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## Thinking Big, Thinking Small: Smilansky's Paradoxes

Saul Smilansky's *Ten Moral Paradoxes* collects, in amended form, a number of his earlier papers, and offers some additional reflections on these problems as a whole.<sup>1</sup>

On initial inspection, the problems appear highly heterogeneous, but Smilansky devotes the concluding chapters to emphasizing what they have in common, and on how that might matter to the future of moral philosophy.

In the opening sections, Smilansky endorses Mark Sainsbury's definition of a paradox as "an apparently unacceptable conclusion derived by apparently acceptable reasoning from apparently acceptable premises."<sup>2</sup> But he adverts, as a supplementation to Quine's well-known division of paradoxes into veridical paradoxes (where seemingly absurd conclusions are shown to be true), falsidical paradoxes (which are dissolved through the rejection of a premise), and paradoxes of antinomy (which generate contradictory conclusions from two different sets of premises, both of which seem unimpeachable), to another sort of paradox which he describes as 'existential'. In existential paradoxes, "the paradoxicality is real" (p. 4), due to the fact that the conclusion of the paradox describes a 'moral reality' which is in itself absurd or faulty. I shall have a little more to say about existential moral paradoxes in the closing section of this essay.

Some of Smilansky's ten paradoxes divide into a number of loose coalitions. I shall treat those paradoxes together. Other paradoxes stand at some distance from the remaining field, and I shall devote separate sections to them. Substantive discussion of the different paradoxes, which unfold in

<sup>1</sup> Saul Smilansky, *Ten Moral Paradoxes* (Oxford: Blackwell, 2007). Parenthetical page and chapter numbers will be to this book.

<sup>2</sup> See R. M. Sainsbury, *Paradoxes*, 2nd ed. (Cambridge: Cambridge University Press, 1996), p. 1; quoted at p. 4.

no particular order, will occupy sections I to IV.<sup>3</sup> Some concluding reflections are offered in section V.

### *I. The Paradox of Blackmail*

I start with the Paradox of Blackmail (chapter 4), which comes in both a conceptual form and a substantive form. The Conceptual Paradox of Blackmail asks how blackmail can be wrong, given the apparent fact that the principal ingredients of blackmail are morally innocuous. Carefully separating blackmail from extortion and defamation (p. 43), Smilansky characterizes ‘ordinary’ blackmail as involving a threat from Q to do something which Z will find unwelcome unless Z rewards Q in some way. To take a standard example, imagine that Q will reveal Z’s infidelity to Z’s spouse, R, unless Z pays Q not to. It is legally as well as morally permissible both for Q to tell R about Z’s infidelity, and for Q to ask Z for money. But these are simply the substantial elements, or working parts, of blackmail. Presumably, then, something about their *combination* must explain why blackmail is wrong. But what could that something be? What explains the moral toxicity of their combination?

In what strikes me as a promising approach, Michael Clark has argued that it is the element of threat mediating these innocuous acts which injects the moral badness: specifically, it is the fact that Q’s request to Z for money is *backed up* by a threat (p. 44).<sup>4</sup> Smilansky’s reply is revealing: “If one may threaten to do what one is (otherwise) allowed to do, offering *not* to so act in return for monetary compensation does not seem capable of bringing forth the sense of radical and novel heinousness that blackmail arouses” (pp. 44–45). But that does not follow, because the execution of Q’s threat to do what would otherwise be permissible for him to do – to reveal Z’s infidelity to R – is now being tied to a certain *condition*, concerning the prospect of Q’s private gain. The rigidity of that condition, together with its distinctive timbre, helps to shed light on what is wrong with blackmail. If

<sup>3</sup> For reasons of space, I am omitting discussion of chapter 2, the paradox of beneficial retirement; and also of the paradoxes of punishment discussed in chapters 3 and 5, respectively, in which Smilansky points to some powerful tensions between the different sources of our thinking about punishment: between deterrence-based considerations and desert-based considerations, in particular.

