sole or predominant reason for *B*'s compliance with *A*'s directives is the fact that *B* was persuaded by *A*, then *A* has equally no authority over *B*. The conjunction of this account of the authority-relation in general with the common conception of legitimate authority may create the

presumption that the fact that a particular person has legitimate political authority is a reason for the subjects to act in particular ways.

I would like to make two remarks about this. Firstly, the above discussion must have made clear that the right to rule which seems to be a component of the common conception of legitimate political authority is a justification-right and not a substantive right. To say, for example that a legitimate government has a right to impose taxes is to assert simply that the government satisfies all the substantial and formal requirements which make it the appropriate body for imposing taxes. (I assume that among the most important substantial requirements is the relevant expertise of the government in public affairs and the consent of the governed¹⁰.) This justification right is not associated with any operative moral reasons to act in a particular way and the issue of the legitimacy of government is altogether different from the issue of the moral obligation to obey the demands of the government.

Secondly, it is probably true that, given the semantic content of the authority-relation, political authority is a normative property of persons. But it should be remembered that this is not relevant to the present discussion. What I am debating is whether authority is a moral normative property. It may be an institutionalised normative property as the property 'referee' is in the institutionalised practice of football.

¹⁰ See, 9. 4.

And, given the fact that political authorities may help us solve coordination problems and achieve important common and individual goods, the fact that someone has a political authority may provide us with prudential reasons for following his directives. But in so far as the provision of moral reasons to act is concerned, reference to the right of government to rule is of no help to those who want to establish a moral obligation to obey the directives of a government.

A note of caution. If the argument I have presented works, then what it shows is not that there may be no moral reason at all to obey the government. It only shows that we have no moral reason to obey the government because the government has a right to rule. It is still possible for someone to argue for example that we have a moral reason to obey a government because its directives are fair or because it serves the interests of its subject. But this kind of justification of the moral obligation to obey a government is altogether different from the justification based on the right of the government to rule.

8. 8. Conclusion of the second part

In the second part of my dissertation I focused on the fourth main tenet of political authoritarianism and argued that it should be

understood in the context of the common conception of the legitimacy of a particular person's authority. According to this common conception, in order for a particular person's authority to be legitimate he must have a right to be in authority. This right is considered to be a 'typical' right correlated with a duty of the governed to obey the person in authority. I argued however that the right to be in authority is not a 'typical' right and it is not correlated with a duty of obedience. So, both the common conception of the legitimacy of a particular person's authority and the fourth tenet of political authoritarianism which presupposes this common conception are deeply flawed. In the third part of my dissertation I will examine whether Socrates is committed this problematic fourth tenet of political authoritarianism.

PART C

Socrates and the Legitimacy of Political Authority

CHAPTER NINE

SOCRATES AND THE LEGITIMACY OF POLITICAL AUTHORITY

9. 1. Socrates and the third thesis of political authoritarianism

In the second part of my dissertation I argued that the fourth thesis of political authoritarianism is seriously flawed. According to this thesis, those who possess political knowledge have a moral right to rule which is correlated with a duty of the subjects to obey them. But, as I argued the right to rule cannot be considered to be a 'typical' right, that is, a right which provides justificatory grounds for duties. The right of the government to rule is best understood as a 'task-justification right', which, although it does not generate duties, may be invoked to morally justify the appropriateness of a particular person to engage in certain activities.

It is now time to consider whether Socrates endorses the fourth thesis of political authoritarianism. Does Socrates believe that the moral or political experts have a moral right to rule which is correlated with a duty of the subjects to obey them? A negative answer to this question may be justified on the basis that the Ancient Greeks did not have the concept of a right. According to this view, Socrates cannot think that

political authorities have a moral right to rule correlated with an obligation to obey because Socrates does not have the concept of a right.

The thesis that Ancient Greeks did not have the concept of a right has been defended by MacIntyre ((1981), p. 67). MacIntyre bases his thesis on the fact that there is no Greek word which can be translated by our expression 'a right'. This is a rather sweeping argument. The fact that the ancient Greeks did not have a word semantically equivalent to 'a right' does not entail that they did not possess the concept of a right. In many languages there may not be accurate translations of certain English words but this does not show that the French or the Germans, for example, do not have the relevant concepts.

Recently, MacIntyre's thesis has been seriously challenged by the work of Fred Miller¹ who has convincingly argued that there are in the works of Aristotle and Demosthenes locutions which correspond to the four kinds of rights Hohfeld distinguished (that is, claim-rights, liberties or privileges, powers and immunities). Gregory Vlastos (1995) has also attempted to show that in the *Rep.* the citizens of the perfect state possessed a wide range of rights. However, there is no comprehensive work which examines possible instances of rights in Plato's early dialogues and no account of a possible Socratic rights 'vocabulary'.

It is beyond the scope of this dissertation to examine the issue of whether Socrates has the concept of a right. And, in discussing the issue of whether Socrates espouses the fourth thesis of political authoritarianism, I will leave the question of whether Socrates has the concept of a right open. To assess whether Socrates thinks that the

¹ See, Miller (1995) & (1998).

political or moral experts have a right to rule correlated with a duty of the subjects to obey them I will focus on the following question: Do the citizens, according to Socrates, *owe to* the moral experts a duty to obey them?

Let us see why Socrates thinks that the citizens should accept the rule of the political or moral experts and obey them. Socrates asks in the *Crito* in a passage we have already examined²:

T38) Ought we to be guided (*epesthai*) and intimidated (*phobeisthai*) by the opinion of the many or by that of the one - assuming that there is one with expert knowledge? Is it true that we ought to respect (*aischunesthai*) and fear (*phobeisthai*) this person more than all the rest put together; and if we do not follow his guidance we shall spoil and impair that part of us which, as we used to say, is improved by just conduct and ruined by unjust? Or is this all nonsense?

C.: No I think it is true, Socrates³. (*Crito* 47c11-d7)

In this passage Socrates identifies an important prudential reason men have to accept the authority of the moral expert and follow their directives. Unless they subordinate themselves to the moral expert and follow his guidance, their soul will be spoiled impaired. In this passage Socrates does not identify a *moral* reason for obeying the moral expert. He describes the attitude we should have towards the moral expert but does not claim that we must adopt this attitude because it is our moral duty to do so; he claims that we must adopt this attitude because it is in our interests to do so.

So, Socrates seems to accept that individuals have prudential reasons to obey the moral experts. Does he also think that they have moral reasons to obey the moral experts? In the *Apol.* Socrates claims:

² T34 in 4. 3.

³ Tredennick's & Tarrant's translation (1993).

T39) ...I do know that to do wrong and to disobey my superior, whether god or man, is bad and dishonourable⁴. (29b6 - 7)

Socrates does not make clear who the *superior* human beings are whom it is bad and dishonourable to disobey. He might only refer to army commanders. But it is also quite plausible that he refers to someone who is morally superior. In this case he most probably has in mind the moral expert, the person who knows what virtue is and is able to educate the citizens in virtue.

