

Against Constitutive Incommensurability or Buying and Selling Friends

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- ◆ Comparisons turn friends into enemies.
—Philemon: Fragment c. 310 B.C.
- ◆ Though we philosophers love both the truth and our friends, reverence is due to the truth first.
—Aristotle, *Nicomachean Ethics*, Bk I

One day I meet an eccentric billionaire who, on a whim but with utmost seriousness, offers me a million dollars to end my friendship with a close friend, Eve. What should I do?

Two subsidiary questions arise. First, would a friend, in virtue of being a friend, necessarily respond to the offer in a certain way? Perhaps being a friend requires one to react to such trade-offs by refusing to make the exchange, for example. Second, are the friendship and the money comparable? Is there a 'positive' value relation, such as 'better than' or 'as good as', that holds

between them, or does every such relation fail to hold and the goods thereby incomparable? Perhaps any attempt to compare the friendship and money is doomed to failure, and thus my accepting or rejecting the billionaire's offer cannot be justified in terms of the relative merits of the friendship and money. Many have thought—rightly in my view—that there can be no justified choice between incomparable alternatives. Choice between them must instead be a matter of 'feelings,' 'the will,' or the like—at any rate, beyond the reach of practical reason.¹

It is natural to think that the second question, concerning incomparability, is more fundamental than the first, concerning actions and attitudes. For suppose a friendship and a sum of money are comparable. It would then be very odd to maintain that in order to be a friend one would have to act as if they were not or to have attitudes that conflict with the fact that they are. Why build into what it is to be a friend that one act and feel in ways that might conflict with the truth? It seems that the answer to the second question constrains the answer to the first.

Recently, however, some proponents of incomparability have suggested that it is the first question that is the more fundamental. These incomparabilists claim that an answer to the question of what actions and attitudes are necessary to be a friend determines an answer to the question of the comparability of friendship with goods such as money. Whether friendship and money can be compared is determined by the actions or attitudes required to be a friend. Without the required responses to tradeoffs between friendship and money, the good at stake is not friendship but some other kind of relationship; the required actions and attitudes are 'constitutive' of the friendship good. This approach to incomparability involves a two-step inference: first, certain actions or attitudes are constitutive of a good, and second, those constitutive responses determine the incomparability of that good with other goods. The novelty of the view is in where it locates the source of incomparability; instead of appealing to relational facts about goods with respect to certain relevant features, 'constitutive incomparabilists' see incomparability as a constitutive feature of goods themselves.

Whether there is any constitutive incomparability is of importance in matters not only of individual choice but also of broader social interest. It might be thought that not only is friendship constitutively incomparable with money, but so too are human life, individual well-being, environmental integrity, political freedoms, and so on. If this is so, it is unclear how tradeoffs between such goods should, if at all, proceed. When has the Russian gov-

ernment spent enough trying to save its sailors trapped in a sunken submarine? How should the Ford Motor Company evaluate competing designs for the Pinto if one design saves \$100 million but involves a significantly higher probability of lost lives? Is the wealth generated from strip mining the side of a mountain comparable with the pristine beauty of that mountain? If free speech is constitutively incomparable with money, are objections to campaign finance laws based on appeals to the First Amendment misguided?

In this article, I examine the two lines of argument for constitutive incomparability, one proposed by Joseph Raz (Raz 1986) and the other by Elizabeth Anderson (Anderson 1997, 1993).² I shall argue that both fail; Raz's implausibly requires that a belief in incomparability is constitutive of certain goods, and Anderson's relies on a common but erroneous understanding of what the comparability of goods entails. Following both Raz and Anderson, I focus my arguments on the case of trading friendship and money, but the discussion can be generalized to any other supposed case of constitutive incomparability. While my primary aim is the modest one of showing how existing arguments for constitutive incomparability fail, I end the paper with a positive suggestion for how putative cases of constitutive incomparability should be understood. Constitutive incomparabilists have, I believe, mistaken what I shall call 'emphatic comparability' for constitutive incomparability. With an account of emphatic comparability in place, the temptation to think that there is constitutive incomparability can be more readily resisted.

1. We start with a couple of background notes. First, what I have called constitutive 'incomparability' is defended by its proponents under the label 'incommensurability.' But these thinkers take 'incommensurability' to be a synonym of 'incomparability,' and so I will take the liberty of recasting their arguments in what I think is clearer terminology. "Incomparability," in turn, should be understood in an intuitive way: two goods are incomparable if there is no positive value relation, like "better than" or "equally good," that holds between them.³ Many philosophers add a substantive assumption to the ordinary understanding: they say that the possible positive value relations that could hold between two items are given by the trichotomy of relations 'better than,' 'worse than,' and 'equally good.' If one good is neither better than nor worse than another and if they are not equally valuable, it follows that no value relation holds between them—they are incomparable. For the purposes of this paper, we can take this widely

held substantive assumption to be correct although I have argued elsewhere that it is not (Chang, forthcoming, ch. 5).

Second, the claim that friendship and money are incomparable is a claim about the *intrinsic* value of these goods. But claims about the intrinsic value of money need to be carefully understood, for money has little or no intrinsic value, and so, strictly speaking, claims about the intrinsic value of money—the value of the paper on which money is printed, the ink used, and so on—are of no particular interest.⁴ Rather, what philosophers have in mind when they compare goods like friendship and money is a comparison of the intrinsic merits of goods like friendship, on the one hand, and the intrinsic merits of what money is used for, on the other. And not any good that money can buy is included; money can be used for a wide variety of goods. I can spend a million dollars securing a life-saving operation from my mother, for example; and, in this case, the “intrinsic” value of the million dollars would be the intrinsic value of my mother’s life. But constitutive incomparabilists implicitly have in mind by “money” a particular class of goods that does not include significant intrinsic goods like human life. When they urge that friendships are incomparable with money, they mean that friendships are incomparable with what we might call *mere* market goods—goods one can buy with money that are not instrumental to some significant intrinsic good such as human life, freedom, health, or friendship. Mere market goods are the commodities and services enjoyed by agents *qua* consumers; insofar as such goods are instrumental to or constitutive of significant goods like life, freedom, or friendship, they do not qualify as mere market goods. Thus, in our discussion, the term ‘money’ should be understood as a placeholder for mere market goods, such as a new car, luxury cruise, or fine meal. Our question, then, is whether goods like friendship are constitutively incomparable with mere market goods.

I.

2. The idea that incomparability can be a constitutive feature of goods themselves originates with Joseph Raz in *The Morality of Freedom*.⁵

Raz starts by noting that there are choice situations in which agents typically refuse to exchange one good for the other and feel indignant at the suggestion that they would be willing (346, 349). A choice between keeping friendship and getting money is paradigmatic of such situations. If offered money to give up see-

ing a chum, most people would refuse and would be indignant at the suggestion that they would be willing.