<sup>4</sup> See Michael Clark, “There Is No Paradox of Blackmail,” *Analysis* 54 (1994): 54–61.

Q reveals Z's infidelity to R, that is not because R is entitled to have correct beliefs about the state of her marriage, but because Z has failed to pay Q not to do so. If Q withholds that information, it is not out of any regard for Z's privacy, or out of conviction that the state of Z's and R's marriage is none of Q's business, but because Z has paid him not to. Whatever he does, then, Q is guilty of exploiting other people's misfortune or vulnerability in a self-seeking way, and those morally relevant facts about the transaction between Q and Z are certainly supplementary to the innocuous ingredients which Q uses to fashion his scheme.

Smilansky seems reluctant to tie any analysis of the wrongness of blackmail to Q's motives or goals – though he does, slightly half-heartedly, advert in passing to the unexplored resources of “rights-oriented, contractual, and virtue-based ethics” (p. 48) – and on whether those motives and goals are self-serving. If we allow this information to supplement a sober recital of the ingredients of blackmail, I think we shall have the makings of a satisfactory account of why we think blackmail is morally repugnant.

The Substantive Paradox of Blackmail raises a puzzle over the difference between the threats used in exercises of ordinary blackmail and the threats used in what Smilansky refers to as the “Other Social Practices” (p. 45), such as unionized labour and political lobbying. We tend not to think that these Other Social Practices are reprehensible as such (although they may of course contain individual abuses), and many of us think they are perfectly justifiable. So what is the moral difference between blackmail and these Other Social Practices? Smilansky settles for the “deflationary” conclusion, “itself . . . paradoxical,” that ordinary blackmail has no unique bad-making features, but simply an absence of good-making features to be placed alongside the bad-making, threat-featuring features – or, as Smilansky puts it, “there is nothing good about [blackmail] to overcome the badness” (p. 48).

Even by Smilansky's own lights, I do not think this conclusion is as ‘deflationary’ or as paradoxical as he pretends. After all, it gives us the materials for explaining why ordinary blackmail is *bad*: blackmail has bad-making features, and no offsetting good-making features. And it even gives us the materials for explaining why blackmail is *distinctly* bad: *unlike* the Other Social Practices, it is *completely lacking* in good-making features which might serve to mitigate the bad-making features.

But what are those good-making features? In the Other Social Practices, the weapon of threat (of withdrawal of labour, say) serves to equalize power

relations, and either allows the weaker side to avoid being dominated or exploited by the other side, or else allows both sides to avoid being dominated or exploited by the other. Nothing similar can be said on behalf of blackmail, which opportunistically exploits private need, misfortune, misery, or vulnerability for private gain. I doubt, in fact, whether Smilansky fails to see any of this. In the apologetic conclusion, in which he professes to ongoing puzzlement about the issue, blackmail is described in passing as “coercive, hurtful, demeaning, exploitative, parasitical, and invasive” (p. 49). If there is any residual puzzle here, it probably concerns Smilansky’s unwillingness to accept that those features, suitably regimented, can provide a fully satisfying explanation of why blackmail is wrong.

*II. The Paradoxes of Fortunate Misfortune, Not Being Sorry about the Morally Bad, and Preferring Not to Have Been Born*

I shall now turn to the trio of related paradoxes discussed in chapter 1, chapter 6, and chapter 10, respectively: these are the Paradox of Fortunate Misfortune, the Paradox of Not Being Sorry, and the Paradox of Preferring Not to Have Been Born.

In outlining the Paradox of Fortunate Misfortune, Smilansky draws on the cases of Abigail, who overcomes severe physical handicap in order to build a prominent international swimming career, and Abraham, who overcomes early social deprivation and poverty in order to build a highly successful business career. Smilansky’s question is whether, at the end of the day, when their contributions to later successes are fully taken into account, these early hardships deserve to be counted as misfortunes. Smilansky routinely describes Abigail’s and Abraham’s early lives in terms of “hardship,” and fully acknowledges the “suffering, humiliation, and fear” (p. 20) they experienced as children. So what can the problem be in describing these early hardships as misfortunes for Abigail and Abraham?