If Socrates is understood to hold that it is bad and dishonourable to disobey the moral expert, then he clearly thinks that men have a moral reason or a moral duty to follow the directives of the moral expert. But this does not show that he thinks that this moral duty *is owed to* the moral expert as the fourth thesis of political authoritarianism requires. The most T39 shows is that the person who disobeys the moral expert violates a demand of justice. To interpret T39 as implying that the person who disobeys the moral expert violates a substantive moral right of the moral expert would mean to read into T39 far more than the text allows for. T39 does not tell us whether the duty of the citizens to obey the moral expert is owed to anyone, or, if it is owed to someone, who that person is; Socrates may think that the duty of a particular citizen to obey the moral expert may be a duty to himself, or a duty to his fellow citizens.

To clarify this point let us examine why Socrates thinks that it is bad and dishonourable for a particular person to disobey his superior.

⁴ Tredennick's & Tarrant's translation (1993).

There is a passage in the *Gorg.* which may help us to understand Socrates' thesis. Socrates claims:

T40) If a vendor or a merchant or a producer of one of these things, a baker, cook, weaver, shoemaker, tanner, supplies these fulfilments of bodily appetites, it is not surprising that when he is like this, he and other people suppose that he takes care of the body. Everyone supposed this who doesn't know that there is another craft, gymnastics and medicine, besides all these, which is really care of the body, and which fittingly (*prosêkei*) rules over all crafts and uses their works - for it knows what food and drink is worthy and base for the excellence (*aretê*) of the body, while all the others are ignorant of it. And this is why these other crafts are slavish, with the tasks of servants, not free men, in the treatment of the body, while the gymnastic and medical crafts are mistresses of these, according to what is just (*kata to dikaion*)⁵. (517d6 - 518a5)

In T40 Socrates holds that the subordination of the several knacks which are concerned with the service of the body to the true arts of medicine and gymnastics is in accordance with the demands of justice. There are two interpretations of why Socrates may think that this subordination is just. According to the first interpretation, Socrates believes that there is in the realm of *technê* a strict hierarchical order and structure which probably reflects a general cosmic order. This cosmic order is governed by justice. Socrates claims in the *Gorg.*:

T41) Now the wise men say, Callicles, that heaven and earth, gods and men are bound by community and friendship and order and temperance and justice; and that is why they call this whole universe the 'world-order', not 'disorder' or 'intemperance', my friend⁶. (507e6 - 508a4)

So, according to this interpretation the subordination of all the knacks which serve the body to the real arts of medicine and gymnastics is just because it reflects or preserves the just cosmic order. We can interpret Socrates' claim in T39 that to obey the moral expert is just in a

⁵ Irwin's translation (1979).

⁶ Irwin's translation (1979).

similar way. A particular person's obedience to the moral expert is just because it reflects or preserves the just cosmic order.

According to the second interpretation, the subordination of all the knacks which serve the body to the real arts of medicine and gymnastics is just because only if all these knacks are guided by the arts of medicine and gymnastics will the body be benefited. According to this interpretation, something is just not because it preserves the cosmic order but because it serves the interests of individuals. On this account of justice, doctors and gymnasts act justly when they exercise their *technê* because they serve the interests of their subjects. As we have already seen, in the first book of the *Republic* Socrates holds the thesis that all arts (*technai*) are by nature *other-directed*. A craftsman *qua* craftsman aims at the service of the interests of his subjects and not his personal interest. In the *Gorg.* the real doctor and the real gymnast are considered to aim at what is good for the bodies of people (and not at how they will be personally benefited by the exercise of their professions). But medicine and gymnastics cannot be successful, unless crafts or knacks, like cookery, cosmetics, etc. are controlled by them. So, the subordination of these crafts to medicine or cosmetics is just because it enables medicine and gymnastics to serve the interests of their subjects.

In a similar manner men's obedience to the moral expert may be considered to enable the moral expert to exercise his political art and provide what is best for the souls of the citizens. It is for this reason that it is just for someone to obey the moral expert.

I have examined two different interpretations of why Socrates may think that it is bad and shameful for someone to disobey the moral expert based on the evidence of T40. On neither interpretation is it plausible to

assume that Socrates believes that people owe a particular duty of obedience to the moral expert. On the first interpretation, it is doubtful whether their duty is a duty to anyone. On the second interpretation, their duty may be owed to their fellow-citizens (or even to themselves) who are benefited by the rule of the moral expert.

Until now I have been discussing the issue of whether, according to Socrates, men can be said to owe a duty to the political or moral experts to obey them. The evidence of the early dialogues seems to tell against this view that for Socrates men owe a duty of obedience to the political or moral experts. Thus, we have strong reason to deny that Socrates espouses the fourth thesis of political authoritarianism.

This conclusion can be strengthened by the following considerations. In the second part of my dissertation, I argued that it is a necessary condition for *A* to have a substantive right (that is, a right which can be the justificatory grounds of duties) to *x* that *x* is in *A*'s interests. So, if Socrates held the fourth thesis of political authoritarianism, he should believe that being in authority was in the interests of the political or moral experts. But there is strong evidence to the contrary. In *Rep.* I Socrates argues that, not only do the real rulers (who should be equated with the political or moral experts) *qua* rulers aim at the service of the interests of their subjects, but they do not consider the possession of political power to be a good for them. Socrates claims:

T42) a) So, if [good people are] to be willing to rule, some compulsion or punishment must be brought to bear on them - perhaps that's why it is thought shameful to seek to rule before one is compelled to. Now, the greatest punishment, if one isn't willing to rule, is to be ruled by someone worse than oneself. And I think that it's fear of this that makes decent people rule when they do. They approach ruling not as something good or something to be enjoyed, but as something necessary, since it can't be entrusted to anyone better than - or even as good as - themselves.

b) In a city of good men, if it came into being, the citizens would fight *not to rule*, just as they do now in order to rule. There it would be quite clear that anyone who is really a true ruler doesn't by nature seek his own advantage but that of his subjects. And everyone, knowing this, would rather be benefited by others than take the trouble to benefit them. (347b9 - d8)

Socrates distinguishes two different kinds of society. The first society a) is an imperfect society, that is, a society of both good and bad men, or a society of both quite virtuous and less virtuous men. The second society b) is a perfect society, that is, a society of good men. It is clear that in society b) there are true rulers or moral experts. It is less clear whether in the imperfect society there are moral experts. It is not clear whether the good (*agathoi*) or decent (*epieikeis*) people in a) who are not willing to rule are moral experts or simply people who exceed in virtue.

Let us focus on the second society. Socrates seems to believe that it is not in the interests of the true rulers or the moral experts to rule. Ruling is troublesome and by its very nature aims not at the service of the interest of the ruler but at the service of the interests of the subjects. In societies in which there are many true rulers or moral experts, it is better for each of them to let the others deal with political issues.

