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Decision Procedures, Standards of Rightness and Impartiality

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The ideal of impartiality in ethics has recently come under attack. A variety of traditional moral theories have been accused of requiring agents to be impartial to an extent that is morally indefensible and practically impossible. Agents deliberating about the morally best course of action are required, the accusation goes, to regard their own interests, projects and commitments, and those of their family and friends, as no more or less important than those of others. Moreover, it is alleged, impartialist views require that agents be motivated exclusively by impartial considerations rendering morally problematic acting out of love or concern for particular others. These impartialist demands are said to be morally indefensible on a number of grounds: they undermine individuals' integrity,[1] they make a mockery of personal relationships,[2] and they result in an undesirable psychic condition termed "moral alienation".[3] One author has gone so far as to say that impartiality "threatens the very basis of our humanity."[4] Besides being morally objectionable, the demands of impartial moral theories have been claimed to be impossible to meet since they require agents to perform epistemic and psychological feats that are beyond human capability, such as ignoring all knowledge of one's values and traits[5] or being motivated only by impartial benevolence.[6]

Utilitarians have responded to these criticisms by distinguishing between utilitarianism as a decision procedure and utilitarianism as a standard of rightness.[7] Partialist criticisms, they maintain, apply to utilitarianism only if one construes it as a decision procedure rather than a standard of rightness. The former is a method of deliberation; the latter is a criterion that makes a morally right action morally right.[8] A standard of rightness provides an answer to the question, "What kinds of actions are morally right?" A decision procedure offers an answer to the question, "*How do I decide in a given case* which action is morally right?" where it is assumed that the standard of rightness has been given in advance. Utilitarianism,

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understood as a standard of rightness, views right actions as those that maximize utility. Viewed as a decision procedure, utilitarianism recommends that in deliberating about what to do in particular cases agents should figure out which action would maximize utility.

There are familiar utilitarian reasons for believing that individual agents should not make utility calculations to determine which action they ought to take—that they should not, in other words, deliberately attempt to maximize utility—but instead should deliberate by appeal to rules that are ultimately justified by the principle of utility.[9] Crucially, these rules may prescribe partialism, both toward ourselves and toward those to whom we have special ties.[10] It may be morally permissible, according to utilitarianism, to devote more time to cultivating one's own talents, for example, than to advancing of the talents of others. Hence the claim that utilitarianism requires agents to take an impartial stance toward people's interests holds only in case utilitarianism is regarded as a decision procedure. But most utilitarians reject the conception of utilitarianism as a decision procedure and advocate a non-utilitarian method of deliberation.[11]

Yet clearly, the partialist would be right to insist, utilitarianism is committed to the idea that each person's interests should be given equal weight. But this idea is not part of a decision procedure; it does not represent a perspective that individual agents are supposed to adopt when deciding what to in particular cases. Rather, it is a premise in an argument justifying the principle of utility as a standard of rightness. Impartiality is embedded in the principle of utility because that principle is *derived from* the impartial assignment of value to people's interests.[12] In the words of R.M. Hare, "...show[ing]...equal concern by giving equal weight to the equal interests of everybody...[is] a precept which leads straight to Bentham's formula and to utilitarianism itself" (1984: 107).[13] The principle of utility, in other words, is the principle, according to utilitarians, that best recognizes the equal worth of people's interests. So, while the rules that utilitarians think agents should use in their deliberations may sanction partiality, they are justified by appeal to the principle of utility, which is in turn derived from a principle of impartiality that assigns equal weight to people's interests. Impartiality, then, figures into the justification of the principle of utility construed as a standard of rightness. It is not a standpoint or attitude that agents are required to adopt in their moral deliberating. The failure to distinguish between a standard of rightness and a decision procedure can be described more generally, then, as a confusion between a justificatory argument for a principle and a description of a set of guidelines for moral deliberation.

The view I wish to defend in this paper is that partialist critics of deontological theories make this same mistake: they take these theories to be offering a method of moral deliberation when they are in fact offering justificatory arguments for moral principles. And while deontologists, like utilitarians, do incorporate impartiality into their justifications for basic principles, many do not require that agents utilize impartial methods of moral deliberation. It follows that insofar as partialists reject impartial methods of deliberation, their criticisms may miss their

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mark. If, however, partialists are opposed to justifications for basic principles that rely upon impartiality, they are committed, I argue, to drastic revisions in moral theory that have quite worrisome implications.

Standpoints and Motives

Partialist criticisms are often leveled at what is called "the moral point of view". The moral point of view, it turns out, is characterized by both an account of the standpoint from which agents should deliberate about moral issues and an account of which considerations qualify as legitimate motives for action. In directing their critique at the moral point of view generally, critics of impartiality have failed to distinguish the standpoint issue from the motivation issue. In other words, they have failed to distinguish their charge that impartialists are wrong in obliging agents to reason from an impartial standpoint from their claim that impartialists are wrong to demand that agents act from impartial motives.[14] Some who seek to defend impartiality, moreover, have inherited this conflation.[15] It is clear, however, that the standpoint and motive issues are distinct. Rule utilitarians, for example, do not require that agents deliberate from an impartial standpoint, since they do not require agents to assign equal weight to the interests of all those who will be affected by their actions, when deliberating about what to do. Indeed, agents are often permitted, by rule utilitarianism, to weigh more heavily the preferences of certain others. On some accounts, however, rule utilitarians do require that agents have an impartial motive since they claim that agents should be motivated to follow utility maximizing rules by the fact that the rules are utility maximizing. Indirect utilitarians, on the other hand, do not hold that agents must have impartial motives, for they do not insist that agents follow utility maximizing rules because they are utility maximizing. Agents are permitted by indirect utilitarianism to be moved by any number of considerations, some which may not be impartial.[16]

