

# Respect and the State

*First Draft: Do Not Quote Without Permission*

by

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1. Robert Nozick ends his book, *Anarchy, State, and Utopia* sounding a Kantian theme.

His short final paragraph goes like this:

The minimal state treats us as inviolate individuals, who may not be used in certain ways by others as means or tools or instruments or resources; it treats us as persons having individual rights with the dignity this constitutes. Treating us with respect by respecting our rights, it allows us, individually or with whom we choose, to choose our life and realize our ends and our conceptions of ourselves, insofar as we can, aided by the voluntary cooperation of other individuals possessing the same dignity. How *dare* any state do more. Or less.<sup>1</sup>

Here we see a fairly explicit appeal to the idea of respect, and to the closely related ideas of individuality, dignity, and rights. It is, I think, obvious to most of the readers of Nozick's book that the idea of respect is fundamental to its argument. This is no doubt why he ends with a restatement of the idea, as if it summarizes the book as a whole.

There is another aspect of his book that is, if anything, even more obvious. It is what, for lack of a better term, might be called the anti-state animus of the book. It is true that, as he suggests in the paragraph I just quoted, he does justify something that he calls a "minimal state," but it is not clear that this entity is a state at all. Not only does it not do most of the things that modern welfare-states do, it does not even collect taxes. Its revenues seem to be fees for services. It is not clear that the concept of citizenship applies to the people who pay for these services. Are they citizens or simply clients?

However we are inclined to answer such questions, it is clear that this is not a very state-friendly book. What I would like to suggest in what follows is that these two features of Nozick's book – that it is based on the idea of respect, and that it is not state-friendly – are closely connected. The idea of respect is itself not a very state-friendly idea.

Before I begin, I should probably make two brief comments. First, I will assume

throughout, as a way of finding a fixed starting point, that there is a “respect tradition” in moral philosophy, which, as I have already suggested, begins with Kant, more specifically with his idea of *Achtung* (sometimes translatable into English as “reverence”). In doing so I do not mean to suggest that this is the right approach to the topic, or that any other would be wrong.

Second, most of my paper will be an attempt to get a better grasp of what respect, in this tradition, is or should be thought to be. I will begin this attempt with the assumption that one can begin to understand what respect is by a look at its complete absence, by a brief visit, with your permission, to Hell on earth.

2. As many of us already know, the death camps of the Nazi *Endlösung* or Final Solution were typically associated with manufacturing facilities. Among the companies who were the largest “clients” of the concentration camps were Messerschmidt, Junkers, Heinkel, BMW, Daimler-Benz, Nobel, Rheinmetall, Siemens, AEG, Telefunken, and of course Krupp and I. G. Farben.<sup>2</sup> The notorious Auschwitz-Birkenau facility consisted of four units. Auschwitz I and Auschwitz II were, respectively, the original concentration camp with its hundreds of thousands of inmates, and the extermination facility at Birkenau. Auschwitz III and Auschwitz IV were industrial installations devoted to the production of a synthetic rubber called Buna, and synthetic fuel oil. Auschwitz IV, which included a concentration camp, complete with guard towers, machine guns, attack-trained dogs, and electrified barbed wire was planned, built, and administered by the chemical company I. G. Farbenindustrie itself.<sup>3</sup>

People arriving at the camps were sorted out immediately. Typically, the sick and the weak, the very young and the very old, and many of the women -- at least two of every three

prisoners -- were sent directly to the extermination facility.<sup>4</sup> What happened to the others at the I. G. Farben Auschwitz facilities reveals features of the workings of the Nazi system that I think we would do well to think about, unpleasant as that is. Joseph Borkin, in his important history of I. G. Farben, comments that I. G. officials objected to the way inmates were initially selected for execution by the SS, and managed to get it (from their point of view) corrected. The objections, and the correction, were however very far indeed from being humanitarian in nature.

It soon became apparent [he says] that the “selections” were being made without sufficient regard for the urgent demands of war production. Too many skilled and reasonably strong workers were being rushed to the ovens although months of useful labor were still in them. For example, during the early months of [the Auschwitz IV facility], those in charge of the construction of I. G. Auschwitz were promised a carefully chosen batch of workers culled from a shipment of over 5,000 Jews. However, when the transports were unloaded near the crematory ovens, the camp officials, ignoring the labor needs of I. G. Auschwitz but with punctilious devotion to the Final Solution, sent 4,092 of the 5,022 to the gas chambers. When objections were raised over such a high rate, the explanation offered was that the males were too frail and the females were mostly children, little girls incapable of construction work. Sometime later, when the transports were reported to contain a more choice supply of skilled Jewish workers, an SS official in charge of labor allocation suggested a possible means of avoiding overzealous application of the selection process. He recommended that the trains be unloaded near the I. G. works instead of the “usual place” near the crematory. The improvement was noticeable. On the next shipment of 4,087 Jews, only 2,398 were selected for extermination; this was a lower rate than before.