In the first society things are more complex. Socrates claims that to be in authority is not something good for the moral experts or the people who are more virtuous than others. But he also admits that it is a kind of punishment (*zêmia*) for them to be ruled by someone morally inferior. So, one may suggest that there is a sense in which it is in their interests to rule.

In the perfect society, the moral experts cannot be said to have a substantive right to rule because it is clear that ruling is not in their

interests. In the imperfect society, it is possible that Socrates considers ruling to be in the interests the moral experts or those who are more virtuous than their fellow-citizens. But there is evidence that Socrates would reject that even in the imperfect society ruling is in the interests of the ruler. Socrates holds that different benefits or advantages stem from different arts or crafts. He claims that 'each craft brings its own peculiar benefit'⁷ (346c2-3). For example, the benefit of medicine is the health of the body, and the benefit of navigation is safety while sailing (346a6-8). Arts like medicine, navigation, or the political art benefit (each in its own peculiar way) not the possessors of these arts but their subjects. Of course, the doctor, for example, receives money for the exercise of his art. But Socrates denies that it is the possession of the art of medicine which benefits him in this way. Socrates distinguishes a separate art which he calls the art of wage-earning (*mistharnêtikê*) and claims that the benefit the doctor or in general any possessor of the craft gets results from the exercise of the art of wage-earning:

T43) Then this benefit, receiving wages, doesn't result from their own craft, but rather, if we're to examine this precisely, medicine provides health, and wage-earning provides wages; house-building provides a house, and wage-earning, which accompanies it, provides a wage; and so on with the other crafts. Each of them does its own work and benefits the things it is set over. So, if wages aren't added, is there any benefit that the craftsman gets from his craft?

Apparently none⁸. (346d1 - 9)

In a similar way, being in power does not by itself benefit the rulers. This is why, according to Socrates, wages must be provided for the rulers. Socrates holds that wages come in the form of money, or honour, or penalty (*zêmian*) (if people refuse to rule) (347a2 - 6). So, in

⁷ Grube's and Reeve's translation (1992).

⁸ Grube's and Reeve's translation (1992).

accordance with the evidence of T43, any possible benefit the rulers in the imperfect society get does not result from the exercise of the political art, but from the exercise of the art of wage-earning. And, since according to T42 the only or the main benefit the rulers *qua* rulers in the imperfect societies receive is the avoidance of the penalty, or punishment (*zêmia*) of being ruled by someone inferior to them, this benefit must result not from their exercise of the political art, but from their exercise of the art of wage-earning⁹. So, according to Socrates, it is not in the advantage of the rulers in the imperfect society to rule. It is in their advantage to exercise the art of wage-earning.

To recapitulate, in this section I dealt with the issue of whether Socrates espouses the fourth thesis of political authoritarianism. According to this thesis the political experts have a substantive right to rule; this thesis entails that a) the subjects owe to the political experts a duty of obedience and b) being in authority is in the interests of the political experts. I produced two arguments to show that we cannot credit Socrates with the fourth thesis of political authoritarianism. My first argument was that there is no evidence which shows Socrates thinks that the subjects *owe* a moral duty of obedience *to* the political or moral experts. My second argument was that Socrates does not think that it is in the interests of the political or moral experts to rule.

9. 2. The kernel of Socrates' authoritarianism

⁹ Socrates probably thinks that in this case the art of wage earning consists in a skill of avoiding possible penalties.

In the previous section I argued that Socrates is not committed to the fourth thesis of political authoritarianism. So, he cannot be validly said to share what I called in chapter 5 *the common conception of the legitimacy of a particular person's authority*, according to which a particular person's authority is legitimate only if he possesses a substantive right to rule. If we want to ascribe to Socrates' political or moral expert a right to rule, this should be a *task-justification right*. And the most we would imply by ascribing to the Socratic political or moral expert such a right is that he is appropriate (from a moral point of view) for the task of ruling.

The fact, however, that Socrates does not espouse the fourth thesis of political authoritarianism does not mean that there are no authoritarian elements in his philosophy. We may distinguish three main authoritarian elements in Socrates' philosophy. a) The authority of the political or moral experts is virtually unlimited. The political or moral experts may legitimately interfere with almost every aspect of a particular person's life. b) The authority of the political or moral experts is unchecked by the citizens. The citizens have no right to interfere with the task of ruling and should mind their own business. c) Having the consent of the governed is not a requirement which the political or moral experts should satisfy for their authority to be legitimate (in the sense that they have a justification-right to rule). For our purposes we may distinguish two kinds of consent: i) general consent and ii) specific consent. General consent is given in cases in which we agree that a particular person should have a certain position or adopt a certain institutional role, which gives him the power to perform a wide range of actions. For example, the British citizens give their general consent to

Tony Blair when they vote him for prime minister, or the shareholders of Microsoft give their general consent to Bill Gates when they elect him for general director of Microsoft. Specific consent is given in cases in which we agree that someone else does a specific action. For example, our consent to a surgeon to operate on us is an instance of specific consent. Socrates thinks that the political or moral expert need not have either a general consent of the citizens to his being in a position of power or a specific consent of the citizens to some of his acts as a ruler.

Two passages we have already examined show that Socrates is committed to all a), b) and c). The first is a passage from the *Gorg.*:

T44) (=T36) But for forcing (*metabibazein*) change in their [the citizens'] appetites, not indulging them, persuading and forcing (*biazomenoi*) them towards what will make the citizens better - here they [the politicians of the past] were virtually no different from people now [the present politicians]- and that's the only work for a good citizen¹⁰. (*Gorg.* 517b5-c2)

This passage shows two things. The first is that the political or moral expert is allowed to interfere substantially with the citizens' lives. He is allowed to change the character and the desires of the citizens. The second is that such substantial interference may be done without the (specific) consent of the citizens. Socrates claims that the political or moral expert will try to change the appetites of the citizens with or without their consent (*biazomenoi*). It is true that even in democracies rulers may implement policies which affect in an important way the citizens' lives even though the citizens may not agree with these policies. But none of these policies can be compared with the policies the Socratic political or moral expert is going to follow. None of these policies have

¹⁰ Irwin's translation (1979).

such a cataclysmic effect on the personality of the citizens as the policies of the Socratic political or moral experts..

The second passage is a passage from the *Charm.*:

T45) (= T35) [if we had temperance] we who had temperance would live our lives without making any mistakes and similarly all the others who would be ruled by us. The reason is that we would not try to do these things we do not know, but we should find those who possess knowledge of them and leave the business to them; nor would we allow (*epitrepomen*) those we ruled to do anything else but that thing they would perform rightly - and this would be the thing they had knowledge about. And so the house ordered by temperance would be ordered rightly and the city administered by temperance would be administered rightly and generally everything else which temperance guides will be done rightly. (*Charm.* 171d6-e7)

Socrates claims in this passage that once the experts on a particular cognitive or technical field are found, they should be left alone to deal with the things they are experts on and no one else should interfere with their business. This implies that, once the political or moral experts are found, they should be left alone to do what they know best and no one else should interfere with their task of ruling. The citizens would not be allowed to check their rulers or have a say about government.