It all depends on the connections Smilansky envisages between the earlier hardships and the later successes. The relevant connections are described, variously, in the following terms: the early hardships are “inherently connected” (p. 13) to the later successes; the earlier misfortune and the later good fortune “are non-accidentally part of the same life history” (p. 14); “the later success is not incidental to the earlier hardship: it is dependent on it” (p. 17); furthermore, that Abigail and Abraham have been “formed” (p. 14) by

their earlier misfortunes; and, finally, that the earlier misfortunes serve as a “launching pad” (p. 114) for the subsequent successes.

Importantly, the type of connection Smilansky has in mind goes beyond that in which “the causality [is] accidental” (p. 13). A merely accidental causality is supposedly manifested in the case where someone is admitted to hospital with a broken leg, and is treated by a doctor whom he goes on to fall in love with and marry. The hospital case is described as a “blessing in disguise” (p. 13), rather than in terms of fortunate misfortune, and not just because of the comparatively minor misfortune involved (assuming the leg sets properly), but for reasons which are disclosed in the following passage (p. 14):

In the cases of Abraham and Abigail, the good fortune – given the prior misfortune – is *not* accidental; whereas in the hospital case the good fortune *is* accidental, even given the prior misfortune. In the cases of Abigail and Abraham we have *one* intervention of fortune, which is seemingly both bad and good; in the hospital case, by contrast, we have *two* interventions of fortune, one bad (breaking a leg), and one good (meeting the doctor).

Despite all these attempts to pin them down, I find the character of the connections which are supposed to be operating in the Abigail and Abraham cases highly elusive. One reason for holding that the patient’s good fortune in meeting the doctor is ‘accidental’ is that he might have met her in a different setting – in a bar, say, or at a dinner party. But that is true of Abigail and Abraham as well: they might have achieved their successes by a different route, in which their early lives were more comfortable. Sometimes Smilansky seems persuaded by the claims that Abigail’s aptitude for swimming and Abraham’s entrepreneurial success were *in fact* caused by their earlier hardships. But that also fails to take us beyond anything contained in the hospital case: the patient meets the doctor because, *in fact*, he has been admitted to hospital with a broken leg. So I am uncertain what the connections are supposed to be.

In my view, Smilansky supplies the correct answer to this problem, and the correct reasoning for it, when he asks: “Is the misfortune’s status as a misfortune not secured by the fact that even if it were compensated for, there was so much that needed compensation?” (p. 18). Yet that is not the conclusion he finally draws; he discloses more sympathy for the contrary view that these early hardships were not, in fact, misfortunes. I think this is a mistake, or at least under-argued.

The Paradox of Not Being Sorry is recognizably related to the Paradox of Fortunate Misfortune, and concerns our non-sorrow – or, more accurately, our entitlement not to experience sorrow – at events whose occurrence would nonetheless be condemned by morality. We may be sorry *for* the people affected by those events, but we are not required to be sorry *that* the events occurred (p. 60).

The Paradox of Not Being Sorry applies to rather different kinds of case. One class of cases Smilansky discusses are *identity-affecting cases*. Many past events are identity-affecting; had things unfolded even slightly differently, we would never have lived, given the delicate zygotic conditions which have to be in place for each of us to come into existence.<sup>5</sup> Quite often, we would not have come into existence had it not been for the death or misfortune of others. Smilansky gives the personal example of the death, whilst still an infant, of his older sister: without this calamity, it is extremely improbable that he would ever have been conceived. Since he is not sorry to be alive, he is not sorry *that* this painful event occurred, though he may be sorry *for* his dead sister and his bereaved parents.