According to Raz, this refusal and indignation is *constitutive* of friendship; anyone who does not have these responses is incapable of being of a friend, and what she has with others is not a friendship but some other kind of relationship. Which responses are constitutive of friendship is, according to Raz, determined by “social forms”—roughly, social conventions including “shared beliefs, folklore, high culture, collectively shared metaphors and imagination, and so on” (311)—which are constitutive of the good and “determine its typical contours” (350). If, for example, Eve is depressed about her no-good boyfriend, social conventions constitutive of friendship dictate the range of responses a friend might have to her state of depression. As a friend, I might listen to her complaints with care and concern and then try to help her to decide whether to dump him. If instead I were to try to take advantage of her glum state to extract a favor, I would be responding in a way inconsistent with friendship. As Raz urges, the social conventions constitutive of friendship require friends to refuse to give up their friends for money and to be indignant at the suggestion that they would.

We should now ask, What belief about the merits of the goods underwrites such rational responses? If the responses constitutive of friendship depend on the friend’s having a particular belief about the merits of friendship and money, then it follows that in order to be a friend, one must evaluate the goods in that way. As we shall see, Raz thinks the evaluation required is that the goods are incomparable. This result is then parlayed into the conclusion that the incomparability of those goods is a constitutive feature of them.

We shall assume for the sake of argument that Raz is right about the conventional nature of certain goods and that the refusal and indignation Raz identifies are constitutive of the friendship good. Our focus is on the two crucial steps of the argument: first, that in order to be a friend one must believe that friendship is incomparable with money, and second, that therefore friendship and money are constitutively incomparable.

3. Why think that friends, in virtue of being friends, must believe that friendship and money are incomparable? Although Raz is not explicit about this, his reason for thinking that they must seems to turn on an argument by elimination. To see how, we must consider what constraints the refusal and indignation impose on the underlying evaluation of the goods.

Some acts and attitudes have "symbolic significance;" they symbolically signify a particular evaluative view. The act of burning the American flag, for instance, symbolizes deep dissatisfaction with some aspect of American policy or way of life. According to Raz, the refusal and indignation constitutive of friendship symbolize "a proper appreciation of the value of [friendship]," "respect for the [friendship]," the "very high value...place[d] on having [friendships]," and "rejection of the idea that having [friendships] has a price" (348). The symbolic significance of these responses explains why a *direct* exchange of friendship for money is objectionable and an *indirect* exchange often is not. Many people willingly give up a friendship in order to take a job far away that pays more, and there is no indignation at the suggestion that they are so willing. But where the exchange of friendship for money is direct—as in the billionaire's offer—there is refusal and indignation (348–49). This difference in the acceptability of direct and indirect exchanges ramifies through all choices involving significant intrinsic goods on the one hand and mere market goods on the other. Many people would refuse to take any amount of cold cash in exchange for letting someone die, but they would be willing to spend only so much to save a sailor trapped in a sunken submarine. And although most would not take a lump sum of cash in exchange for exposure to known carcinogens, many accept a higher wage in exchange for such exposure in the workplace.

A refusal to exchange goods in direct cases has symbolic significance while a refusal in indirect cases arguably does not. As Raz writes "...the symbolic significance of the fact that one cannot trade companionship for naked money but one can for a job is that while companionship is not up for sale, it is but one ingredient in a complex pattern of life including work. It competes with those other ingredients in legitimate ways which allow individuals to strike their own balance between them. But...there are balances which indicate lack of...loyalty to the relationship. All this...is indicated by the symbolic significance of taking money for not seeing someone" (349–50). Taking money in exchange for giving up a friendship symbolizes a lack of respect for one's friend that moving far away for a higher paying job does not. Similarly refusing to make such an exchange symbolizes respect and a high regard for the friendship while refusing to move away arguably does not. (The same goes for indignation at the suggestion one would be willing to make such a trade).

Granting that refusal and indignation symbolize a high regard for friendship, we may ask, What belief about the merits of the goods makes the symbolic significance of my refusal and indignation

tion possible? In order for my refusal and indignation (correctly) to symbolize my high regard for a friendship, it seems I must have some belief about the respective values of the friendship and the million dollars. The crucial question is, What is this belief?

4. Raz takes for granted that the belief must be about the *relative* merits of the friendship and money, for he does not consider any candidate nonrelative beliefs. Here is where the argument from elimination comes in. There seem to be only three possible beliefs one could have about the relative merits of friendship and money: that the friendship is worse than the money, that it is better, and that they are equally good. It is hard to see how a belief that the friendship is worse than the money could make possible the symbolic significance of the refusal and indignation. How could a belief that the friendship is worse ground a high regard for the friendship? A similar difficulty holds for the belief that the goods are equally valuable; how can the belief that friendship and money are equally valuable ground responses that symbolize a very high regard for friendship without symbolizing a similar regard for money?

The belief that a friendship is *better* than money seems more promising. This belief could certainly ground responses that symbolize respect and a high regard for friendship. But, as Raz argues, this belief cannot ground the high regard symbolized by refusal and indignation, because if one really believed that a friendship is better than money, then one should be perfectly willing to give up money in order to attain that friendship, and one is not so willing (347). (At \$99.99, my friendship with Eve would be a bargain.) The high regard I have for friendship is symbolized, it seems, not only by my refusal to exchange friendship for money but also by my refusal to exchange money for friendship. Since I am not willing to trade what would be the worse thing—the money—for the better thing—the friendship—the belief that grounds my refusal to trade friendship for money cannot be the belief that friendship is more valuable than money. The only remaining possibility, then, is that the refusal and indignation symbolize a high regard for friendship in virtue of a belief that the goods are *incomparable*: neither is better than the other, nor are they are equally good.

If friendship and money are incomparable, friendship "has no price"—there is no way even in principle to measure the value of friendship in terms of money. The belief that friendship and money are incomparable implies that friendship is not the sort of good that can be replaced, compensated, or measured by money; and

it is in virtue of the belief in incomparability that refusal and indignation symbolize a high regard for friendship. Raz goes on to suggest that the belief in incomparability *itself* symbolizes a high regard for friendship. He writes, "The most crucial fact about the kind of symbolic actions we are examining is now visible: *what has symbolic significance is the very judgment that companionship is [incomparable] with money*" (350, emphasis original). What Raz seems to have in mind is this: the belief that friendship and money are incomparable is that in virtue of which the refusal and indignation symbolize a high regard for friendship because the belief in incomparability itself symbolizes a high regard for friendship; there is a kind of 'transference' of the symbolic significance of the belief to the symbolic significance of the responses constitutive of friendship.⁶

Given that the refusal and indignation are constitutive of friendship, the belief that grounds them is also constitutive of friendship; unless one has the belief that friendship and money are incomparable, one is not capable of being a friend. As Raz explains, "[t]he capacity to have such relations involves interest in other people, empathy with them, and other psychological attributes. It also involves certain evaluative beliefs....My claim regarding [incomparability] is that belief in [incomparability] is itself a qualification for having certain relations. The attitude of mind which constitutes such a belief is analogous to attitudes such as respect for the other person, which are commonly accepted as prerequisites for a capacity for these relations" (350, 351). And, again, "[c]ertain judgments about the [in]comparability of certain options and certain attitudes to the exchangeability of options are constitutive of relations with friends, spouses, parents, etc. Only those who hold the view that friendship is neither better nor worse than money, but is simply not comparable to money or other commodities are capable of having friends" (352).⁷ Therefore, Raz concludes, a belief that friendship and money are incomparable is constitutive of being a friend.