Socrates does not make clear whether the political or moral expert has the general consent of the citizens. He does not make clear whether the citizens at an initial stage agreed that he should be in authority. Unlike Plato, Socrates does not have an elaborated political theory and does not provide a detailed account either of how the political expert will rule or how he will come to power. But we may infer from the evidence of the early dialogues the following. a) Since, as T45 implies, the citizens should deal with what they can do best and not interfere with what the political expert does, it is unlikely that Socrates thinks, once the political

expert is in power, that the citizens should be free to express their approval or disapproval of the political expert in some form of elections.

b) Given Socrates' low opinion about the moral capacities of the many, it is unlikely that he believes that all or most of the citizens will be able to identify the political expert and give their consent to his being in authority. Socrates may believe that only few enlightened individuals (like he) may be able to identify the political expert and freely accept to be guided by him.

We may conclude that the consent of the citizens is not, according to Socrates, among the requirements a particular person should satisfy for his political authority to be legitimate (or else to be the appropriate person for ruling the city or have a task-justification right to rule). It seems that according to Socrates the only requirement a particular person should satisfy for his political authority to be legitimate is possession of political expertise. As I have argued in the first part of my dissertation, Socrates believes that the only person who can provide the soul with what is good for it, morally educate the citizens and make them happy is the person who possesses high-level moral knowledge, knowledge of what virtue is. The only person who possesses this high-level moral knowledge is the true ruler, the political or moral expert. And the only thing which justifies his authoritarian behaviour, when he has political power, is nothing else but the fact that he possesses this high level moral knowledge.

9. 3. The concepts of being an authority and being in authority.

If my arguments in the above section are correct then Socrates must believe that there is a strong connection between theoretical and political authority, that is between what we nowadays call the concepts of being an authority (an expert) on something and of being in authority. It has been argued that these two concepts should be kept apart and not be confused. Friedman (1990), for example, argues that the concept of being an authority rests on two presuppositions which do not hold for the concept of being in authority. The first presupposition is that there is an *inequality* between those who are in the authority relation. That is, in the case of the theoretical authority, it is presupposed that the expert and the layman who defers to the expert's directives are unequal in respect of the knowledge of a certain cognitive field. We follow the medical treatment prescribed by the doctor, because we accept that he 'knows more' than we do in this field. However, according to Friedman, in the case of being in authority, '...it is precisely in the context in which men cannot agree on what is to be done that it can be rational for them to accept someone to decide what is to be done. The equality involved here [in the concept of being in authority], therefore, is the equal abandonment by each person of the presumption that a consensus can be produced in conformity to his own individual views'. (*op. cit.*, p. 82).

Friedman calls the second presupposition the 'epistemological' presupposition. For someone to be validly said to be an authority on something it is necessary, according to Friedman, that the field of his expertise can be in principle known at least to some human beings. 'And, in turn,' continues Friedman, 'the person who defers must share with the authority this same "epistemological" framework which defines what sorts of things are accessible to the human mind or to human experience,

even though he is himself debarred from that knowledge or experience through lack of the requisite learning, wisdom, grace, revelation, opportunity, etc.' (*op. cit.*, p. 83.). Thus, the concept of being an authority presupposes a cluster of *shared beliefs* which indicate the standards of the right way of doing things, according to which one's excellence in a cognitive field is to be judged. However, the concept of being in authority should, according to Friedman, be '*dissociated* from any background of shared beliefs' (*op. cit.* p.84). The need for there being someone in authority arises for Friedman precisely when there is no consensus concerning moral and political issues; those in authority are not asked to act as correct interpreters of a common framework of shared moral and political beliefs which indicate how things should proceed; since no such common framework exists, they are asked to provide the general rules of social conduct. The person who is *in* authority, in contrast to the person who is *an* authority, does not act upon a pre-existing common and to a great extent fixed system of beliefs but deals with a world of diverse ideas and interests.

Friedman's claim that the concepts of being an authority and of being in authority are distinct and should not be confused is correct. I disagree however with Friedman's arguments for the distinction and in particular with his account of the two presuppositions which he takes to hold for the concept of 'being an authority'.

Firstly, Friedman's claim that, in contrast to the theoretical authority, in the case of political authority, there is no inequality between those in authority and their subjects prior to the authority relation, seems dubious. It is probably true that the need for there being someone in authority arises from the inability of the individuals to solve

co-ordination problems in society; And it is probably true that, in order for their co-ordination problem to be solved, all the individuals should abdicate their private judgements and follow the judgements of the person in authority. But to interpret the universal inability and abdication of private judgement as a type of equality, as Friedman does, is to speak of equality only in a metaphorical way. Sharing in a common predicament does not make people *equals* ; it may make people equally unhappy and desperate, but equality does not amount to 'having a common fate'.

On the other hand, nothing in principle rules out that some people may have a better understanding of the common predicament and be more able to propose and secure solutions to the co-ordination problem of the society than others. In these respects they resemble the theoretical authorities. The question is whether those who have a better understanding of the common predicament have a justification right to be in authority?

Friedman's second argument is more important and reflects a certain thesis about the nature of the distinction between scientific knowledge, on the one hand, and moral and political knowledge, on the other, which is usually invoked in refutations of political authoritarianism¹¹. Friedman seems to suggest that in moral and political issues there is no correct way of doing things since there is not any consensus about moral and political issues of the kind there is about other fields of knowledge. A first remark would be that Friedman overestimates the kind of consensus we find in the 'scientific' domain. In

¹¹ See, for example, Popper's (1962) and Bambrough's (1967) criticism of Plato's authoritarianism.

medicine, for example, there are conflicting theories about the nature of diseases, the kind of experiments required in order to establish the healing power of a certain drug or the kind of treatment that a certain disease requires. Similarly, in other cognitive fields like physics, chemistry, etc., there may be found conflicting theories each purporting to designate the correct way of explaining or doing things. Nevertheless, this does not prevent us from treating their directives as authoritative and from complying with them. Someone, for example, who becomes a patient of a Freudian psychoanalyst complies with his proposed treatment irrespectively of the fact that behaviourists may regard Freudian psychoanalysis as an, at best, non-scientific way of dealing with psychological problems. So, consensus or a common framework of shared beliefs does not seem to play the vital role Friedman ascribes to it in his conception of the theoretical authority.