Now as it turns out, utilitarians can and do handle both the standpoint and motivation issues by appealing to the decision procedure-standard of rightness distinction. Consequently, the fact that the two issues are not clearly differentiated in the literature is of relatively little significance. The distinction between the motivation and standpoint issues is, however, of significance for my project. I am concerned to show that something like[17] the utilitarian's distinction between a decision procedure and a standard of rightness can be used by deontologists to accommodate *only those partialist criticisms directed at the ideal of the impartial standpoint*.[18] I am not arguing that deontologists can appeal to a decision procedure-standard of rightness distinction as a way of responding to criticisms aimed at the ideal of the impartial moral motive (i.e., the notorious motive of duty). That utilitarians can respond to both kinds of partialist criticisms by wielding one distinction is not be taken to imply that my argument uses the distinction in an equally broad manner.

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Non-Utilitarian Theories and the Impartial Point of View

Ideal observer, hypothetical contract and Kantian theories have all been subject to partialist condemnation.[19] Consider this example, offered by John Kekes, to illustrate the implausibility of Roderick Firth's ideal observer theory. Kekes describes a Mr. Jones, a middle-aged bank manager, whose sudden erratic and reckless behavior—all night disco dancing, hitch-hiking jaunts to California, casual sexual liaisons—is worrying and angering Mrs. Jones. She does not know what to do about this situation but, of course, wants to do what is morally right. According to Kekes, traditional moral theorists, including Firth, would have her reasoning impartially about this situation. He maintains that Firth would tell Mrs. Jones to try to emulate the ideal observer and adopt a standpoint of impartiality.[20] This standpoint would require her to ignore, in her deliberations, what Firth calls "particular interests"—interests that are "directed toward a particular person or thing but not toward other persons or things of the same kind" (1952: 337). On Kekes view, Firth's theory entails that Mrs. Jones, in order to arrive at the morally right decision, must ignore her particular interests in Mr. Jones. She must ignore, for instance, the fact that the person engaging in this odd behavior is *her husband*; she must suppress her desire that Mr. Jones refrain from this behavior. Instead, she must adopt the standpoint of a disinterested third party; someone who has no particular interest in Mr. Jones's rehabilitation.[21]

Clearly such a requirement is absurd. But does Firth's view entail it? Let us consider the role of the ideal observer in Firth's theory. His project is to provide an analysis of the meaning and truth conditions of ethical statements.[22] He maintains that ethical statements are dispositional. Statements of the form "x is P" where P is an ethical predicate, according to Firth, are "identical in meaning with statements of the form: 'Any ideal observer would react to x in such and such a way under such and such conditions' " (*Ibid.*: 321). The truth conditions of an ethical statement are given by the reactions of an ideal observer; true moral principles are those that an ideal observer would endorse.[23] The fiction of the ideal observer, then, is part of an argument justifying moral principles. And, as impartiality is one feature of the ideal observer in virtue of which it is ideal, impartiality is a component of this argument. True moral principles are those that an impartial (among other things) being would endorse. Clearly an impartial ideal observer could endorse principles that sanction partial attitudes or conduct.[24] There is nothing in Firth's theory which suggests that an ideal observer could not endorse, for instance, principles permitting people to take into account their interests in their relationships to particular others.[25] Mrs. Jones may be well within her rights, then, in allowing her desire that her husband dramatically alter his lifestyle to enter into her decision about how to respond to Mr. Jones's transgressions.

Kekes mistakenly interprets Firth as offering a decision procedure for moral deliberation rather than an account of how moral principles might be justified.[26] Nowhere does Firth recommend that people try to emulate the ideal observer

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when they are reasoning in particular situations. He simply maintains that moral principles are true just in case they would be ratified by an ideal, and hence impartial, observer.

A similar mistake can be found in Marilyn Friedman's criticism of Rawls's social contract theory. This theory incorporates impartiality by means of the familiar "veil of ignorance." Agents are enjoined by Rawls's theory, Friedman tells us, to choose principles of justice under conditions of relative ignorance in order to prevent them from tailoring the principles to serve their particular interests or favor their way of life.[27] Friedman maintains that the requirement that moral reasoners ignore all particular knowledge about themselves in their moral reasoning is impracticable. Rawls does not provide any guidelines, she says, for agents to determine whether they have achieved the requisite standpoint of impartiality. Agents can never be sure that they have fully disregarded their knowledge of their particular circumstances, for it would be extremely difficult for them to tell whether or not they had allowed such knowledge tacitly to influence their deliberation.[28]

Just as we looked at the role of the ideal observer in Firth's theory, it is worth examining the role of the veil of ignorance in Rawls's theory. His aim is to provide justification for two principles of distributive justice—the equal liberty principle and the difference principle.[29] His argument takes the following general form: the two principles of justice are the best principles for modern democratic cultures to adopt because they would be chosen, among other candidate principles, in the "original position": a hypothetical situation where highly idealized agents deliberate under conditions of lack of knowledge about their values and social position. The main idea is that the two principles are justified on the ground that they would be chosen under circumstances explicitly recognizing the moral worth and equality of persons as such and explicitly disregarding those features of individuals that are irrelevant to their moral standing as persons.