5. So much for the first step of Raz's argument. We turn to the second: How does the belief that friendship and money are incomparable determine that they are?

If the belief that friendship and money are incomparable is constitutive of friendship, then all those who are friends must have this belief. *For* friends, then, friendship and money are incomparable. But for those who are not friends, who are not, as it were, card-carrying members of the friendship institution, friendship and

money may well be comparable. As Raz writes, "People who say 'For me money is more important than friends' are neither mistaken nor do they commit a wrong. They are simply incapable of having friends...So long as they are aware of the fact that [their belief disqualifies them from being friends] there is no mistake that they commit" (353). The error, then, lies not in the content of the belief that the goods can be compared but in thinking that this is so without also thinking that the belief disqualifies them from friendship. Thus there is no error in believing that friendship and money are comparable, even by those who have a full appreciation of the value of friendship and choose to pursue money instead. Since there is also no error in believing that friendship and money are incomparable, we are left with a striking result: friendship and money may be incomparable for you but comparable for me. It seems there is no 'objective' fact of the matter as to whether friendship and money are comparable. There is no point of view that is neutral between membership in the friendship institution—no 'viewpoint of reason'—from which it can be true or false that friendship and money are comparable. The question of whether they can be compared can be asked only from the point of view either of those engaged in the friendship institution (to which the reply is that they are incomparable) or of those who are not (to which the reply might be that they are comparable). Raz's conclusion that certain goods are constitutively incomparable, then, is relative to one's participation in certain goods. Because he does not think there could be any unrelativized claim of incomparability involving such goods, the relativized conclusion is the only truth there is.

6. We examine each step of Raz's argument in turn: Is a belief that friendship and money are incomparable constitutive of friendship? And if it is, does it follow that the incomparability of friendship and money is a constitutive feature of friendship?

It is hard to believe that in order to be a friend, I must believe that friendship is incomparable with money. Suppose I am faced with a choice between keeping my friendship with Eve and getting a dollar. If I judge that the friendship is worth more than a dollar, am I thereby disqualified from being Eve's friend? How can my belief that friendship is worth more than a dollar make me incapable of being a friend? Indeed, we might think that genuine friends would necessarily judge that friendship is more valuable than a dollar. Given that the value of a dollar is the value of the mere market goods one can buy for a dollar—two packs of

bubble gum or a box of Cracker Jacks or a subway ride, etc.—surely a friend *could* believe that friendship is more valuable than any of these goods.

A thought experiment shows that the belief in incomparability could not plausibly be constitutive of friendship. Suppose that you have never considered, either implicitly or explicitly, the question whether friendship is comparable with money. Now someone puts the question to you. Does your answer determine whether you are a friend—whether all the relationships you have had with people that you thought were friendships were in fact some other kind of relationship? Compare the belief in incomparability with a willingness to trade a friendship for one dollar. It *is* plausible to think that your answer to the question, ‘Would you be willing to trade a friendship for a dollar?’ determines whether you are capable of being a friend. For if you are willing to give up a friendship for a box of Cracker Jacks, you do not know what it is to be a friend. A judgment that friendship is incomparable with money, however, is not plausibly constitutive of friendship. Indeed, one’s beliefs about the comparability of friendship and money might be the result of philosophical reflection, and how could holding one philosophical view rather than another determine whether one is capable of being a friend?

Where does the argument for the claim that a belief in the incomparability of friendship and money is constitutive of friendship go wrong? There are numerous places where questions might be raised, but the core of the argument is the claim that a belief in incomparability is that in virtue of which the responses constitutive of friendship symbolize respect and high regard for friendship. There were two considerations in favor of this claim. First was the thought that the belief that friendship and money are incomparable itself symbolizes respect and high regard for friendship. Second was an implicit argument by elimination: given that some valuation of the relative merits of the goods is required to ground a refusal with symbolic significance, a belief that the goods are comparable will not do and so, by elimination, a belief that they are incomparable must be required. Both considerations, however, are subject to worry.

Start with the claim that a belief that friendship and money are incomparable symbolizes respect and high regard for friendship. There are good reasons to think that the claim is false, or if true, true in a way that saddles Raz’s argument with a fallacy of equivocation. Some people no doubt believe that friendship and money are incomparable. Does their belief symbolize a very high

regard for friendship? Consider other cases in which these people might think incomparability holds. They might think, to take a different example, that a career as a lawyer and one as a clarinetist are incomparable or that a limerick cannot be compared with elevator musak or that chocolate mousse cannot be compared with cheese and crackers. The belief that such goods are incomparable in these cases does not, as Raz would agree, plausibly symbolize respect and high regard for one of the goods as opposed to the other. Why then should we think that when ‘incomparable’ is applied to friendship and money that what is being symbolized is a high regard for friendship?

There are certain beliefs that might be mistaken for a belief in incomparability that do plausibly symbolize respect and high regard for friendship. The belief that friendship is not a mere market good, that it cannot be bought and sold like a commodity, or that it cannot be replaced, compensated or measured by money might plausibly symbolize respect and high regard for friendship. Indeed, Raz sometimes seems to treat a belief in incomparability as one of these other beliefs (347, 351, 353). But these beliefs do not entail that friendship and money are incomparable (though the converse arguably holds). Consistent with these beliefs is the thought that friendship is lexically superior to money. If no amount of money or commodities could ever be at least as good as any amount of friendship, friendship would not be any mere market good and so could not be replaced, compensated or measured by money.

A closer look at the relation of incomparability suggests that a belief that friendship and money are incomparable could not plausibly symbolize respect and high regard for friendship. Incomparability is a symmetric relation and understood literally cannot favor one good over the other. Respect and high regard for friendship, however, in some sense favors friendship over money; money is not regarded with the same reverence that friendship is. How could a perfectly symmetric relation symbolize a high regard for one good over the other? A belief that friendship and money are incomparable may entail that friendship is not measurable by money, but if it does it equally entails that money is not measurable by friendship. How can we extract from these symmetrical entailments a symbolic high regard for friendship?

There is, however, a *metaphorical* sense of incomparability that is not symmetric and that plausibly has the needed symbolic significance. In this sense, one good is ‘incomparably better’ than another, that is, vastly, significantly, off-the-charts better. So, for

example, one might pronounce Pollini's performance of the Chopin Preludes as 'incomparable' or remark that there is 'no comparison' between a meal at Le Cirque and one at McDonalds. What one is saying is that the performance is significantly better than all or most others or that the sole soufflé au gratin is significantly better than the Fishwich with cheese. A belief that friendship and money are 'incomparable' in this metaphorical sense may indeed symbolize respect and high regard for friendship. But if this is the sense of incomparable upon which Raz's argument depends, the argument to the conclusion that friendship and money are literally incomparable suffers from equivocation.⁸