As I have said, these changes were not at all humanitarian in their intention or effect. Inmates who were not executed outright were compelled to work under a schedule that is difficult to conceive. At the same time, they were fed a diet that caused the inmates to lose an average of six and a half to nine pounds of body weight a week. Two doctors reporting at the *Nürnberg* trials commented on the effects of this diet as follows:

the normally nourished prisoner at Buna could make up the deficiency by his own body for a period of three months.... The prisoners were condemned to burn up their own body weight while working and, provided no infection set in, finally died of exhaustion.

More exactly, they either died of exhaustion or, when no longer able to work, were sent to the gas chambers of Birkenau.<sup>5</sup>

Borkin expressed the underlying idea with chilling precision when he said that they reduced slave labor to a consumable raw material, a human one from which the mineral of life was systematically extracted. When no usable energy remained, the living dross was shipped to the gassing chambers and cremation furnaces of the extermination center at Birkenau, where the SS recycled it into the German war economy – gold teeth for the Reichbank, hair for mattresses and fat for soap. Even the moans of the doomed became a work incentive, exhorting the remaining inmates to greater effort.<sup>6</sup>

According to this way of understanding it, the idea behind Auschwitz-Birkenau, its “theme” as Ortega y Gasset would put it, was breath-takingly simple. Within each one of us there is a certain quantity of *value*. The object here is to extract it completely and appropriate it all.

There are several features of this idea that contribute to making it as horrifying as it is. One is the utterly degraded conception of the value that resides in human beings. Your body is capable of consuming its own substance, not only fats but proteins as well, to make energy with which to dig holes and carry heavy objects. The fillings in your teeth can be used to make electrical circuits. Such in this view is your value.

But there is another feature of this idea that contains a deeper horror than this one. It lies in the fact that the approach to this value, the way it is gained is – *extractive*. That is, the gained by means of a *pure transfer*, by which I mean that one side gains and the other loses. Further, it is *initiated by the gainer* (as contrasted with a self-sacrificial gift, which is initiated by the loser). As a consequence of this, it is like all such transfers, carried out *by force* of one sort or another.

Of course, there are several, perhaps many, plausible explanations for the Holocaust. One such is that the Nazis had very definite plans for Europe, and they believed certain groups of people did not fit into this plan: the idea being that they were eliminating those groups who did

not fit into their plans.<sup>7</sup> Another is the pre-emptive self-defense explanation that is sometimes attributed to Heinrich Himmler: that if the Nazis were to fail to carry it out then the Jews would some day take revenge against them for measures the Nazis had already taken against *them*.<sup>8</sup> In addition, there is the idea that the Holocaust was a simple result of intergroup hatred.<sup>9</sup> I do not wish to suggest here that I have, or that Joseph Borkin for that matter has, the single correct explanation. I do, however, wish to suggest that the explanation I have I have just sketched is worth contemplating for my present purposes, in order to illustrate, by way of its complete absence, the idea of respect. For simplicity, from now on, I will use the phrase “the Auschwitz phenomenon” to refer to Auschwitz, or the Holocaust itself, understood in accordance with the explanation I have suggested here.

Before proceeding any further, I would like to point out something. It may or may not be important, depending on one’s theoretical position. It is this: there is an obvious connection between the two parts of the phenomenon I have described. One part is the degraded conception of the value of the human beings involved. The other is that the approach to this value is extractive. There is a rather obvious causal connection between them, in which the former is a consequence of the latter. To put the matter as simply as possible: you can coerce calories out of people, but you cannot in the same way coerce symphonies, poems, or scientific theories out of them. Through the centuries, slaves have for the most part been used to do the stupidest sorts of work. Thus, one of the first things to be said about slave-owners is that, as they seek to extract value from their fellow human beings, they do not aim very high. The value that they seek is of a very low and limited sort.

Borkin remarks that the I. G. Farben enterprise at Auschwitz was “a miserable failure,” a

failure, that is, in its *own* terms: “Despite the investment of almost 900 million Reichsmarks and thousands of lives, only a modest stream of fuel and not a single pound of Buna rubber was ever produced.”<sup>10</sup> It might be argued that this is merely a particular instance of a more general truth: in the long run, the extractive approach to value tends not to work very well, even if judged by its own sordid purposes.