Rawls, like Firth, is offering an account of the truth conditions for certain normative claims.[30] He does not recommend that agents, in making decisions about distributive justice, attempt to place themselves behind a veil of ignorance. His position on this matter is quite clear:

> the agreement in the original position represents the outcome of a rational process of deliberation under ideal and nonhistorical conditions that express certain reasonable constraints. There exists no practicable way actually to carry out this deliberative process and to be sure that it conforms to the conditions imposed. Therefore, the outcome cannot be ascertained by pure procedural justice as realized by deliberations of the parties on some actual occasion. Instead the outcome must be determined by reasoning analytically: that is, the original position is to be characterized with sufficient exactness so that it is possible to work out from the nature of the parties and the situation they confront which conception of justice is favored by the balance of reasons. The content of justice must be discovered by reason: that is, by solving the agreement problem posed by the original position (1993: 273).[31]

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Friedman misunderstands the role of the original position in Rawls' theory. She assumes that he wants actual individuals to reason as if they are parties in the original position, where it is clear that Rawls maintains that individuals should reason about how the parties in the original position might reason. Here is why this is an important difference:[32] to interpret Rawls as claiming that, in order to find out which principles are just, agents should try to occupy the impartial standpoint represented by the original position is to interpret Rawls's description of the original position as a description of a decision procedure for finding out which principles of distributive justice we should adopt. But the original position does not represent a decision procedure. It is, rather, an element in argument justifying certain standards of rightness. On Rawls view, a condition of the legitimacy of a principle of distributive justice is that is the object of certain kind of hypothetical agreement. The original position, then, describes the conditions necessary to legitimate a standard of rightness.[33] It is altogether a separate question as to how actual agents are to figure out which principles meet those conditions. Of course the passage quoted suggests that Rawls's believes that actual agents can figure out which principles meet those conditions by reasoning about which principles would be the outcome of a hypothetical agreement. Nonetheless, the issue of what conditions are necessary to validate a standard of rightness and the issue of what epistemic position agents should occupy in order to determine which principles meet those conditions are logically distinct. Friedman conflates them.

Finally, I'd like to consider a certain criticism of the Kantian principle of respect for persons that I believe rests upon a mistake similar to the one made by Kekes and Friedman. The idea that we should treat the humanity in persons as an end in itself and never merely as means, which I am here interpreting as a principle of respect for persons[34], has been impugned as overly impartial.[35] This principle, the argument goes, requires agents to view others as abstract persons, rather than as particular, unique individuals. Since it enjoins us to respect people's rational agency, it requires us to attend to a feature of persons that is shared by all, rather than to aspects of persons that are distinctive or specific. Our respect for others, then, represents a kind of impartial attitude, for we are, in respecting persons, viewing them as all the same, as interchangeable. But, of course, in many circumstances, critics point out, it is morally appropriate to value persons for their individual characteristics, or to pay attention to particular features of them in showing them respect.[36]

A review of Kant's argument for the principle of respect for persons will, I believe, show this criticism to be unfounded.[37] Kant maintains that persons have what he calls absolute or unconditional worth. We have this worth in virtue of the fact that we are autonomous rational agents. Our special worth, conferred upon us by our rational agency, obliges people, including ourselves, to treat and regard us with respect. Particular and idiosyncratic features of our character, emotional constitution or social position, not to mention of our bodies, are, *as far as our moral status is concerned*, irrelevant. The humanity in persons, in short, is the

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justificatory ground of the principle of respect for persons. However, while it is true, on Kant's account, that I must respect others *because* they are rational agents, it does not follow that in respecting them I must pay attention only to their rational agency. Indeed, in most cases it would be impossible to fulfill one's obligation to respect someone without attending to her particular situation: her needs, concerns, aspirations and personal history.[38]

There is a minimal sense in which we can uphold our duty to respect persons without knowing much about them and without attending to their particular features. We do this when we refrain from violating people's rights or when we act to preserve their autonomy. But meeting our obligation just in this minimal sense is appropriate only in certain contexts, primarily those that involve strangers.[39] When an unfamiliar student speaks in class, for instance, one fulfills one's duty of respect by listening and responding to the best of one's ability and refraining from being dismissive or curt, even if the student's comments are silly or unintelligible. In order to do this, one needs to know very little about the student's particular situation. Suppose, however, that a friend is trying to decide whether or not to divorce her husband. And suppose that you think that her husband is a jerk. He takes advantage of your friend, has little to offer her as a companion, and is causing her a great deal of psychic pain. In deciding what the most respectful course of action would be (and of course, this not the only moral concern one would have in these circumstances) one must pay considerable attention to the particular features of one's friend and her situation.[40] For instance, suppose you know that your friend would be incredibly hurt if she knew your opinion of her spouse. So you decide to keep that information to yourself, even though you think it might prompt her to see that he is mistreating her. In a different context, withholding information might be disrespectful, even patronizing. In this case, however, because of its specific nature, you determine that withholding information would not be disrespectful, or even if it would, the more important objective, you decide, is to preserve your friend's feelings.