7. We have just noted that the belief that friendship is significantly better than money very plausibly symbolizes a high regard for friendship. This point raises doubt about the second consideration in favor of Raz's claim that a belief in incomparability is constitutive of friendship—the argument by elimination. Can a belief that friendship is significantly better than money do the explanatory work required? In particular, can it account for the symbolic significance of refusing to trade not only friendship for money but also money for friendship? Recall that the difficulty with this suggestion was that the belief that friendship is better than money could not explain why someone would refuse a direct trade of money in exchange for acquiring a friend. Raz himself suggests a response on behalf of comparabilists. Perhaps, Raz says, agents have the following ranking: "avoiding naked exchanges of [friendship] for money is best, having [friendship] is second best [, and] having money or other commodities is third best" (347). With this ranking, an agent would refuse to exchange friendship and money whichever good she starts with, and yet it could still be true that agents have a high regard for friendship that they do not have for money.⁹

Raz admits that the comparabilist explanation can account for the refusal to exchange friendship and money. As he writes, "[t]here is no doubt that the choices of people who have these attitudes [i.e., a very high regard for friendship] are consistent with certain ways of ranking the options" (348). Nevertheless, he continues, "My argument does not depend on denying that. My claim is the more elusive one that the rankings which are consistent with these views and treat all options as [comparable] do not represent people's *actual* valuations" (348). So, while Raz admits that a belief that friendship and money are comparable is compatible with the refusal to exchange friendship and money, and, as we have noted,

can be the source of the symbolic significance of refusals, there is still the question of whether the belief represents people's actual valuations. He is concerned with actual valuations because he thinks that the merits of friendship are given by social forms which are a matter of social convention. It is people's actual valuations that will give us insight into how friendship relates to money.¹⁰

Raz thinks that people's actual valuations cannot be that friendship is more valuable than money because such a "preference for one option over another...would amount to a condemnation of those who forgo the possibility of friendship for money as people who act wrongly and against reason" (352). And, as he continues, "Some may take this attitude. But others (most of us, on reflection) do not. They regard such people as one regards people who neglected their musical abilities and lost their sensitivity to music in order to be better able to pursue some other goals....Their life is impoverished in certain respects, but enriched in others. Our judgment of them is no different from our judgment of people who lost their ability to form close and exclusive personal ties through joining a monastic order" (352-53).

There are two points here. First is the claim that a belief that good A is better than good B commits one to the belief that someone who chooses B over A "acts wrongly and against reason" while a belief that A and B are incomparable does not. Second is the claim that people who refuse to exchange friendship and money regard those who are willing to pursue money instead of friendship as simply missing out on one good but getting another. Since they believe pursuing mere market goods is, like pursuing friendship, one valuable activity among others, they believe that those who pursue money instead of friendship do not commit any error.

Both points can be questioned. Take the second first. Do those who refuse to exchange friendship and money really regard the pursuit of material wealth to be, like the pursuit of friendship, one valuable activity among many? If they do, they believe something false. Listening to opera instead of going to soccer games, cooking instead of learning to play the piano, hang-gliding instead of playing chess—these are plausibly cases in which one pursues one activity among many others without error; these valuable pursuits are perhaps 'on a par,' and so failure to pursue one in favor of another does not involve making a mistake of reason. But the pursuit of material wealth at the cost of pursuing personal relationships does seem to involve a mistake. Money—mere market goods—does not seem to be on a par with friendship, human

life, health, freedom, and other significant intrinsic goods; it is not simply 'one good among many' but has a different status.

At the very least, there are *certain* circumstances in which pursuing money over friendship *does* involve a mistake, and this is all that is required to show that the belief Raz attributes to those who refuse to trade is false. Suppose that one has all the basic necessities of life but no personal relations and no mere market goods. Suppose too that one has an equal chance of success in making close friendships as in acquiring mere market goods. If one has a choice between pursuing friendship and pursuing the creature comforts of mere market goods, one should choose to pursue friendship. Indeed, anyone who appreciates the intrinsic values of friendship and mere market goods would in these circumstances go for friendship. This is not a case in which it would be appropriate to shrug one's shoulders and say, "to each his own," as one might do if the choice were between friendship and spiritual communion with God. Similarly, there are circumstances in which going for friendship over mere market goods might involve error. Suppose one has a maximum of deep loving relations—with a spouse, children, relatives, etc.—as well as many other significant goods—health, freedom, etc. One's life is at a full capacity for significant intrinsic goods but lacks the pleasures, enjoyments, and comforts of material wealth. In such a case, the balance of a good life arguably requires that one pursue mere market goods over friendship. Or, perhaps, because one's life is at full capacity for deep loving relationships, pursuit of friendship would be a mistake because it would involve detracting from one's deep loving relationships. In short, whether one makes a mistake of reason in pursuing one good over the other depends on what else one has in one's life. A categorical claim that those who pursue money over friendship do not make an error of reason cannot be sustained, and thus we may query Raz's insistence that those who refuse to exchange friendship for money have this false belief.

Even if people do have this false belief, Raz's attempt to connect the opposite of this belief with a belief about how friendship and money compare does not succeed. That is, Raz's first point—that a belief that A is better than B commits one to the belief that someone who chooses B over A "acts wrongly and against reason"—is open to doubt. For as Raz himself insists in the case of the belief that A and B are incomparable, the belief that A is better than B might be one not made from 'the viewpoint of reason' but from the point of view of someone participating in the relevant social form. Just as I might judge, from the view-

point of membership in the friendship institution, that friendship is incomparable with money, I might also judge from that viewpoint that friendship is better than money. Thus, the belief that A is better than B does not necessarily entail the belief that those who choose B over A make a mistake of reason. By Raz's own lights, agents can have valuations of goods that are not required by reason but are instead relativized to their participation in certain goods. Raz thinks that the belief that certain goods are incomparable is one such valuation. The belief that one good is better than another might be another.

At any rate, Raz's argument is premised on the thought that people are indeed unwilling to make direct exchanges of money for friends. But any intuitive appeal of this thought may derive from a confusion stemming from the impossibility of buying friends. One can buy the *conditions* required for friendship. Just as one might 'buy' a child from an adoption agency and hence secure the conditions that make a loving parent-child relationship possible, so one might buy the conditions that make a friendship possible. But one cannot buy a relationship itself, off the shelf as it were. Friendships and other loving relationships develop via a genuine care and concern for the other that cannot, in the world as we know it, be instantaneously possessed after a visit to the ATM. There *is*, however, a sense in which buying friends is possible. I can make a direct purchase by striking a deal with God: Take my yacht, and, in exchange, alter the past (or future) so that X and I now (will) have a history together in which we are friends. And there are at least some circumstances in which one would (and should) be perfectly willing to strike such a bargain: if one has a friendless, lonely life and lots of mere market goods, one would be willing to swap some of those mere market goods for a new life with a friend. Moreover, many significant intrinsic goods can be bought, and people are perfectly willing to make direct purchases of those goods if given the opportunity. If I can save a human life in a direct trade for my toaster oven, I would be willing to do so.

In sum, Raz's conclusion that friends must believe that friendship and money are incomparable does not withstand scrutiny. There are good reasons to think that a belief in the incomparability of friendship and money is not constitutive of friendship—believing that friendship is worth more than a dollar does not plausibly disqualify one from being a friend. Moreover, Raz's argument that the belief in incomparability is constitutive of friendship relies either on an implausible claim about the symbolic significance of this belief or on a metaphorical understanding of

'incomparable' that saddles the argument with an equivocation. As we have seen, there is no reason to think that a belief that friendship is significantly better than money is incapable of doing the required explanatory work. Such a belief as plausibly symbolizes respect and high regard for friendship over money and could ground a refusal to give up a friendship for money and indignation at the suggestion that one would. Finally, the thought that people would be unwilling to make direct purchases of friendship for cash if they could is doubtful, and even if correct, does not support the conclusion that friendship cannot be better than money.