Another class of cases, in which the requirement to feel sorrow is relaxed still further, involves misfortunes suffered by the morally unsavoury. I shall refer to these as *immorality cases*. Think of a traffic accident in which several prominent and virulent racists are killed. Are members of, say, the racial groups targeted by those racists required to feel sorrow about their demise? In such cases, Smilansky thinks that they are required neither to feel ‘sorrow for’, nor ‘sorrow that’. The identity-affecting cases and immorality cases would therefore seem to call for rather different types of response.

The Paradox of Not Being Sorry is described, in one formulation of it, as the “apparent fact that morality approves one’s being happy over something bad that it would not allow one to do” (p. 66). Put like that, it is perhaps not so difficult to discern a satisfactory answer to the paradox in the identity-affecting cases. Arguably, it should not be a source of profound concern that there is room for morality to tolerate feelings of non-sorrow concerning events which, necessarily, one has absolutely no power to influence. One enjoys no retrospective influence over the obtaining of identity-affecting facts, since they all unfolded prior to one’s conception. There is, therefore,

<sup>5</sup> For more on this, see Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1984), ch. 16.

no possibility in these particular cases that lack of affect be combined with lack of action. So what, really, is the big deal?

Another type of response to the identity-affecting cases may be available, given the quirky features encountered in this domain. Imagine we are glad to be alive, and think we have been benefited by being brought into existence. (We should avoid saying we are better off than we would otherwise be for having been brought into existence, but that is still consistent with thinking that existence benefits us.)<sup>6</sup> Though we may be glad that we were brought into existence, we are bound to agree, upon suitable reflection, that our parents were under no obligation to bring *us*, in particular, into existence. (Even if we think that the reproductively able are under an obligation, or at least have strong moral reasons, to bring happy new people into existence, we do not think that they had any reasons to have brought the *happy people who actually exist* into existence. Other happy people might have existed instead, given minor and morally innocuous differences in coital circumstances.) I suggest, tentatively, that if the presence of 'glad that' identity-affecting feelings does not link up to anything of a moral character – if those feelings cannot expect to enjoy any link to moral commendation – then perhaps the absence of 'sorry that' identity-affecting feelings may also be relieved of any connection to dubious moral judgments.

That leaves us with the immorality cases, in which the absence of 'sorry for' feelings is allowed to accompany the absence of 'sorry that' feelings. Some progress on this puzzle will be made if we make suitable allowance for the fact that feelings of sorrow, or regret, are going to be perspectival, or partial (pp. 65–66). Add to that the fact that we cannot expect the weal and woe of every stranger to leave any sort of real imprint on our mental states – after all, millions of people have their lives ended, or completely ruined, every day – and we are surely bound to conclude that the psychological deposits left by moral sorrow were always, at best, going to be extremely faint. The difference between extremely little sorrow and no sorrow at all is not that important.

Yet there may still be a problem. If it is agreed that even virulent (though non-homicidal) racists do not deserve to die, then that verdict does appear to combine uneasily with feelings of happiness or gladness that they have died. 'Happy that' feelings, allowance for which is gestured at towards the end of

<sup>6</sup> See Parfit, appendix G.

this chapter (p. 66), go beyond the absence of ‘sorry that’ feelings, and seem more problematic. Perhaps, though, Smilansky did not have to extend the invitation from the absence of sorrow to happiness.