The reason you are required, all things being equal, to respect your friend is, of course, that she is an "abstract" rational agent. But in respecting her you are not required, as critics often maintain, to regard her as an abstract rational agent. Far from it. In order to fulfill your duty to respect her, you must solicit and rely upon a great deal of information about her thoughts, feelings and circumstances. To do otherwise would surely be disrespectful. Partialist critics mistakenly assume that because our rational agency alone is what makes us respect-worthy our rational agency alone is what should be respected. They confuse a justification—"Respect persons because they have moral worth exclusively on the ground that they are rational agents"—for a deliberative guideline—"In deciding how to treat someone respectfully, view her exclusively as a rational agent".

Once we see that arguments designed to justify moral principles cannot double as guidelines for the application of these principles, we can see that the requirement of impartiality is not as unreasonable as some have claimed.[41]

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Decision Procedures For Archangels

At the outset I stated that there are two main grounds for rejecting the ideal of the impartial point of view: that it is morally undesirable and that it is impracticable.[42] The arguments above were intended to show that if the role of this ideal in ethical theory and political philosophy is properly understood, neither of these objections holds. None of the theories criticized require that individual agents occupy an impartial standpoint when reasoning about which actions, in a particular situation, are morally required or permitted.[43] The theories are compatible with the partialist contention that it is both impossible and undesirable for agents to occupy this standpoint. At this juncture, I want to present an alternative interpretation of Friedman's impracticability critique of Rawls. What I will be arguing is that the impracticability argument, *conceived as a criticism of a standard of rightness*, places too strict an epistemological requirement on moral reasoning.

Friedman could conceivably grant that Rawls does not propose that people attempt to place themselves behind a veil of ignorance in order adequately to deliberate about justice. She could grant in other words, that actual agents, on Rawls view, need only to imagine how hypothetical agents placed behind the veil might reason. Her worry seems to concern, in some passages, how we can draw conclusions about how hypothetical agents in hypothetical circumstances would reason, if we are not capable ourselves of adopting the perspective of such agents.[44] If principles are to be justified by appeal to the reasoning of such agents, and we are not and cannot ever be such agents, how are we to arrive at correct principles?

A similar problem emerges in indirect utilitarianism. Utilitarians can recommend that agents, in deciding what is morally appropriate in particular situations, apply rules that have been determined to maximize utility in the long-run—a roughly egalitarian distribution of wealth, for example. But someone has to figure out which rules those are. And it seems that that person would have to occupy an impartial standpoint in order to make that determination. So it seems that the introduction of the decision procedure-standard of rightness distinction simply pushes the problem back a step. Agents need not occupy an impartial standpoint when reasoning about how to apply basic moral principles but they must do so when they are required to provide justification for those principles. But if it is impossible for individuals to adopt an impartial perspective, then any moral theory that requires them to adopt this perspective, even in limited circumstances, is impracticable.

Another way to put the point is to say that, even if people need not use a utilitarian decision procedure in each case of moral deliberation, they must use it to determine which principles they should act upon in lieu of doing a utility calculation in each case. But this is just to say that they must conceive of utilitarianism as offering a decision procedure for selecting moral principles. And, of course, as impartiality is required by utilitarianism at the level of justification, the selection of these principles, via a utility calculation, requires that agents adopt an

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impartial standpoint. They must regard each person's interests as equally worthy of consideration.

This feature of indirect utilitarianism is especially clear in Hare's theory.[45] He distinguishes between the critical and intuitive levels of moral thinking. Critical thinking is used to select principles and adjudicate conflicts among principles; intuitive thinking is used to apply principles.[46] Impartiality is required at the critical level, but not necessarily at the intuitive level. Critical thinking, Hare tells us, at its best would be done by an ultra-impartial archangel who is capable of putting itself in the place of every person that would be affected by a particular action or policy. The right way to live, according to Hare, is the way that the archangel would judge to be so.[47]

Notice that Hare's view exhibits the counterfactual structure we find not only in Rawls but in the views of the other theorists I discussed above. Firth, recall, holds that moral principles are true just in case they would be ratified by an ideal observer. And Kant maintains, in a formulation of the categorical imperative that I did not discuss, that agents should follow rules that they would make as legislating members of a kingdom of ends.[48] It turns out, then, that the impracticability thesis, applied to the task of justifying standards of rightness, amounts to a critique of the counterfactual form of many utilitarian and deontological moral theories. If basic moral principles are true, or are justified, on the ground that impartial beings—"stripped down" persons[49], legislators in a kingdom of ends, ideal observers, archangels—would choose them, then, the impracticability thesis claims, we can never know which principles are true or justified. Clearly this is a wide-ranging criticism of traditional ethical theory. It is not, however, a particularly strong one.