Supposing, for the sake of argument, that Raz's premises are correct, his conclusion would not constitute a total victory for the incomparabilist. For the truth that friendship and money are constitutively incomparable would be relativized to membership in the friendship institution and may vary from person to person, even though they are perfectly rational. This would make constitutive incomparability a mere shadow of incomparability as it is usually understood—that is, relativized to one's particular interests in certain rationally optional social forms.

II.

8. Elizabeth Anderson thinks there is a truth about the comparability of friendship and money from the 'viewpoint of reason': they are incomparable. But she is a pragmatist about value and so this truth is a construction of practical reason. While Raz is an eliminativist about such truths of constitutive incomparability—there are only truths relative to participation in a social form—Anderson is a reductionist—such truths reduce to truths about what there is reason to do or feel.

Anderson thinks that the value of an item is simply a matter of the practical responses—in particular practical *attitudes*, like awe, love, respect, honor and so on—towards that item that one endorses as rational to have towards that item (Anderson 1997, pp. 90–109).¹¹ So, for example, the beauty of a Cubist painting amounts to no more than the attitudes of awe and admiration it is rational to have towards it; there is no further question of whether such attitudes 'track the truth' about whether the painting 'really' is beautiful. As she puts it, "I reduce 'x is good' roughly to 'it is rational to value x,' where to value something is to adopt toward it a favorable attitude susceptible to rational reflection" (95). Thus whether something is valuable is wholly given by whether

it is rational, or makes practical sense, to regard it with a favorable attitude.

Just as the value of an item consists in nothing more than the practical attitudes it is rational to have towards them, so too the *comparative* value of items consists in nothing more than practical attitudes we have reason to have towards them. Anderson writes,

To determine whether two goods are [comparable], pragmatists ask what practical attitude- or action-guiding function claims of comparability can serve.... This analysis implies a simple test for [incomparability]. If there is no point to comparing the overall values of two goods, the comparative value judgment about them will serve no practical function. Pragmatism says that if a value judgment serves no practical function, then it has no truth value or warrant. And if a comparative value judgment has no truth value or warrant, then the goods it compares are [incomparable]. Therefore, if there is no good reason to compare the overall values of two goods, the goods are [incomparable]. Call this the "no good reasons principle" for [incomparability] (99).

Anderson's approach to incomparability can be seen as "constitutive" because she thinks that the respect, awe, and honor it is rational to have towards certain goods is constitutive of them—they help make the goods the goods that they are—and it is in virtue of those attitudes that there is no good reason to compare them with other goods like money.

The attitudes constitutive of certain goods give rise to three ways in which there can be "no good reason" to compare them: sometimes "it is boring or pointless to compare them, other times it makes sense to leave room for the free play of nonrational motivations like whims and moods, and sometimes goods play such different roles in deliberation that attempts to compare them head to head are incoherent" (91). Even assuming that her pragmatic view of value is correct, we will see that none of these paths lead us to the incomparability she thinks there is.

9. Sometimes, it seems "silly, boring, and arbitrary" to make comparisons between items. It is silly to compare the aesthetic merits of a piece of doggerel and some subway graffiti, boring to grade seventh- and eighth-rate artworks, and arbitrary to compare a Bach concerto with a Picasso nude. There is, it seems, no practical point in judging the comparative aesthetic merits of such items, and, as Anderson urges, the project of compiling a Michelin guide to *The Ten Billion Greatest Artworks of All Time* would be the project of "philistines, snobs, and prigs, precisely those

least open to a free exploration and development of their aesthetic sensibilities" (99–100). Since we have reason not to be such people, it seems there are no practical situations reflectively endorsed by practical reason in which such comparisons have any use. And since there is no good practical reason to compare the goods, the goods are incomparable.

But is it so clear that there are no practical projects worth pursuing that could make use of comparisons that, in the abstract, seem silly, boring or even arbitrary? Suppose, for example, that I am a judge in an art contest "Now! Youth Art In New York City," and the entries include a piece of doggerel and some subway art. Surely in this case, although other considerations may be relevant as well, the aesthetic merits of the two artworks is relevant to my choice of winner, and the contest, whose purpose is, say, to encourage the flourishing of art by Manhattan youth, is not a project for "philistines, snobs or prigs." Or suppose I am on a funding committee for a charitable organization and am faced with two proposals for funding: a performance of a Bach concerto on original instruments at Carnegie Hall and temporary installation of a Picasso nude at the Museum of Modern Art. Surely one question relevant to my deliberations is, Which artwork has greater aesthetic merit?

Anderson overlooks the practical use of these comparisons because she assumes that if they are to have practical use, they must be the sole grounds for a choice. Since they can have practical import as *part* of what matters to a choice situation, by her own pragmatist lights, Anderson must conclude that the artworks are comparable. In general, I cannot think of any comparison that, although perhaps seemingly boring or silly or arbitrary if made in the abstract, could not have practical import as part of deliberations about what to choose in a particular choice situation. This conclusion has ramifications for Anderson's general pragmatic principle for incomparability: if for any comparison between two items there is always some possible choice situation in which that comparison has a practical point, the "no good reason" principle never yields a case of incomparability.

10. Perhaps, however, sometimes "it makes sense to leave room for the free play of nonrational motivations like whims and moods," and in such cases, there would be no good reason to compare the items since a rational choice can be made on the basis of nonrational considerations. So, for example, a choice between two desserts might properly be made on the basis of a whim or mood.

On this view practical reason divides choices into two types: those that require reasons to be rational and those that do not. But it is not clear how exactly this view of practical reason supports the claim that there is "no good reason" to compare items. For it does not follow from the fact that a rational choice need not be based on reasons that there is no good reason to compare the alternatives for choice. Practical reason may well *allow* me to decide between the chocolate cake and passion fruit mousse on a whim, but at the same time, I might have good reason to compare the two with respect to their nutritional content. So long as I am not rationally *required* to decide between the desserts on the basis of something that is not a reason, it is conceivable that I might have good reason to decide on the basis of a reason. If practical reason does require me to choose between the desserts on a whim, mood, or other nonrational motivation, then the attractive thought that underpins this view of practical reason, namely, that we are "free" to allow nonrational motivations to have a role in rational choice, must be abandoned.

In any case, even if there were no good reason to compare alternatives in the 'special' cases, this would constitute only a small victory for the incomparabilist. For the main interest of incomparability is in its upshots for those cases in which rational choice must be based on reasons. Many have thought that in these cases, if there is incomparability rational choice is precluded. Thus Anderson's second proposal, if sound, would succeed in establishing incomparability, but only at the cost of robbing it of its primary significance for rational choice.

11. Anderson's final suggestion as to how there can be no good reason to compare items is the most interesting and raises the basic question of what the comparability of goods involves. She says that sometimes goods play such different roles in deliberation that attempting to compare them is incoherent, and thus there is no good reason to compare the goods.