Furthermore, the very idea of the existence of certain *neutral* scientific criteria which permit us to judge objectively the merits of scientific theories, hypotheses or experiments, to distinguish scientific from non-scientific theories or procedures and constitute an illuminating guide to the attainment of objective knowledge, has been intensively challenged by modern sociologists of knowledge¹². In contrast to the orthodox stereotype of scientific knowledge, they stress the role that the interests of the scientists, their theoretical as well as political and ideological commitments, their dependencies upon a certain social framework play in the construction of scientific theories and, generally, in the scientific discourse as a whole; they stress the social character of

¹² For a spirited defence of sociology of knowledge, see Bloor (1991).

scientific knowledge and challenge the idea of the neutrality and purity of science. If their account of scientific knowledge is correct, then Friedman's account of the preconditions of theoretical authority becomes virtually untenable. Where he sees consensus and a framework of shared beliefs, there is probably a nexus of conflicting ideas and interests similar to the one he recognises in his account of the predicament of the social and political situation of men.

On the other hand, one could remark that Friedman's account of the moral and political province is equally misleading. Of course, there is a considerable diversity of opinions over moral and political issues; but from this it does not follow that there are no general principles people in a certain society share and in reference to which they can bring the diverse opinions into a hierarchy and order. In recent years, Rawls has based his theory of justice on the assumption that people's moral intuitions reflect and can be used to justify a certain framework of general principles of justice which should guide our considerations and behaviour in the political realm¹³. Further, if men do not share an important number of moral beliefs, it is difficult to see how moral communication is possible and how a consensus about who should be in authority and which principles should regulate our social life was possible to be achieved in the first place.

To recapitulate; although I do not deny the conceptual distinction between the states 'being an authority' and 'being in authority', I do not side with Friedman who proposes an extreme dissociation of the two states and restricts the first to the scientific field and the second to the

¹³ See, Rawls (1971).

moral and political realm. I tried to show that his account of the two presuppositions, according to which theoretical and practical authority have discrete domains is misleading: on the one hand, Friedman overestimates the consensus that can be found in the scientific field; on the other, there seems to be no reason not to recognise a framework of shared beliefs in the moral and political realm that facilitates meaningful moral and political discourse among the citizens and seems to be the presupposition of moral disagreements and their resolution.

Furthermore, Friedman does not seem to establish his claim that in contrast to the case of theoretical authority, in the case of practical authority, there is no inequality between the parties prior to the authority-relation. The question that Friedman does not consider is whether some people are better qualified than others to correctly understand (in all its dimensions) the co-ordination problem of a society and propose the best solutions to it. Nothing forces us to rule out in principle the possibility that there are experts in the political realm.

It is doubtful, thus, whether we can legitimately accuse Socrates of confusing the concepts of being in authority and being an authority. And attacking his assumption that there are political or moral experts may not be the best way of refuting his political authoritarianism.

9. 4. Consent and expertise

In 9. 2. we saw that one of the central elements of Socrates' authoritarianism is his total neglect of the consent of the people. Socrates does not believe that the consent of the citizens is a requirement

a particular person should satisfy for his authority to be legitimate. It is this central feature of Socrates' authoritarianism which we find difficult to accept and accommodate with our modern democratic intuitions.

Why do we value consent? I believe that we value consent because we recognise the simple fact that what happens to our lives is of primary importance *to us* and not to anyone else. Of course our lives and well-being affect other people's lives and well-being; but the issue is whether they are of primary importance to them as they are of primary importance to us. The prospect of my death may be a terrifying thought for my parents and my friends, my death may devastate their lives, they may value my life more than theirs, but my life is of primary importance to me and not to them. It is *I* who will live or die, it is *I* who will get pleasure or pain from my life. It is irrelevant whether I actually care for my life or not, or whether others may care more for my life than I do. There is a sense in which my life matters to me which is entirely different from the sense in which my life matters to people who have a conceivable interest or concern other people may have for my life. My life matters to me because it is *my* life.

If my life and my well-being is of primary importance to me in a way in which it cannot be of primary importance to anyone other than me, then there can be no moral justification for someone else to substantially and extensively interfere with my life and my well-being without me having a say about it. For example, there is no moral justification for a doctor who cares about me to force me to adopt a particular diet which will make me healthier even though I have not consulted him and asked him to become my doctor. Similarly, even when I need an operation, the fact that someone is an excellent doctor and

cares about me does not give him a justification- right to operate on me, if I do not want him to operate on me. My life matters to me in a way in which it does not matter to the doctor and so the possession of medical expertise does not justify his interfering with my life unless I agree that he operates on me.

We find Socrates' account of the legitimacy of a particular person's political authority unacceptable for similar reasons. Let us suppose that Socrates finds a moral expert but the citizens of Athens either because of stupidity or due to a whim they refuse to give him political power. However, the moral expert manages somehow to become the ruler of Athens without the consent of the Athenians. Is his political authority legitimate? Socrates would say that it is. The moral expert has a justification right to rule because he possesses high-level moral knowledge. We would feel inclined to reject Socrates' conclusion. The moral expert does not have a justification right to be in authority because he has no justification to interfere with what is of primary importance to the citizens without their consent.

Despite however the authoritarian character of Socrates' thesis, Socrates rightly stresses the importance of expertise as a requirement a particular person should satisfy for his authority to be legitimate. It seems that possession of the consent of the governed is not a sufficient condition for the legitimacy of a particular person's authority. Firstly, there are extreme cases in which consent cannot be given for practical reasons and a particular person's expertise may justify an authoritative treatment. If, for example, I am driven to the hospital after a car accident, then the surgeon has a right to operate on me even though I have not given my consent. In this case the doctor's expertise may give him a right to

operate me in the absence of an expression of my consent. Note that in such cases a particular person's expertise may generate a justification right to issue authoritative directives only when consent cannot be given for *practical reasons*. I suggest that similar cases can be found in the political realm. When, for example, a new political system and constitution are created, after the collapse of a previous state (as it happened recently in the communist countries of Eastern Europe), then a government of certain experts can be considered as legitimate, even though elections have not and could not have taken place.

However, there is a more important reason why consent cannot be the only condition that justifies a particular person's authority. If, for example, I become a patient of someone who is not a real surgeon or should not perform operations for a certain reason (say that he is alcoholic) and agree that he operates on me, then we cannot say that this bogus or unreliable surgeon has a right to operate on me because he has my consent. His expertise or his ability to perform the action I have given him my consent to do must also be taken into account. Consent to a bogus doctor does not legitimise his authority over me. Similarly, the consent of the citizens to an unsuited statesman does not render his authority legitimate.

Someone could counterargue that consent suffices to render a particular person's authority legitimate if the consent is informed and thus there is no need for us to treat possession of expertise as one of the justificatory grounds of a particular person's authority. But I do not think that informed consent solves our problem. I may be very well aware that my girlfriend has no medical qualifications and nevertheless agree that she operates on me (say, for the reason that I hate the idea that someone I do not trust or love will touch my body). Sometimes I give my consent to people

who I know that they do not deserve it in a moment of folly or out of despair. Some years ago in Greece a doctor allowed her son who was suffering from leukaemia to be treated by a monk who claimed to have found treatments for all diseases. Both the doctor's consent and my consent in these is informed. But neither the doctor's informed consent gives the monk a justification right to treat her son nor my informed consent gives my girlfriend a justification right to operate on me.