If we suppose that impartiality, in the construction of arguments for basic principles, is desirable[50], then ought we not to hold it up as an ideal to which we try to conform? Naturally it is sometimes difficult to answer counterfactual questions, but, unlike occupying a thoroughly impartial standpoint, it is not impossible. Moreover, in philosophy, and in other disciplines and in our everyday lives, we give answers to counterfactual questions all the time. We do not suppose that because we are unable to occupy the epistemic position that would transform the question from a counterfactual to a factual question, that we cannot hope to answer it. Hence Friedman's claim that the views of Rawls and Hare, because of their hypothetical nature, "provide no substantive moral illumination whatsoever" is a severe overstatement (1994: 19).

Suppose, for example, I am looking for a birthday gift for a friend. I ask myself, if she could have anything she liked (under $20) what would she choose? A CD? A book? A scarf? Of course I cannot occupy, in this situation, the ideal epistemic position for answering this question; I cannot get inside the head of my friend and see things from her point of view. Nonetheless, I do not conclude from this impossibility that I should not even bother figuring out what sort of gift she would like. Instead I make the best choice I can given the relevant knowledge that is available. The kind of reasoning illustrated in this example is common and

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judged acceptable. But if we take seriously the impracticability thesis—if we suppose that the difficulties associated with counterfactual reasoning render it unreliable–then the reasoning in this example is highly suspect.

It follows that the impracticability thesis places way too stringent an epistemological requirement on our reasoning about basic moral rules, because, in essence, it places a moratorium on reasoning about counterfactuals in the context of moral justification. Such a restriction is certainly not invoked in everyday thinking, nor is it normally invoked in other kinds of philosophical contexts nor in scholarly discourses generally.

Disinterestedness and Equality in Decision Procedures and Justifications

Perhaps one obstacle to the resolution of the dispute about the impartial standpoint is a lack of consensus on what it is or what it entails. In what follows I will explore what seem to be its central components, gleaned from the nature of the criticisms that partialists have offered. *My remarks are not intended as an exhaustive examination of the concept of impartiality.* I am simply picking out the major themes that emerge in the debate about the impartial standpoint as a way of getting at least a partial fix on what it is, so that we can be clear about what partialists find unpalatable in traditional moral theories. Once we see what the main components of the impartial standpoint are, and more importantly, how they express themselves as aspects of a decision procedure in contrast with how they express themselves as elements of justificatory arguments, we will see that partialists are asking that we give up either something that we should not, or something that few in fact hold.

The dispute about impartiality suggests that the impartial standpoint involves (at least) consistency, disinterestedness and equality. The first element, which is sometimes called universalizability, is simply the requirement that we treat like cases alike.[51] This requirement, as purely formal, allows for partiality of a certain sort, since it does not preclude principles that sanction partial treatment so long as those principles are applied consistently.[52] This component of the impartial standpoint does not appear to be very controversial. The second element, disinterestedness, sometimes described as absence of bias, requires that agents set aside their particular interests or desires when deliberating about the morally best course of action.[53] This aspect of the impartial standpoint is similar to the kind of impartiality demanded of judges. In order to insure against bias, judges are expected to recuse themselves from cases where their particular interests are directly at stake. Perhaps they serve to gain financially if one of the parties wins or perhaps they know one of the litigants or participants personally and would be distraught to see him or her lose.

It is worth noting that disinterestedness is a trait that is normally applied to persons, as opposed to rules. And, generally, disinterestedness is regarded as a norm for moral deliberation about particular cases; it is required for the just

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application of rules. To return to my earlier example, judges are required to be disinterested in deciding how laws or other kinds of rules—standards of rightness given in advance—apply to particular cases or situations. While disinterestedness is sometimes seen as an ideal to be approximated by persons deliberating about how to apply standards of rightness, it is also implicated in the justification of such standards: rules or policies are deemed fair, in part, if they have been created by disinterested parties. Their being so created helps ensure that the policies are not designed to serve the particular interests of certain people to the detriment of others.[54] For instance, given the predominant class backgrounds and income levels of members of the U.S. Congress, it is not likely that provisions for cutting the capital gains tax are completely fair, as many of the legislators supporting such provisions will benefit materially from their enactment. Or consider the familiar "sexual double standard" which permits men more latitude in their sexual conduct than women. This norm is also unfair in the sense that it caters to the desires of a particular group, again, to the disadvantage of another.

Disinterestedness, then, can be either a point of view to be adopted by agents, such as Mrs. Jones, who are deliberating about how to apply rules in particular cases or it can be a standpoint that intentional beings, including hypothetical agents, such as the ideal observer or the parties to the original position, occupy as a means for insuring that standards of rightness will be fair. In other words, disinterestedness can be a component of a decision procedure, or it can be part of a method for justifying a standard of rightness. If partialists are arguing that disinterestedness is not always appropriate as part of a decision procedure, they are certainly correct. While it is important for agents of the state, for instance, to apply laws disinterestedly, it is not appropriate for Mrs. Jones, again to return to an earlier case, to apply moral rules disinterestedly in her circumstances. The reason for this is that in some circumstances, a person's particular interests are morally relevant and in some situations they are not. The particular interests of a judge applying criminal law are not morally relevant. The particular interests of Mrs. Jones in figuring out what to do about her husband's infidelity are morally relevant. What she wants or desires to do, or what she wants or desires to happen, is a morally relevant feature of the case. What, a judge, by contrast, wants to do or wants to happen in a criminal trial is morally irrelevant.