The fundamental assumption at work here is that if goods are to be comparable, they must have some value or evaluative property in common. Unfortunately, this assumption has often been mistakenly thought to entail one or more further claims. First, it has sometimes been thought that if two goods are comparable, there must be some common unit of value in terms of which they are compared. But we can compare goods even though those goods cannot be measured by a common unit of value. For example, one friendship can be Pareto better than another if it is at least as

good in every aspect of friendship and better in at least one. There need be no unit of friendship in virtue of which this comparison holds. Or a friendship might be lexically superior to bubble gum; there is plausibly no common unit of value that measures both the friendship and the bubble gum, nevertheless, it is clear that the friendship is better. There are also ordinal comparisons that do not admit of any unit of measurement; a human life is more valuable than the life of a cockroach even though there is no common unit that measures the worth of both. Second, many have thought that a comparison of two goods is essentially a comparison of two *quantities* of some one value. For if a comparison of A and B presupposes that A and B bear value *V*, it seems that the comparison between them must proceed according to which has more *V*. But this is to fall into the trap of thinking that a single value can differ in its instantiations only by amount. A value can have qualitative as well as quantitative dimensions. So, for example, a Monet painting can differ in aesthetic merit from a child's finger painting not by the amount but by the quality of aesthetic merit it bears. A difference in quality of a single value can ground a claim that the Monet is aesthetically better than the finger painting. Third, it is widely thought that if comparisons are the basis for rational choice, then because there must be a shared value in terms of which the alternatives are compared, practical rationality must be a matter of *maximizing* that shared value. But perfectly compatible with the claim that comparisons are the basis for rational choice is a satisficing or even a "mean-median" view of rationality according to which it is sometimes rational to do what is not best but merely good enough or what falls within the mean or median of the available alternatives. Finally, it is often thought that if a shared value is a prerequisite of comparison and comparison is relevant to rational choice, then what one rationally ought to do is to bring about the state of affairs that is best with respect to that given value. In this way, it has been supposed that the relevance of comparisons to rational choice presupposes the truth of consequentialism. But A can be better than B in its intrinsic worth or with respect to its contribution to fulfilling one's duty quite apart from considerations of which would bring about the best consequences.

Anderson's proposal trades on all four mistaken inferences. She writes:

Ordinary moral thought enables us to make choices in these cases without placing mother's life and friendship on a common scale and declaring one to be more valuable than the other....Instead, considerations of what we *owe* our

mothers and our friends in different circumstances play a central role....Contrast this with the way we would have to regard mother and friends if their values were scalar. Then they would figure in principles that tell us to maximize the number or endurance of their bearers. This is to regard mother and friends as valuable only for the ways their existence improves the state of the world....Alternatively, to regard their values as scalar might be to accept a principle that tells one to adopt different degrees of the same attitude toward them. But mother is a proper object of filial love, one's friends of friendship. These forms of love differ in kind, not degree, and so mark their objects as intrinsically good in different ways, not just in different amounts....

Thus, there are no valid practical principles that express a regard for the values of mother and friends as scalar. So we have no good reason to try to compare the values of one's mother and one's friends, or of her life and one's friendships, in terms of some common value they possess to a greater or lesser degree. These goods are therefore not [comparable]....

[On the view that one must compare alternatives for rational choice], the sole practical role of the concept of value is to assign *weights* to goods, so that reason can choose what is weightiest or most valuable. It supposes that all values are scalar...[On an alternative view], the role of the concepts of intrinsic value is generally to assign a *status*, not a weight, to goods....The principles that express such attitudes generally take a distributive, not an aggregative or optimizing form....Thus, choices concerning those goods or their continued existence do not generally require that we rank their values on a common scale and choose the more valuable good; they require that we give each good its due. (103, emphases original).

The centerpiece of the argument is the distinction between "scalar" and "nonscalar" value. Scalar values can be measured on a "common scale" and figure in one of two types of practical principle: "principles that tell us to maximize the number or endurance of their bearers" and "principle[s] that tells[tell] one to adopt different degrees of the same attitude toward them." Nonscalar values, in contrast, are given by considerations of what we owe people in different circumstances and figure in principles of obligation that "mark their objects as intrinsically good in different ways, not just in different amounts." Scalar values assign "weights" to their bearers while nonscalar values assign "status" to their bearers, and practical deliberation involving items with weight proceeds by aggregation while deliberation involving items with status involves nonaggregative principles. Since the role in practical deliberation of scalar values is different from that of nonscalar values, it is "incoherent" to try to compare a scalar good with a nonscalar good. Thus, to revert to our familiar example, it is incoherent to compare friendship, a nonscalar good, with money, a scalar good, and therefore, by pragmatism, the goods are incomparable.

There are two arguments here. One is this: comparisons require that the goods be measurable by a common unit of value; only scalar goods can be measured by the same unit of value; therefore, it is incoherent to try to compare a scalar good with a good that cannot be measured by the same unit of value. It is worth noting that this argument does not strictly rely on her pragmatism; the putative incoherence entails the incomparability of those goods quite apart from whether it gives us no good reason to compare the goods which then in turn, via pragmatism, entails their being incomparable. The other argument supposes that comparisons can be relevant to rational choice only if rationality requires one to maximize either consequences or amount of value; but it is inappropriate to try to maximize nonscalar goods which figure in nonaggregative practical principles; and therefore there can be no practical point to comparing a nonscalar good with any other sort of good, and thus, via pragmatism, the goods are incomparable.

Both arguments depend on tacking onto the claim that items can be compared further claims that do not follow from it. In the one case, the further claim is that comparable goods must be measurable by a common unit of value, and in the other, the further claim is that for the comparison to have practical import, rational choice must be determined by principles that tell us to maximize consequences or amount of value. But as we have seen, comparability does not entail these further claims.

Once we strip away the claims Anderson attaches to the notion of comparability, we are left with no good reason for thinking that there is no good reason to compare friendships with money, for it is the further claims that do the argumentative work in establishing that there is no good reason to compare certain goods. Anderson's conclusion that there is "no good reason" then is not strictly a conclusion about comparability but rather a conclusion about the limits of comparing by a shared unit of value and the inadequacies of practical principles that tell us to maximize consequences or amount of value. Her distinction between "weight" and "status," while interesting as a thesis about practical reason, does not have the upshots for comparability she supposes.

III.

12. Raz's and Anderson's arguments, then, do not establish that goods like friendship and money are constitutively incomparable.

This is not to say, of course, that there is no such argument, but whether there is remains to be seen. In the meantime, we may note that there is a natural *comparabilist* way of thinking about how intrinsically significant goods like friendships, and mere market goods, like money, relate. For we may say that a friendship is a 'higher' good than a sum of money, which is a 'lower' good, and from this it may be thought to follow that the friendship is *better than*—or, as we shall say, *emphatically better than*—the money.