I suggest that the consent of the governed does not suffice to make a particular person's authority legitimate. Socrates was right in stressing that expertise is one of the properties a particular person should satisfy for his authority to be legitimate; his mistake was to suppose that it was the only one and to overlook the importance of the consent. As I tried to show, expertise and consent are jointly sufficient for legitimate authority.

APPENDIX I

Socrates' avowal of knowledge - textual evidence

Vlastos claims that an instance of Socrates' avowal of knowledge is found in the *Prot.* when Socrates claims (referring to the many against whom he argues) that as a result of his elenctic argument: 'You, yourselves, surely, know that wrong action done without knowledge is done because of ignorance' (357d7-e1, Vlastos's translation). Vlastos argues that Socrates 'in saying that *they* know this he is implying that *he* knows it, for if he did not he would have no reason for saying that they do' (Vlastos (1993b), p 46).

Now, if we take it with Vlastos that Socrates implies that he knows the moral proposition that wrong action without knowledge is done because of ignorance to be true on the basis of the elenctic argument which purports to establish it, then we must assume that Socrates considers the premises of the elenctic argument to be true. But this elenctic argument as well as all the elenctic arguments of the section 354e2 - 357e5 relies heavily on the hedonistic thesis of the many that the good is the pleasant which Vlastos (1995b & 1991, pp. 300 - 302) (rightly in my view; see Hatzistavrou 1999) does not treat as a thesis which Socrates subscribes to. (There is vast literature on this subject; see among others Taylor (1991) and Zeyl (1980).) According to Vlastos's interpretation, Socrates, in his argument against the thesis of the many that akrasia is possible, argues entirely *ad hominem* using their hedonistic thesis as a premise which he does not espouse and which is incompatible with his doctrines expounded in other early dialogues. But,

then, on Vlastos's interpretation Socrates' elenctic argument for the thesis that wrong action without knowledge is done because of ignorance fails to provide a proper justification for this thesis, since it contains a premise which Socrates considers to be false. So, even though Socrates might think that the thesis his elenctic argument supports is true, he cannot legitimately claim to know it on the basis of this particular elenctic argument, since he knows that this argument does not constitute a proper justification for the thesis that wrong action without knowledge is done because of ignorance.

For the same reason it is unlikely that Socrates claims that the many know that wrong action without knowledge is done because of ignorance on the basis of his elenctic argument. So, I think that there are two possible explanations of the use of 'to know' by Socrates at 357d7-e1: i) Socrates uses 'to know' in an idiomatic sense to convey the idea that, given that a particular conclusion can be validly inferred from a set of premises, irrespectively of whether the premises are true or not, those who believe the premises to be true can be said to know the conclusion which validly follows from these premises; they 'know' it in the sense that they have the means of providing a justification for it, which they think to be adequate, although it may not be objectively so. On this account, on the one hand, Socrates cannot be said to know that wrong action without knowledge is done because of ignorance, since the elenctic argument does not provide for him the proper justification of its conclusion, and, on the other, Socrates is credited with a form of relativistic account of knowledge, since claims to propositional knowledge are according to him relativised to the arguers' conceptions of the validity of the justification of the relevant propositions.

ii) The claim to knowledge at 357d7 - e1 is not related to the justification which the elenctic argument is supposed to offer for the thesis that wrong action without knowledge is done because of ignorance but to the obvious conceptual relation between 'lack of knowledge' and 'ignorance'; on this account Socrates refers to the conceptual link between these two terms and claims that the many should be aware that by virtue of the meanings of the terms 'lack of knowledge' implies 'ignorance'. So, Socrates can be understood to use here the verb 'to know' in a rather philosophically naive sense to denote the many's awareness of a rather trivial conceptual relation. On this reading, then, we avoid the problem of representing Socrates as allowing a belief which he considers mistakenly justified to count as knowledge. Further, there is no need to think that at 357d7 - e1 we find an instance of Socrates' avowal of knowledge; Socrates expresses his confidence that the many should be aware of an obvious conceptual relation. Now, undeniably Socrates is also aware of this conceptual relation and probably believes it to be true. But he does not make a comment about what *he* knows and thus we need not infer from the standards he uses for ascribing knowledge to others to the standards he uses for ascribing knowledge to himself. After all, if he had said that he knew this conceptual link, he might have meant something altogether different, namely, that he had established it through the elenchus. (For Socrates' general uses of terms like 'knowledge', 'to know', etc. see chapter 2, n. ...).

b) Vlastos cites also as an instance of Socrates' avowal of knowledge a passage from the *Crito*: 'About the just and the unjust, O best of men, we should consider not what the many but what the man who knows shall say to us - that single man and the truth' (47d1-2, Vlastos's translation).

Vlastos thinks that this man is a construct of the argument and claims that, unless Socrates himself had the knowledge he ascribes to this construct of the argument, he would lack any grounds of ascribing it to him.

I think this is a mistake. The moral expert of the *Crito*, the man who knows what is just and what is unjust is not someone who has the kind of knowledge Socrates has. The moral expert of the *Crito* is someone who can give authoritative guidance on how one should live one's life and save his soul, whom men should treat with fear, respect and to whom they should subordinate themselves. The contrast with Socrates is clear. Socrates denies that he can give any authoritative guidance on virtue (see, the *Laches* 200e1-201b5, where he acknowledges that he himself needs a teacher to tell him how to become better), claims that he has never been the teacher of anyone (*Apol.* 33a5-6) and nowhere does he demand subordination to his will. Further, in the *Lach.* (190b7-c2) Socrates considers to be a necessary condition for someone to give authoritative guidance on virtue the fact that he has knowledge of what virtue is, which is precisely the kind of knowledge Socrates disclaims. So, it seems that the moral expert of the *Crito*. has a kind of knowledge which Socrates lacks (I give an account of the knowledge of the moral expert in chapter 3.).

APPENDIX II

Different accounts of the knowledge Socrates disavows

a) Vlastos (1993b) holds that Socrates disclaims infallible, certain knowledge. According to Vlastos, Socrates is aware that the elenchus is 'a *truth-seeking device which cannot yield certainty*, for it proceeds on an assumption - that everyone defending a false moral belief in an elenctic argument can always be faulted for inconsistency - for which Socrates could only have offered, at best, inductive evidence, i.e. that it has proved true in his own experience...And, of course, the fact that this has always proved true in the past offers absolutely no certainty that it always will in the future: it may have been vindicated in a thousand elenchi in the past and prove false in the very next one after that.' (Vlastos (1991), p. 114).