The Paradox of Preferring Not to Have Been Born offers a highly interesting discussion of Bernard Williams’s suggestion that, if someone believes that it would have been better for him never to have existed, that must mean that he judges his life not to have been worth living.<sup>7</sup> Smilansky disputes the legitimacy of this inference. One possibility, which Smilansky is not tempted by, might have been to embrace a complete disconnection between the two types of verdict. If your life has been wildly enjoyable or fulfilling, Smilansky doubts that it would be coherent for you to claim a preference for never having been born. That leaves us with cases of indeterminacy, where it is neither true nor false that, subjectively, one’s life has been worth living. In such cases, Smilansky speculates that it *would* be coherent to hold a preference for never having been born. I confess to being unsure about Smilansky’s argument at this point: why would indeterminacy in the ‘well-being’ verdict not be partnered with indeterminacy in the ‘preference for existence’ verdict? In any case, Smilansky offers further cases in which he thinks it would be coherent to express a preference for never having been born. The cases he considers tend to involve self-dislike, or self-disapproval. Relatedly, he mentions cases in which a preference for never having existed might express an intelligible preference for tidiness, or aesthetic shape. But this did not convince me: if one never comes into existence, there is simply nothing – there is no life – to shape, whether tidily or untidily. I also suspect that if we were consciously operating with a suitably enriched, life-long account of well-being, it would be more difficult than Smilansky supposes to divorce ‘preference for existence’ verdicts from ‘well-being’ verdicts. Still, this is fascinating material, and Smilansky may be on to something.

### *III. The Paradoxes of Moral Worth and Moral Complaint*

In this section I shall consider the Paradox of Moral Worth (chapter 8) and the Paradox of Moral Complaint (chapter 9).

The Paradox of Moral Worth is a secular retelling of issues which are often aired in the philosophy of religion – specifically, in theistic defences against

<sup>7</sup> See Williams, “Resenting One’s Own Existence,” in his *Making Sense of Humanity* (Cambridge: Cambridge University Press, 1995).



the problem of evil. Much of the good in our world basically takes the forms of responses to moral evil or natural misfortune – events and conditions which we would be better off without, and which, in an ideal world, we would be free from. I shall call these evils ‘first-order evils’. The goods which respond to first-order evils are reactive – without the evils to which they are responses, there would be no place for them. I shall thus call them ‘second-order goods’. We invest these second-order goods with a value which is difficult to reconcile with their essentially reactive character. Or at least we invest them with such a value on a *laudatory* view of morality, towards which Smilansky is sympathetic, as opposed to a *deprecatory* view of morality (pp. 78–80), such as may be found in Nietzsche’s writings. Smilansky puts the problem this way: “Moral worth is contingent on conditions that morality is obliged to try to eliminate” (p. 88). Smilansky is unsure how to resolve this paradox. Although second-order goods are a genuine source of moral worth, it does not follow that we think their value is wholly unconditional, in the sense that we would choose to retain a joint package of first-order-evils-plus-second-order-goods rather than the alternative package of no-first-order-evils-and-no-second-order-goods.

However, certain strands of the contemporary literature on the varieties of intrinsic value suggest that the conditions for ascribing final value, or value ‘for its own sake’, may be less stringent than has often been thought.<sup>8</sup> In particular, it may be possible to award final value, though not unconditional value, to the second-order goods. Smilansky remarks: “moral behaviour cannot be a self-justifying value, cannot exist for its own sake” (pp. 88–89). Perhaps the moral worth generated by the second-order goods cannot *exist* for its own sake, but that is compatible with our practice of *valuing* second-order goods for their own sake, for, *inter alia*, their manifestation of valuable human traits and their ability to generate human solidarity. In one particular sense, and contrary to the serene optimism to which Smilansky sometimes succumbs in this chapter, we know that our occupation of this niche is perfectly secure: in empirical fact, it is extremely unlikely to be disturbed at any point soon by the elimination of the first-order evils.

<sup>8</sup> For a rich discussion of the possibilities, see, for example, Shelly Kagan, “Rethinking Intrinsic Value,” *Journal of Ethics* 2 (1998): 277–97; for a sterner approach, see Ben Bradley, “Is Intrinsic Value Conditional?” *Philosophical Studies* 107 (2002): 23–44.

In the Paradox of Moral Complaint, Smilansky explores contrasting extensions to, or ‘interpretations of’ (p. 91), a ‘lawlike’ principle of universal prescriptivity, which he calls ‘*L*’ (p. 90). One of these interpretations is principle *U*, which contends that some moral standards are unconditional (p. 92). The rival interpretation is principle *N*, or the ‘non-contradiction condition for complaint’ (p. 91). According to principle *N*, individuals who profess to certain (shoddy) standards, and embody those standards in their behaviour towards others, cannot complain if they are at the receiving end of behaviour which embodies those same standards – think here of malicious gossips who complain about being the subject of gossip, violent criminals who complain about police brutality, and terrorists who complain about others’ killing of the innocent (p. 91).