But, as I argued above, partialists are mistaken in claiming that impartial moral theories require that agents always resort to decision procedures characterized by disinterestedness. Impartial moral theories do, however, have disinterestedness built into their justifications for basic moral principles. (Hence Firth's attribution of disinterestedness to the ideal observer and Rawls' use of the "veil of ignorance".) The commitment to disinterestedness, in this context, as I explained above, insures that basic principles are not designed to favor the particular desires or preferences of certain persons or groups. If partialists are opposed to disinterestedness as a component of an argument justifying standards of rightness, then they are in fact challenging the prescription that such standards be fair. My guess is that partialists are not opposed to fair standards of rightness and that their

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concerns about the excesses of disinterestedness are confined to the demand that deliberating agents utilize disinterested decision procedures. But since impartial moral theories generally do not make this demand, such partialist criticisms have little force.

The third, and perhaps most prominent theme one finds in the "partiality debates"[55] involves equality. The conception of equality at stake is the ideal of the moral equality of persons considered as such. Its utilitarian formulation states that each person's interests should be given equal weight.[56] Its Kantian formulation states that each person has unconditional worth and therefore has the same moral standing as every other person.[57] It is sometimes expressed as the idea that each person is owed equal consideration or concern.[58] Like disinterestedness, the principle of equality can be incorporated into both justificatory arguments for basic principles and into guidelines for moral deliberation. And, like disinterestedness, the equality principle belongs in arguments justifying moral principles but does not necessarily belong in decision procedures.

To risk stating the obvious, there are compelling moral reasons for treating people unequally in certain contexts—for giving more consideration to certain people, for showing more concern for certain people, for regarding certain people's happiness as more important than the happiness of others. The commitment of impartial moral theories to the principle of equality does not preclude unequal treatment. It only requires that the principle of equality be included in arguments justifying basic principles. Impartialists insist that no basic principle is legitimate that appeals to the idea that some people, the king, for example, or some group of people, whites, for example, are inherently more important than others. Hence Rawls models the principle of equality in the original position by attributing to the parties a belief in their equal moral status. The principles of justice at which the parties arrive are justified, then, by a method that grounds them in the principle of equality. Likewise, Kant derives the categorical imperative from the premise that the humanity in persons gives each person unconditional worth and hence places persons on a footing of equality with one another. And, utilitarians, as I indicated above, derive the principle of utility from a precept stating that each person's happiness matters no more or no less than any other person's happiness. The principle of utility, the difference and equal liberty principles and the categorical imperative are all grounded in the equality principle. It certainly does not follow, however, from the demand that basic principles be justified by appeal to the equality principle that the principles themselves demand equal treatment in all cases or that agents apply the principles in a way that guarantees equal treatment in all cases.

If partialists are arguing that equal treatment is not always appropriate, then they are obviously correct. If they are making the stronger claim that the principle of equality should not be a component of arguments justifying standards of rightness then they are in fact making a radical critique of modern ethical theory. My guess is that partialists are not opposed to the equality of persons and that their concerns about the excesses of equality are confined to the demand that agents

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deliberating about particular cases endeavor to treat or regard all people equally in each case. But since impartial moral theories do not typically make this demand, these partialist criticisms, like the partialist worries about disinterestedness, have little force.

Even more reason exists to question the suggestion that we give up the ideal of the impartial standpoint when we see the relationship between disinterestedness and equality.[59] Consider again the examples of the capital gains tax and the sexual double standard. Earlier I maintained that cutting the capital gains tax and preserving the sexual double standard are not fair policies because they were not created by disinterested parties, but instead by parties that serve to benefit from those policies to the disadvantage of certain others. But notice that these policies can also be criticized on another ground. Because they are designed to favor the needs or desires of a certain group, they neglect to recognize the moral equality of persons. Being wealthy or being male is not, all things considered, a legitimate reason for being exempted from certain burdens or being allotted certain privileges. Rules, then, that violate the disinterestedness component of impartiality also violate the equality component.[60] At the level of justifying basic moral rules, the disinterestedness requirement and the equality requirement amount to the same thing. Hence a rule that embodies disinterestedness is one that regards persons as having the same fundamental moral status.

Perhaps some theorists' readiness to reject impartiality stems, in part, from a failure to recognize the relation between absence of bias and the equality principle. Partialists rightly observe that disinterestedness is inappropriate in many contexts, but fail to see that abandoning the norm of disinterestedness, as a component of justificatory arguments for moral rules, is tantamount to abandoning the commitment to the moral equality of persons. It follows that if partialists endorse giving up impartiality *at all* at the level of justification (which I claimed they probably do not) they are opposing the ideal that underlies virtually all mainstream modern moral theories, namely the equality of persons.