Against Vlastos's interpretation tell the following considerations:

- 1) Certainty cannot be the differentiating mark between elenctic knowledge and the kind of knowledge Socrates disclaims, since Socrates seems to ascribe to elenctic knowledge a significant degree of 'epistemic' certainty: he claims that the elenctically tested beliefs (the content of elenctic knowledge) have been 'clamped down with arguments of iron and adamant'. This suggests that Socrates, if he ever had some moments of 'epistemological introspection', would not subscribe to Vlastos's bold assumption that the elenchus cannot yield (epistemic) certainty. Of course he may still hold that there might have been another method, more reliable than the elenchus; but then we should speak of degrees of

epistemic certainty that mark the difference between the knowledge Socrates has and the one he disclaims and 'certain knowledge' would have been an inappropriate name for the latter. 2) Vlastos's interpretation does not provide an analysis of the conditions a true belief should satisfy in order to count as certain knowledge. The contrast with Vlastos's account of elenctic knowledge is striking: Vlastos gives a detailed account of what an moral belief should satisfy to count as elenctic knowledge. But what sort of knowledge is the one which yields certainty? How should someone have justified an moral belief *m* to be eligible to say that he knows that *m* with certainty? Vlastos's interpretation gives no clues. Are we to assume that Socrates was a Cartesian type of philosopher whose mind was tormented by doubt and sought the peace of mind an absolute degree of certainty may guarantee? Or, are we to assume that Socrates had no idea of what the essential characteristics of the knowledge which yields certainty are and would rely only on a (vague) feeling of certainty, or divine revelation to find out who actually possesses this certain knowledge? Vlastos's interpretation needs to be further supplemented and elaborated to become sufficiently informative.

b) Another account of the difference between the knowledge Socrates avows and the sort he disclaims is offered by Woodruff (1990). According to Woodruff, Socrates should be understood as disclaiming the possession of expert knowledge, while having non-expert knowledge. Expert knowledge is the kind of knowledge which accompanies every *technê* and it involves knowledge of (real) definitions, while non-expert knowledge involves all those things someone who is not an expert can be said to know.

Woodruff's criteria for distinguishing two kinds of knowledge in the early dialogues are i) the capacities their possessors acquire by having them (for example, the possessors of expert knowledge can pass on their expertise, they can give a complete account of the subject matter of their knowledge, while non-experts lack any of these abilities) and ii) the objects of their knowledge (for example, the experts know the goals of their arts, or the definition of their product, while the non-experts do not have such knowledge). It is not clear what Woodruff thinks about the case in which both the expert and the non-expert claim to know a particular proposition which ordinarily belongs to the realm of non-expert knowledge, as happens, for example, on Woodruff's account with the knowledge that disobeying one's superior is bad. In particular, it is not clear whether on Woodruff's account the moral expert, that is, the person who knows the definition of goodness has only non-expert knowledge of this moral truth *because moral truths (as opposed, for example, to moral definitions) are not the object of expert knowledge*, or has expert knowledge of this moral truth, in which case there must be a difference between expert and non-expert knowledge of this moral truth. If the latter is the case, then it cannot be right that expert and non-expert knowledge are differentiated on the basis of their objects, and thus something else must account for the difference between the moral expert's knowledge that *m* and Socrates' knowledge that *m*. And if the difference is that the moral expert's knowledge that *m* is based on his previous knowledge of what *F*-ness is (or, on Woodruff's account, on knowledge of the definition of *F*-ness) while the non-expert's knowledge is not, then at least insofar as the kind of knowledge Socrates disavows is concerned, Woodruff's account and mine are in substantial agreement.

If, on the other hand, Woodruff's point is that the objects of expert and non-expert knowledge are different and moral truths can only be the object of non-expert knowledge, then Woodruff's interpretation fails to account for the cases in which Socrates disavows knowledge of the very same moral proposition he had previously claimed to know. The very nature of the paradox of Socrates' disavowal of knowledge requires that Socrates distinguishes two different senses of knowing moral propositions.

On the other hand, the knowledge Socrates avows cannot be on a par with the knowledge he ascribes to others (the many, or his interlocutors), as Woodruff's account requires (see, *op. cit.*, pp. 78 - 79, especially points c and e). To see this we need only consider that the others lack any means of supporting their beliefs, while Socrates has a method, the elenchus, which, on the evidence of the *Gorgias*, he believes to be able to prove the theses he holds. Could he then equate the possession of unjustified (although true) beliefs, which he may charitably or with a dose of sarcasm call 'knowledge' (see, chapter 2, n. 6), with the possession of justified true beliefs? If he was challenged, he would probably provide an elenctic argument to the conclusion that disobeying one's superior is bad, while it is unlikely that he believed the many to be able to support this moral proposition. Is it then plausible to assume that he would consider his epistemic status concerning knowledge of this or similar moral propositions equivalent to the epistemic status of the many? If not, then there must be further distinctions within the category of non-expert knowledge Woodruff claims to have found in the early dialogues. Further, given that the only method that Socrates has to logically support the propositions he claims to know is the elenchus, we

may presume that the knowledge Socrates' avows is not ordinary, non-expert knowledge but what Vlastos called 'elenctic knowledge'.

c) Brickhouse and Smith (1995, pp. 38 - 45) offer another account of the difference between the knowledge Socrates claims to have and the one he disavows. According to them, Socrates claims to know some moral (moral) truths, or else to have some moral knowledge that, but he lacks knowledge why, or else he does not know why the moral propositions he knows to be true are true. Brickhouse and Smith base their interpretation on the fact that Socrates employs a particular linguistic formula to express *knowledge why* something is the case: he uses expressions like *ouk oida opos exei* (G. 509a5).

I would like to note the following things concerning Brickhouse's and Smith's interpretation. i) The moral propositional knowledge they ascribe to Socrates is partly elenctic knowledge. Brickhouse and Smith believe that Socrates may achieve knowledge by divine revelation and by ordinary experience (see, op. cit. p. 39). Vlastos (1991, pp. 159 - 178) has forcefully rejected the account of the role of the divine in Socrates' offered by Brickhouse and Smith. I will only briefly comment on whether Socrates could claim to have moral propositional knowledge which is based on ordinary experience. As we have seen, Socrates ascribes moral propositional knowledge to his interlocutors or the many, but it is only he who possesses a method of justifying his moral beliefs. And since, as I have explained above, it is unlikely that he puts the possession of unjustified (though true) beliefs on a par with the possession of justified true beliefs, we may presume that he takes his moral propositional knowledge to be based on the elenchus rather than ordinary experience which may figure as the basis of the many or his interlocutors.