Though each of these interpretations, *N* and *U*, is intelligibly related to principle *L*, there is an obvious tension between them. If *U* is correct, then shoddy individuals who embody incorrect moral standards in their own behaviour do not lose the protection of the correct standards when we deal with them, and these individuals will be entitled, along with the genuinely innocent or non-shoddy, to complain about any ill-treatment which befalls them. Yet if universal prescriptivity is to count for anything, then we might think there must be *some* way of registering the inconsistency between the standards embodied in the practical lives of shoddy agents and the standards they expect to be treated by, in a way which dampens their ability to complain. And the result, soberly recounted, of retaining *U* and abandoning *N* – “when [the agent] does wrong he is at fault, but when he complains he is in the right” (p. 95) – may seem, for that reason, disappointingly pallid.

For all that, I believe that retention of *U* and abandonment of *N* is the only way to go here. It does not follow that shoddy agents’ ability to complain would be unimpaired. Plausibly, one thing the morally shoddy lose the right to complain about, in pressing their complaints, is the right not to be complained about by the non-shoddy. It may be replied that they lacked this right in the first place, simply in virtue of their wretched behaviour and shoddy principles, but my point is that, in pressing their own complaints, the morally shoddy *invite* the morally non-shoddy to amplify their complaints against them by presenting the non-shoddy with the opportunity to expose the *inconsistency* between the moral standards which the shoddy expect to inform their treatment and the distinct standards which inform their behaviour. This gives the morally non-shoddy a critical stick with which to

beat the morally shoddy which goes beyond the complaint that the morally shoddy are failing to act on the correct substantive moral reasons.

The morally shoddy may also, of course, have *forfeited* certain rights they would otherwise have, in such a way that would make their punishment or detention morally acceptable. But the relevant details can only be worked out in non-ideal theory, and I do not think it reasonable to expect those details to be fully disclosed by reflection on *L* and on what immediately follows from it.

#### *IV. The Paradox of the Baseline*

The Paradox of the Baseline (chapter 7) emerges as a significant critique of *luck-egalitarianism* or, as it is sometimes known, and as Smilansky refers to it, of *choice-egalitarianism*. Choice-egalitarianism objects to the existence of inequalities between agents, in respect of a certain currency of goods,<sup>9</sup> if those inequalities were not the outcome of free choices made by those agents. Since Smilansky thinks the Paradox of the Baseline serves as an effective rebuttal of choice-egalitarianism, a question arises as to why he describes it as a paradox; perhaps it is because, notwithstanding the confidence he displays in his argument, he continues to feel a lingering loyalty to choice-egalitarianism.

The Paradox of the Baseline is, at bottom, a version of the 'slavery of the talented' worry which often punctuates this debate. The paradox is fairly easily generated. First, we need to attend to the *egalitarian baseline*: this is, roughly, the level of income deviation from which justification is required in terms of agents' free choices. For handy reference, I shall refer to this level of income as the *baseline income*. The egalitarian baseline can be set at different levels. (More on this below.) Next, Smilansky divides agents into 'Effectives' and 'Non-Effectives'. Non-Effectives are those agents whose efforts or choices lack any efficacy in a market economy: think of the very severely handicapped, for example. Everyone else belongs to the group of Effectives.

Wherever we set the egalitarian baseline, the Non-Effectives will be required not to fall below it. This is because their failure to attain the baseline

<sup>9</sup> I shall ignore the 'currency' complication from now on, and cast the discussion, as Smilansky does, squarely in terms of the distribution of income.

income cannot possibly be justified by their free choices. (*Ex hypothesi*, and in the relevant sense, the Non-Effectives cannot make any free choices.) Since, by contrast, Effectives *are* capable of making free choices, it will not be a matter of injustice if they fail to attain the baseline income. Those failures will be variously attributable to failed gambles or risks which it was the Effectives' prerogative to take.