Summary

I have argued that once the role of the impartial point of view in ideal observer, hypothetical contract and Kantian ethical theories is properly understood, the criticisms raised by partialists pose very little threat. The inclusion of impartiality in justificatory arguments for criteria of rightness is not incompatible with the practice of partiality in our decision procedures. Basic principles derived in conformity with the ideals of consistency, disinterestedness and equality will often allow (and perhaps even oblige) agents, in certain contexts, to favor those close them or to allow their particular interests to enter into their moral deliberations. The principles, themselves, however, should not be designed, I claimed, to favor particular persons or groups nor should they neglect to recognize the equal moral standing shared by all persons. To truly oppose impartiality, then, partialists must show that unless we abandon impartiality at the level of justification we cannot

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arrive at an ethical theory that allows for the kind of partialism that is, *ex hypothesi*, desirable in the content and application of specific moral standards.

I also argued that, while it is indeed impossible for actual humans to occupy a completely impartial standpoint, impartialist moral theories, by and large do not require us to, although some theories do ask us to imagine how someone who could occupy such a standpoint might reason. If we grant that impartiality has a place in arguments justifying moral principles, as I hope my discussion above has established, then we have no better option than to try to imagine in this way. To claim that the difficulties posed by the counter-factual nature of this project are sufficient to render the project futile, or its conclusions unjustified, is to maintain that a great deal of philosophical and other reasoning is suspect and its conclusions unjustified. This is a consequence I doubt partialists are willing to accept.

Notes

1. Bernard Williams (1973: 116).
2. John Kekes (1981: 300). See also Peter Railton (1984).
3. The term was coined by Williams (1973). He associates the condition with a lack of integrity. See also, Michael Stocker (1976), Railton (1984) and Adrian Piper (1987).
4. John Cottingham (1983: 83).
5. Marilyn Friedman (1993: 24–25).
6. Henry Sidgwick (1893: 413) and J.S. Mill (1979: 17) both reject the view that utilitarianism rules out motives other than impartial benevolence.
7. David O. Brink (1986) and Railton (1984). See also, R. Eugene Bales (1971).
8. Bales (1971: 257); Brink (1986: 421) and Will Kymlicka (1990: 29).
9. Brink (1986: 425); Mackie (1984: 91–92).
10. Hare (1981: 129).
11. Brink (1986: 424).
12. For an interpretation of utilitarianism as a theory of equality see Kymlicka (1990: 30–35).
13. Also see Sidgwick (1893: 420–21); Hare (1989: 215); Hare (1963: 123) and Brink (1986: 430). The derivation of a maximizing principle from a commitment to the equal worth of individuals' interests is open to objection. I shall not consider its validity in this paper.
14. Brink is an exception. See Brink (1986) and Brink (1989: 88–89).
15. For example, Madison Powers (1993).
16. As this discussion suggests, the act-rule distinction within utilitarianism is not equivalent to the direct-indirect distinction. For discussion of this topic, see Brink (1986: 426 n.23) and Kymlicka (1990: 27–30). See also, Williams (1973: 118–135).
17. The reason I hedge here is because the decision procedure-standard of rightness distinction in utilitarianism is sometimes thought to entail a kind of indirect or self-effacing character which is judged by some to be deeply problematic, both morally and psychologically. (The term "self-effacing" is from Parfit (1984: 23–24).) See, for example, Williams (1985: 107–12). My application of the distinction to deontological ethical theory does not bring with it the indirectness that may result in the case of utilitarianism. It is, in that respect, unlike the distinction as it expresses itself in utilitarianism.
18. For a different argument that the decision procedure-standard of rightness distinction is relevant to deontological ethics, see T.M. Reed and Alison Leigh Brown (1984: 230–31).
19. For a recent attempt to defend social contract theories against partialist criticisms, see Powers (1993).

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20. Kekes (1981: 300).

21. Firth (1982: 337). These remarks represent an attempt to make concrete Firth's abstract definition of a particular interest. The requirement that one ignore one's *particular* interests is not equivalent to the claim that one ignore *all* of one's interests and so is compatible with the requirement that agents assign no more or less weight to their (morally relevant) interests than they do to the (morally relevant) interests of others.

22. Ibid., 318.

23. Ibid.

24. This is not to say that the kind of partiality that these principles would allow is uncontroversial. See Friedman (1993: 13–14). For a defense of this kind of partiality see Lawrence Blum (1980: 46–57). For a view that seems to reject this sort of partiality see Paul Taylor (1978).

25. Firth is fully aware that his account of the ideal observer should not beg substantive moral questions concerning the permissibility of partiality or favoritism in our treatment of others. Firth (1952: 336–337).

26. A similar (mis)interpretation of Firth's view can be found in Margaret Urban Walker (1991).

27. Friedman (1993: 15–18).

28. Ibid., 20, 24. See also Margarita Levin (1978).

29. See John Rawls (1971) and Rawls (1980).

30. See Rawls (1980: 565–569) for a discussion of the sense in which the principles of justice adopted by the parties in the original position can be said to be true.

31. Also quoted in Brian Barry (1989: 267). The relevant passages in Rawls (1971) are sections 24, 25 and 40. For discussion of these passages see Levin (1978). There are undeniably places in Rawls (1971) (i.e., 138–39) where he seems to hold that individual agents are fully capable of taking up the perspective of the parties in the original position (though, importantly, he never claims that individuals should attempt to do so). The context in which these passages occur, however, makes it fairly clear that this is not his view. Moreover, other passages in this same work strongly suggest that this is not his view (i.e., 147 and 255–56).