The view that a good like friendship is 'higher' than a good like money is familiar and unsurprising, but many philosophers have supposed that the terms 'higher' and 'lower' mark incomparability, not betterness (e.g., Taylor 1982, Lukes 1997, cf. Mill 1861). Indeed, in the course of arguing that friendship and money are constitutively incomparable, both Raz and Anderson themselves suggest that friendship is appropriately held in "high regard" or is of a "higher kind" than money (Raz 1986, p. 348; Anderson 1997, p. 105). It is worth noting in this regard that Anderson introduces at the end of her article what she calls "hierarchical incommensurability," cases in which "we deny that one good is more or less valuable than another precisely by insisting that it has an incomparably higher value altogether" (Anderson 1997, p. 104). Higher goods are incomparable with, not better than, lower ones: "[w]e refuse the language of 'more' or 'better'; we reject commensuration in favor of hierarchy" (Anderson 1997, p. 105). The language of 'higher' and 'lower' signals incomparability, not comparability, because she thinks comparability requires scalarity. But as we have already pointed out, a nonscalar good can be better than a scalar good—my friendship with Eve is better than a stick of bubble gum—and so scalarity is not a condition of comparability.

Granting that higher and lower goods can be comparable, how is this comparability to be understood? The distinction between higher and lower goods is a distinction concerning the *intrinsic* merits of those goods; friendship is intrinsically better than money in a way that makes it 'higher.' The standard account understands the way in which higher goods are intrinsically better in terms of lexical superiority: roughly, no 'level' of the lower good, however great, can be intrinsically better than any 'level' of the higher good, however slight. Thus friendship is a higher good and mere market goods a lower, human life is a higher good and chocolate a lower, freedom of speech a higher good and beautiful millinery a lower.

But lexical superiority, in its various possible formulations, falls prey to a fundamental intuition: a nominal token of a higher type of good can be intrinsically worse than a notable token of a lower type of good (Griffin 1977; Griffin 1986; cf. Tribe 1972).¹² Take, for example, a superficial and banal friendship I might have with the local butcher. Whenever I visit his shop, we exchange pleasantries, cheerfully inquire after each other's children, and engage in desultory conversation about the weather and the state of politics. I then take my side of beef and leave. We like each other well enough, but our pleasantries are a bit forced, and our hearts are not really in the conversation. At the same time, our relationship is clearly a friendship, though a distant one. And it has intrinsic value—although barely rewarding and somewhat uncomfortable, it would be better to have that friendship than not. Barring consideration of all extrinsic values, is this friendship better than a million dollars worth of mere market goods? It seems clear to me that it is not.

There are many other such intuitions to which the emphatic comparabilist might appeal. Are three seconds of a human life intrinsically better than a lifetime of gustatory pleasures? Is the freedom to drink cranberry juice in public intrinsically better than a billion dollars worth of mere market goods? Is a fifth-rate modernist painting intrinsically better than sexual pleasure for every person who engages in consensual sex? This is not to say that for every higher and lower type of good, there is a higher token that is worse than a lower, but it seems clear that *some* tokens of higher type goods are intrinsically worse than *some* tokens of lower type goods. It seems that lexical superiority constitutes overkill and does not capture the intended distinction between higher and lower goods. In the short space remaining, let me very briefly sketch an alternative to it.

Our use of the term "good" has so far slid back and forth between token goods and types of good. Sometimes we have referred to the incomparability of 'friendship' and 'money,' and at other times we have referred to the incomparability of a particular friendship and a particular amount of money. Of course, the distinction between tokens and types is itself problematic, but we can nonetheless work with it in a rough and intuitive way. I want to suggest that the adjectives 'higher' and 'lower' apply in the first place to token goods and only derivatively to types of goods: a type of good is a 'higher' type of good than another just in case there is a token of the first type that is a higher good than a token of the second. So if my friendship with Eve is

a higher good than a million dollars, then friendship is a higher type of good than money; and likewise, given that a million dollars is a lower token good than my friendship with Eve, money is a lower type of good than friendship. It does not follow, however, that every token of money is a lower good than every token of friendship. Indeed, it may be a tendency to focus on *types* of good that explains why so many thinkers have been attracted to an account of the distinction between the higher and the lower in terms of lexical superiority. Focusing on tokens instead will, I think, naturally lead to a more finely-tuned comparabilist account of the distinction. What, then, makes one token good higher than another?

I suggest that a token good A is higher than a token good B just in case 1) A is better than B, and 2) A is better than any 'B-improvement' of B, i.e., any token of the same type as B that is at least as good as B. If both these conditions are met, I shall say A is *emphatically* better than B; A is 'emphatically' better because there is no B-improvement in B that could make A *not* better.¹³ Suppose, for example, that my friendship with Eve is better than a million dollars. If, no matter how many dollars we add to the million, my friendship with Eve is better, the friendship is *emphatically better* than the million dollars and therefore a higher good than the million dollars.

Emphatic comparisons are, strictly speaking, comparisons of two *bundles* of goods—in the present case, the bundle (an existing sum of money, my close friendship with Eve) and the bundle (an additional million, no friendship with Eve). My friendship with Eve is emphatically better than the million if the first bundle is better and no 'dollar-improvement' in the second bundle could make the first bundle not better than the second. Thus emphatic comparability can be understood as a kind of 'localized' lexical superiority: the 'threshold level' of the higher good beats anything with the lesser level, no matter how much one improves the other type of good with which it is bundled. Emphatic comparability allows the possibility that some token of a higher-type good is worse than some token of a lower-type good. This possibility is important because it points to an interesting feature of the nature of values: the conceptualization of values into types does not directly track how bearers of those values compare with one another. This, in turn, allows us to see that the deep intuition at the core of incomparabilist arguments, namely that goods are incomparable in virtue of their belonging to very different types, is misguided.¹⁴

NOTES

1. Some philosophers think that choices made on the basis of feelings, the will and the like are choices within the scope of practical reason. See e.g. Raz 1997 and Anderson 1997.
2. Anderson's account has been endorsed by others with variations that need not concern us, e.g., Sunstein 1994, Lukes 1997. For an interesting, related argument that global 'commodification' blocks certain desirable conceptions of the good, see Radin 1996.
3. I have offered a more precise definition of incomparability elsewhere (in Chang 1997): two items are incomparable with respect to a 'covering consideration' if there is no positive value relation that holds between them with respect to that covering consideration. According to this definition, it is a requirement of incomparability that it be relative to a covering consideration. However, since the arguments of the paper do not rely on this requirement, I ignore it here.
4. Some thinkers claimed that the intrinsic value of goods like friendship is incomparable with the 'use' value of money, and so the incomparability is not between two intrinsic goods but between an intrinsic and an instrumental one. See e.g., Sunstein 1997. But I believe that the best interpretation of their arguments is one in which their claims are about the intrinsic value of goods like friendship on the one hand and mere market goods that money can buy on the other.
5. The discussion of constitutive incomparability occurs on pp. 345–357, but all of chapter 13 and some of chapter 12 provide relevant background. All subsequent page references in this section of the paper are to this work. For an alternative interpretation of Raz's argument that sees constitutive incommensurability as a version of Raz's notion of exclusionary reasons, see Warner 1998. Since Raz himself does not link his notion of constitutive incomparability with his notion of exclusionary reasons, I will assume that he thinks there are two ideas here, not one. I am sympathetic, however, to Warner's focus on the latter notion which may, I believe, ultimately prove to be the more interesting one.
6. I find Raz's text especially murky on the question of how the putative belief in the incomparability of two goods relates to the symbolic significance of certain acts and attitudes constitutive of those goods. Because he insists that the belief in incomparability itself has symbolic significance, I take it that he regards the belief as grounding the refusal and indignation at least in part because it transfers its symbolic significance to the refusal and indignation. Note, however, that not all symbolic acts and attitudes must be grounded in beliefs that themselves have symbolic significance. The act of burning a flag is grounded in a belief that, for example, the nation's policy on war is despicable, but that belief need not symbolize anything. Raz must therefore think that there is something special going on in the friendship case (and all cases analogous to it). Perhaps he thinks that the belief that friendship and money are incomparable has symbolic significance in the way