But where do we set the egalitarian baseline? Smilansky thinks that it is plausible to identify the egalitarian baseline with what he calls the *Highest Potential Income*: this is the level of income which would be generated by whoever proves to be the most productive Effective, working to his or her maximal capacity. Following Smilansky, we shall call this particular Effective *Bill Gates*. The resulting state of affairs will be that the Non-Effectives are awarded the same baseline income as Bill Gates, and that Effectives will have to settle for less – in many cases, for much less. In effect, the Effectives must subsidize equality between Bill Gates and the Non-Effectives whilst foregoing any reasonable expectation that they will come to have the same degree of reward. This result strikes Smilansky as “absurd and morally repugnant” (p. 74).

Setting the Highest Potential Income at Bill Gates' level may seem, *inter alia*, simply unaffordable. As the egalitarian baseline seemed initially up for grabs, could it be set instead at a lower level which demanded less in the way of Effectives' subsidizing activity? Smilansky considers the possibility of a 'middle' egalitarian baseline (pp. 74–75), but quickly dismisses it: since, by their free choices, a number of Effectives would be able to achieve a better than middling baseline income (and the lower the baseline, the greater the number of Effectives for which this would be true), there would then be income discrepancies between them and Non-Effectives which would offend against the basic tenets of choice-egalitarianism. That is why the baseline income needs to be as high as possible.

The Paradox of the Baseline seems open, at first, to a challenge concerning *degrees of effectiveness* among the Effectives. Nearly every Effective is, in the relevant sense, *non-effective* in comparison to, specifically, Bill Gates: the point of selecting Gates as the baseline-setter, after all, rather than any other Effective, is because Gates' free choices generate a higher income than is generated by the free choices of any other Effective. Smilansky might dismiss this objection as unconvincing, since, after all, *every* Effective can make free choices, and since there was no antecedent guarantee that

Effectives' free choices would prove equally remunerative.<sup>10</sup> If this objection could be laid to rest, it seems to me that the Paradox of the Baseline would hold up pretty well as an ingenious and effective critique of pure choice-egalitarianism. But I suspect there is more to extract from the 'degrees of effectiveness' challenge, which puts pressure on both the Paradox of the Baseline and on choice-egalitarianism itself.

Consider two pairwise comparisons: between X and Y, where X is a Non-Effective and Y is an Effective; and between Y and Z, where both Y and Z are Effectives. In the first pairwise comparison, between X and Y, imagine that a 'middle' egalitarian baseline has been selected, in which the baseline income is M. As a Non-Effective, X is automatically awarded M. Imagine that Y earns M+, which exceeds M. For reasons which have already been made plain, choice-egalitarians will object to the discrepancy between X's and Y's income: the gap between M and M+ does not reflect any free choices that X makes, since X makes no free choices at all. That conclusion, moreover, is supposed to discredit all low-to-middling egalitarian baselines.

Next, consider the pairwise comparison between Y and Z, and imagine that Z earns M++, which exceeds M+. The outcome of this particular pairwise comparison is supposed to be free of difficulty, since both Y and Z are Effectives. But note that Y did not choose that Z earn more than he does: Z's ending up with M++, after all, was due to Z's free choices, and Y did not freely choose that Z make any free choices at all, let alone freely choose that Z's free choices prove more remunerative than Y's. In short, Z's attainment of M++ is explained squarely by Z's free choices, not Y's. Similarly, Y's attainment of M+ is explained squarely by Y's choices, not Z's. So neither Y nor Z has any degree of direct control over the size of the income gap between them; neither the existence nor the size of that gap has anything to do with the free choices either of them makes.