32. I will discuss this difference further subsequently.

33. Despite its title, Rawls's essay, "Outline of a Decision Procedure for Ethics," describes a method for justifying moral principles and not necessarily a decision procedure for agents to use in moral deliberation. He states at the outset, "...the objectivity or subjectivity of moral knowledge turns not on the question whether ideal value entities exist or whether moral judgments are caused by emotions or whether there is a variety of moral codes the world over, but simply on the question: *does there exist a reasonable method for validating or invalidating given or proposed moral rules* and those decisions made on the basis of them?" (Rawls [1951: 177, my emph.]).

34. It is common to interpret the second formulation of the categorical imperative, the formula of the end in itself, as a principle of respect for persons. While this interpretation is not univocally supported by Kant's writings, I will assume for the sake of this argument that it is correct. See Immanuel Kant (1964) and Kant (1991). See also John Atwell (1982); Charles Landesman (1982) and Carl Cranor (1980).

35. For a discussion of the connection between impartiality and the principle of respect for persons, see Taylor (1978: 48–52). For a defense of the impartiality of Kantian ethics see Barbara Herman (1991).

36. Robin Dillon (1992: 116–17). See also Williams (1981). It has been noted that there are many types of respect. See Stephen Darwall (1977) and Stephen Hudson (1980). The kind of respect required by the categorical imperative, as we have seen, is the kind that is owed to all persons on the ground that they are rational agents. Darwall calls this "recognition respect." It is this kind of respect that is said to be too impartial. Another kind of respect, which Darwall calls "appraisal respect", is, like esteem or admiration, owed only to those who deserve it because of some accomplishment or trait. Naturally this kind of respect dictates that people pay attention to the particular characteristics of individuals. The accusation that the principle of respect for persons is too impartial, then, applies only to recognition respect; no principle exists requiring us to have appraisal respect for all persons.

37. See Kant (1964) and Kant (1991).

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38. Bruce Landesman has pointed out to me that this is strongly suggested by Kant's remarks concerning our imperfect duty to help others. Kant maintains that is not sufficient to refrain from interfering with another's pursuit of his ends; in order to comply fully with the categorical imperative, one must endeavor, whenever possible, to promote the ends of others. Kant (1964: 430).

39. In what follows I am not attempting to explicate Kant directly but rather trying fill out the Kantian view in a way that is reasonable and in conformity with its spirit.

40. For a discussion of the importance of moral perception in moral judgment see Blum (1991).

41. For an argument that partialists tend to confuse different "levels" of moral reasoning see Marcia Baron (1991). See also, Thomas E. Hill, Jr. (1991).

42. These are the grounds on which impartiality in the epistemology of science—usually characterized as objectivity—is rejected. See Louise Antony (1993: 208–09).

43. The duty of impartiality required of officials acting on behalf of the state notwithstanding. See Friedman (1993: 13) and Cottingham (1981: 96).

44. Friedman (1993: 26).

45. For critical discussion of indirect utilitarianism, especially Hare's account, see Williams (1985: 105–111).

46. Hare (1981: ch. 2).

47. Ibid., 44–52, 111.

48. Kant (1964: 433–35). See also Hill (1992[b]) and Hill (1992[a]).

49. Friedman's term for the parties in the original position. Friedman (1993: 16).

50. A point I argue for below.

51. Cottingham (1983: 84); Taylor (1978: 37); Hare (1963: 118).

52. Cottingham (1983: 84).

53. Taylor calls this component "substantive impartiality" perhaps to distinguish it from consistency. Taylor (1978: 37, 47).

54. Thanks to Peggy Battin for help in formulating this point. Notice that the disinterestedness requirement blocks some principles allowed by the consistency requirement. For instance, the consistency criterion, but not the disinterestedness criterion, is compatible with a principle stating, "Whenever possible, one ought to choose whichever course of action best fulfills their present desires."

55. This is Friedman's term for the dispute about impartiality in ethics. Friedman (1993: 62).

56. Sidgwick (1893: 421); Hare (1984: 107); Cottingham (1983: 86–87).

57. Kant (1964: 428) and Kant (1991: 434–35).

58. Taylor (1978: 48); Mackie (1984: 86) and Kymlicka (1990: 4).

59. For discussion of this topic, see Walker (1991: 758 n.2). Walker describes her view as an "adequate consideration" conception of impartiality which she says is broader than the "equal treatment conception" that concerns many writers. Her account suggests that she regards impartiality as absence of bias. Friedman (1993: 36 n.4) claims that there is no significant difference between the absence of bias conception of impartiality and the equal treatment conception except where animal rights and environmental ethics is concerned. My own view is that these two conceptions are equivalent as aspects of justificatory arguments for standards of rightness, but may diverge as aspects of decision procedures. For instance, in the name of disinterestedness, I may read my students' papers anonymously. This effort contributes, however, not to my treating them as equals, but to judging their papers on their merits.

60. This point is suggested by Dworkin (1989: 50). The connection between equality and disinterested procedures designed for selecting standards of rightness is also discussed in Barry (1989: 265–67).

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