- that a belief that Bill Clinton did not have an affair with Monica Lewinsky symbolizes utter trust of and devotion to Clinton, or a belief that one's ten year old daughter could win an international competition for professional pianists symbolizes one's faith and pride in one's child.
7. I follow Raz in various shifts, such as between conditions on the capacity for friendship and conditions on being a friend and between token friendships and the type of good, friendship. The distinction between tokens and types will become relevant in the final part of the paper.
 8. The same ambiguity between a metaphorical and literal sense applies to Raz's claim that "friendship has no price." On one reading, it is the claim that friendship is significantly better than money—friendship is priceless—and on the other it is the claim that there is no (relevant) way evaluatively to relate friendship and money—friendship is not priceable. Only on the first reading is it plausible to suppose that a belief that friendship has no price symbolizes respect and high regard for friendship.
 9. This strategy of reindividuating options can also be employed to defuse the apparent problem of explaining people's choices in indirect cases. Given the ranking '1) avoiding direct exchanges 2) having friendship, and 3) having money' it may seem a mystery as to why anyone would choose to take a higher paying job at the cost of losing a friend. But if the higher paying job is not the same good as money—perhaps it is money-earned-through-job—the puzzle disappears.
 10. I believe this is what Raz has in mind when he states that beliefs about the (comparative) merits of certain goods are "self-verifying" (350).
 11. All further page references in this part are to this work.
 12. Nominal-notable comparisons also hold among values that might all be considered 'higher' or, at any rate, not distinguished from one another in terms of status. So, for example, equality of access to good coffee is intrinsically worse than liberty of thought.
 13. The account of 'higher' and 'lower' goods favored here is very close to an account of 'incommensurable values' proposed in Griffin 1986, pp. 85–89. Griffin says that types of value are incommensurable when they are "discontinuous," that is, when "enough of A outranks any amount of B," where A and B are value types. If I understand Griffin correctly, the point of appealing to "enough of A" is to fix a token of A-type value than which no token of B-type is better. There is a slight difference between "better than any token of B-type value," which is Griffin's criterion, and "better than any token of the B-type that is at least as good as the token B," which is ours. Our criterion allows that some tokens of B-type value might be incomparable with one another, and so A might not be better than every B-token. The two criteria collapse if we assume that for any tokens A and A' of a given type, there is an A+ that is at least as good as both.
 14. The first version of this paper was written many years ago for a conference in honor of Joseph Raz at Nuffield College, Oxford, and many people, including Elizabeth Anderson, John Broome, Jim Griffin, Elijah Millgram, Andrew Moore, Martha Nussbaum, Derek Parfit, Joseph Raz, Seana Shiffrin,

Cass Sunstein, Charles Taylor, and Andrew Williams, helped me with it. Almost none of that version survives here, but this paper considers the same general subject matter, and I am grateful for the help I received earlier. For useful comments on or discussion of aspects of the present version I thank Kit Fine, Derek Parfit, Fred Schick, and Richard Warner.

REFERENCES

- Anderson, Elizabeth. 1993. *Value in Ethics and Economics* (Cambridge: Harvard University Press).
- Anderson, Elizabeth. 1997. "Practical Reason and Incommensurable Goods," in Ruth Chang, ed., *Incommensurability, Incomparability, and Practical Reason* (Cambridge: Harvard University Press).
- Chang, Ruth. 1997. "Introduction." In Ruth Chang, ed., *Incommensurability, Incomparability, and Practical Reason* (Cambridge: Harvard University Press).
- Chang, Ruth. Forthcoming. *Making Comparisons Count* (New York: Routledge Dissertation Series, ed. by Robert Nozick).
- Griffin, James. 1977. "Are There Incommensurable Values?" 7 *Philosophy and Public Affairs*.
- Griffin, James. 1986. *Well-Being: Its Meaning, Measurement and Moral Importance* (Oxford: Clarendon Press).
- Lukes, Steven. 1997. "Comparing the Incomparable: Trade-offs and Sacrifices." In Ruth Chang, ed., *Incommensurability, Incomparability, and Practical Reason* (Cambridge: Harvard University Press).
- Mill, John Stuart. 1861. *Utilitarianism* (Indianapolis: Hackett Publishing).
- Pildes, Richard and Elizabeth Anderson. 1990. "Slinging Arrows at Democracy: Social Choice Theory, Value Pluralism, and Democratic Politics," 90 *Columbia Law Review*.
- Radin, Margaret Jane. 1996. *Contested Commodities* (Cambridge: Harvard University Press).
- Raz, Joseph. 1986. *The Morality of Freedom* (Oxford: Clarendon Press).
- Sunstein, Cass. 1994. "Incommensurability and Valuation in Law," 79 *Michigan Law Review*.
- Sunstein, Cass. 1997. "Incommensurability and Kinds of Valuation: Some Applications in Law." In Ruth Chang, ed., *Incommensurability, Incomparability, and Practical Reason* (Cambridge: Harvard University Press).
- Taylor, Charles. 1982. "The Diversity of Goods," in Amartya Sen and Bernard Williams, eds. *Utilitarianism and Beyond* (Cambridge: Cambridge University Press).
- Tribe, Laurence. 1972. "Policy Science: Analysis or Ideology?" 2 *Philosophy and Public Affairs*.
- Warner, Richard. 1995. "Excluding Reasons: Impossible Comparisons and the Law," 15 *Oxford Journal of Legal Studies*.
- Warner, Richard. 1998. "Does Incommensurability Matter? Incommensurability and Public Policy," 146 *University of Pennsylvania Law Review*.

Law and Social Order

Russell Hardin

Introduction

There have been many debates about the relationships, if any, between law and morality: the positivists, such as John Austin (1954) and Hans Kelsen (1967) vs. virtually everyone else, especially natural law theorists; H. L. A. Hart (1958) vs. Lon Fuller (1958, 1969); Hart (1963) vs. Lord Devlin (1959); and recently Richard Posner (1999) vs. Ronald Dworkin and many others (Posner et al., 1998). Most of the debate in each case has been about the moral content of the law, often about whether there is a necessary or minimal moral content of the law. In the most recent debates, the question is whether judges and others in the legal system would be able to do their jobs better if they were educated in academic moral theory. This issue presumably turns on whether laws are thought to have a moral content or are thought to be guided by a morality external to the law or at least whether a common law or appellate judge should bring moral considerations into deciding cases, perhaps in order to bring law into line with moral views.

I wish to argue that actual legal systems in reasonably successful societies have a clear moral principle behind at least much of their law. That moral principle is mutual advantage, which, at a