What follows from all this, if choice-egalitarians are to see to it that the income gap between Y and Z remains unchallenged, is that they must, in general, reject the idea that the permissibility of the income gap between any two agents has anything to do with the choices made by either agent,

<sup>10</sup> For a more detailed challenge of this kind, and Smilansky's reply to it, see Tal Manor, "Inequality: Mind the Gap! A Reply to Smilansky's Paradox of the Baseline," *Analysis* 65 (2005): 265–68, and Saul Smilansky, "Choice-Egalitarianism and the Paradox of the Baseline: A Reply to Manor," *Analysis* 65 (2005): 333–37.

including the agent on the losing side of the inequality. But if that is true, the first pairwise comparison, between X and Y, now stands in need of urgent review. True, Y earns more than X, and that inequality between them cannot be traced to any free choices X has made. But, as we have just established, that fact does not offend against a condition which is generally operative in *any* pairwise comparison between agents in the choice-egalitarian scheme. The Non-Effectives are distinctive, of course, because they cannot make any free choices. Obviously, Non-Effectives cannot be deleted from the scope of egalitarian concern; they must be awarded an income. But by now it is deeply unclear why the income they are awarded must match that of any particular Effective, and this puts pressure, I believe, on the very notion of an indispensable ‘egalitarian baseline’.

In conclusion, it is not clear to me that the distinction between Effectives and Non-Effectives has the precise significance Smilansky attributes to it. That cannot be good news for Smilansky. But my conclusion is not good news for choice-egalitarians either, as it puts some pressure on the following combination of commitments, normally cherished by choice-egalitarians: the relaxed attitude that they take towards certain sorts of inequalities, and their belief that an egalitarian baseline is truly indispensable.

#### V. *Why Paradoxes?*

Why moral *paradoxes*? Why not moral problems, or puzzles, or unwelcome or unpopular or surprising bits of moral news? In the light of his overall discussion, I think the plain truth may be this: a moral paradox, as Smilansky understands it, is simply a moral problem which either resists a definitive solution, or which, if solved, leaves a residue of dissatisfaction or disappointment. I do not think that much leverage is gained by speculating, as Smilansky is sometimes tempted to do, about the ‘absurd’ moral reality which these paradoxes uncover. Other, more sober, explanations seem preferable. First, these problems are simply very difficult. We should continue to work on them, rather than jumping to conclusions about the paradoxical or absurd nature of the ‘reality’ which investigation into them supposedly demonstrates. Secondly, and relatedly, there is a plurality of sources to our moral thinking; there are tensions on how those sources combine, and on what they deliver. Thirdly, there are often moral ‘remainders’: we cannot arrange our practical lives, and live by well-grounded moral principles,

which optimize the well-being or interests of everyone. Someone is always going to lose out; someone is always going to be disappointed.

In the closing chapters, Smilansky speculates excitedly about the prospect of a moral philosophy which awards a more prominent role to paradoxes. But I could not bring myself to share Smilansky's conviction that there would be any real gain from recalibrating the aims of moral philosophy – or, to put the point differently, I was unsure whether such recalibration would produce anything very different from what we have already. After all, moral philosophers do not shy away from knotty problems (though they do not always elect to call those problems 'paradoxes'), and analytical moral philosophy's present combination of detailed, eyes-down problem-crunching, and big-picture speculation, seems, overall, a pretty healthy one. It is never entirely comfortable to greet new suggestions for how to pursue philosophical problems by extolling the adequacy of present practice. To do so is to seem complacent or unexciting. Be that as it may, I do not think that Smilansky has really succeeded in unveiling a distinctive research programme. What is *actually* valuable in what he claims to value is, in effect, already contained in current practice.

Let me say, in conclusion, that this is an excellent, stimulating, and marvellously compact book: a book to read and reread, to think about, to learn from, and to disagree with. My remarks on it have been quite largely critical. But to end on a note which – not inappropriately – may also seem paradoxical, extensive disagreement can often be (and is here intended to be) the vehicle of admiration and praise.

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