ii) The linguistic formulae which they take Socrates to be using to express lack of knowledge why or how something is the case do not seem to bear the required sense. Firstly, expressions like *opê opôs exei* normally signify the manner or the way something is (or else what properties it may have) and not the reason why something is the case (see, *LSJ* s.v.) Secondly, the passages in which they claim that the intended sense of these linguistic formulae comes out explicitly do not seem to support their thesis. In the *Euthyphro* (4e1 - 8) a natural reading of the text suggests that what Euthyphro's critics do not know is not why the divine postulates what it does concerning what is holy and what is unholy; it suggests that what they are mistaken about is what the divine postulates about what is holy and what is unholy. Similarly, Socrates does not ask Euthyphro whether he knows exactly why things are concerning divine, holy and unholy matters the way they are, but whether he knows exactly how divine, holy and unholy things are, in the sense of what the divine ordains, or what is holy, or what is unholy. (It should be noted that Socrates later speaks as if Euthyphro claimed to know exactly what the holy and what the unholy is (see, 5c6 - d5).) Similarly, a natural reading of the *Charm.* (suggests that Socrates wants to clarify not why each of the things (in the context of the argument, knowledge and soundness of mind) is the way it is, but what each thing is (for example, what soundness of mind is).

iii) The interpretation I put forward in chapter 3. has some affinities with Brickhouse's and Smith's. One point of convergence is the fact that in both interpretations Socrates is credited with a kind of knowledge with the explanatory power of which he is dissatisfied. Further, in both interpretations the content of knowledge which he lacks

provides an account of the truth of the propositions he claims to know. As I explain in chapter 3, the content of knowledge of what F-ness is is the reason why the facts which are the content of elenctic knowledge are the way they are (see, 3. 5. and 3. 6.).

APPENDIX III

The metaphysical underpinnings of Socrates' two models of knowledge

In chapter 3 we examined two models of the kind of knowledge Socrates disavows. According to the first model, a) Socrates, when he disclaims knowledge of what F-ness is, means that he lacks knowledge of a proposition *d* which states the definition of F-ness; and b) Socrates, when he disclaims knowledge that *m*, means that he does definitionally know that *e*, that is, he does not hold that *m* on the basis of his having established that *m* using *d* as a standard. According to the second model, a') Socrates, when he claims not to possess knowledge of what F-ness is, means that he lacks mental apprehension of F-ness; and b') Socrates, when he claims not to possess knowledge that *m*, means that he does not know that *m* by mental apprehension of F-ness, that is, he does not hold that *m* on the basis of his having established that *m* using his mental apprehension of F-ness as a standard.

The second model shows Socrates to be a metaphysical realist. It is essential for the second model that a distinction is drawn between something linguistic, the propositions which the elenchus may establish, and something extralinguistic, the reality F-ness Socrates lacks direct access to. The elenchus is unable to provide the required access to the extralinguistic reality, since, not only can it by its very nature deal with nothing else but propositions, but its function is confined to picking out the true propositions without by itself settling the question of the definitional account of the truth of propositions. We must remember that

the Socratic elenchus uses coherence only as a *test* for truth: the basic idea is that if p is shown to be consistent with the coherent set of propositions P , then p is true, and not that the truth of p is its consistency with the set P . The elenchus treats coherence as a criterial account of truth but it is neutral as to what truth consists in. It is consistent with the workings of the elenchus that what makes the coherent propositions, which the elenchus identifies as true, true is correspondence with a piece of extralinguistic reality. But by its very nature the elenchus can only test coherence of propositions and does not constitute a means of access to the extralinguistic reality.

Now, if Socrates, on the one hand, intends with his what F -ness is question to ask what the reality F -ness is, and claims that he lacks non-propositional knowledge of this extralinguistic entity, and, on the other, acknowledges that he possesses elenctic knowledge of propositions m , then it seems that Socrates works within the context of a dualism of language and reality.

On the other hand, according to the first model, Socrates need not be a metaphysical realist. The workings of the first model do not require an extralinguistic reality which is the object of the knowledge Socrates lacks to be posited. This becomes clear once we consider what is involved in the justification of the beliefs which count as knowledge according to the first model. Elenctic knowledge that m requires that the beliefs (propositions) m are consistent with one another and thus, form a coherent set. Elenctic knowledge of definition d requires that d is consistent with the beliefs m of the coherent set. Definitional knowledge that m requires that beliefs m are consistent with d . So, the justification conditions of all the beliefs which, in one sense of to know or another,

count as knowledge according to the first model involve exclusively relations between propositions, such as consistency, and no privileged access to extralinguistic entities.

The point is not of course that the workings of the first model rule out or make it improbable that Socrates is a metaphysical realist; it is rather that nothing in the first model forces us to assume that he is, and that we can make good sense of the knowledge Socrates claims to possess and the knowledge he disavows without taking him to be working within a dualist scheme of language on the one hand and non-linguistic reality on the other. That is, it is compatible with the first model that Socrates does not treat the justified true beliefs which count as knowledge as referring to an extralinguistic reality and does not have in his conceptual apparatus a notion bearing significant resemblance to our notions of reference and correspondence. Two possible ways in which we can understand Socrates operating without reliance on the dichotomy between language and reality may be the following:

i) We may assume that Socrates, however little epistemologically self-conscious he may be, is in fact committed to a coherence theory of truth and regards consistency as the defining characteristics of truth. In this case we back up the criterial account of truth inherent in the workings of the elenchus, according to which consistency is a test for truth, with the assumption that coherence constitutes truth. So, on this interpretation what accounts for the fact that a particular proposition *m* is true is the fact that it is consistent with other propositions *m* or *d* which in turn are consistent with one another.

It is not a problem for this interpretation that in definitional justification a belief that *m* is justified, not because *m* is shown to be part

of a coherent set of beliefs, but because *m* is shown to follow from *d*: we may have two different kinds of justification but a single account of truth. In DJ *m* is true (in the context of the interpretation we are expanding) because it is consistent with and follows from *d*, which is true because it is part of a coherent set of propositions; that is, in DJ *m* is true because it is consistent with and follows from a proposition which is part of a coherent whole and this is exactly what we should expect in the context of a coherence theory of truth. In this case EJ and DJ will be considered as two different ways of picking out the true propositions or two different tests for the truth of propositions but in both justification procedures what constitutes the truth of a proposition is the same thing, coherence.

ii) Alternatively, we may assume that Socrates is not committed to a particular definitional account of truth but employs a "pre-analytic" conception of it. On this interpretation, Socrates simply treats the beliefs which have passed the test of consistency (that is, those which have been shown to be consistent with one another as in EJ or consistent with *d*, as in DJ) as true in the "pre-analytic" sense and does not raise the question of what accounts for their truth. So, since according to the first model nothing other than propositions justify propositions, the workings of the first model allow that Socrates operates without recognising the dichotomy between language and reality.

It is important to note that on either i) or ii) Socrates remains a realist albeit not of the metaphysical kind. Socrates remains a realist because for him truth is unique and there is only one set of justified true beliefs which count as knowledge: Socrates accepts, as we have seen, that there is only one set of ethical beliefs which is coherent and thus true.

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