3. This last point is closely related to a much more general one, which can be stated like this. Such forced, pure transfers always represent a net loss of value. Stolen property is virtually always “fenced” – sold to a criminal middle-man – for much less money than the lowest price that the legitimate owner would have been willing to sell it for. Thus the value it has for the thief is less than the value it had for the original owner. This difference, the interval between what the thing was worth to the thief and what it was worth to the legitimate owner, is the “social cost” of theft. From a utilitarian point of view this is of course very important. This idea has an obvious application to the Auschwitz industrial plants. Even if they had not been a miserable failure in their own terms, even if they had been a brilliant success, the value gained by I. G. Farben and the German state would have been, beyond all possibility of comparison, less than what the victims lost. A utilitarian account of the moral evil of Auschwitz would be based on such considerations as these.

However, the idea of “respect,” whether in Nozick or in Kant, has its home in a very different tradition from the utilitarian standard, and represents a radically different way of understanding the nature of moral evil. Indeed, we can see just how different it is by applying it to the phenomenon of Auschwitz as I have conceptualized it here. We can also see, I think, that

it has a vastly greater power to reveal the depths of moral enormity.

For ultimately, the utilitarian account of what makes Auschwitz, so understood, so evil is the fact that it represents a *net loss of value*, like the net loss from theft, only greater. Surely something is lacking, horribly lacking, in such an explanation. Moral evil is not *willed inefficiency*. Even if the Nazi/I. G. Farben experiment of Auschwitz had been an success in its own terms, even if, *per impossibile*, there had (by some rational measure) been a net *gain* in value, it would still have been evil. Indeed, isn't there something horrifying in the very thought of such a "gain" in value?

Something, as I say, is missing from the utilitarian explanation. The fact that pure transfers of value that are initiated by the gainer tend to be net losses is *part* of the reason why they should as a rule be avoided, but surely it is far from the whole story. What exactly is missing, however? Given that the utilitarian explanation is an explanation in terms of net value, there are only two directions in which one might look for the needed supplement. One might seek an explanation in terms of something *other than value*. On the other hand, one might understandably wish to explain it in terms of value, but in a way that avoids explaining it in terms of *net* value. As I understand them, the Kantian ideas that form the foundation of the respect tradition consist in taking both of these strategies at once. As odd as this might sound at first, it seems to me that, in one way or another, that is just what one *must* do.

The first route to passing beyond the resources of utilitarianism in explaining the sort of moral evil I have described involves using an ethical category the relevance of which is perhaps overwhelmingly obvious: namely, deontic rules. For present purposes, I will define deontic rules, negatively, as rules that call for us to follow them even if they are not enforced (ie., to

some extent independently of any existing enforcement mechanism) and *not simply* as a means of achieving some further result. Such rules constitute side-constraints on our behavior. They are of course a distinctive feature of Kant's system, but they can hardly be called an invention of his. Extreme utilitarians may complain that this sort of rule is irrational, but as near as we can determine, *all* human cultures have them.<sup>11</sup> They enable us, if we subscribe to them, to say that a social experiment like Auschwitz would be wrong, even if it were a "success," in the sense of producing something of value.

But to say that it was wrong understates the case. It was not merely wrong, but *evil*. To show that something is evil, it seems, we must say something about, not merely right and wrong, but good and bad. This would seem to mean that talk about deontic norms is not enough. It must be supplemented by speaking of value, the value that the evil act destroys.

There is an additional reason why deontic norms seem to require ideas that deal with value. Moral constraints require us to pass up many opportunities to reap benefits at the expense of others. What is the *point* of these seeming sacrifices? Why are they worth it? To show the point of something, or why it is worth the trouble, seems to require that we justify it by showing that it produces value. Once again, this seems to mean that talk of deontic rules must be supplemented, somehow and however covertly, by assumptions about value. But how can one bring value into the picture without falling into the black hole of thinking in terms of net value?

On this point I think Kant's approach is worth considering. He held that human beings (or, more exactly, the human will as author of the moral law) has a sort of value that other things do not have, a dignity "above all the mere things of nature."<sup>12</sup> He contrasts this "dignity of man"<sup>13</sup> with *price*. If something has a price, he says, "something else can be put in its place as an

*equivalent.*”<sup>14</sup> What I think he meant by this is that “price” is a sort of value that *can be stated as* an equivalence between the thing has it and some other thing.

This might at first strike one as an odd assertion. Isn’t dignity, the other sort of value, something that human beings have equally, so that they are equivalent in this respect. (Notice that the title of this conference is “Equal Respect’!) I think what Kant is saying here is intelligible if we suppose that his primary concern is not with the question of whether two quantities of value are equal or not equal, but rather with the question of what assertions about value can contribute to justifying certain actions. Suppose that I am writing a novel. It occurs to me that two subplots I have written are in some way inconsistent with each other. Apart from this inconsistency, both are good. However, of them one has to be thrown out. It is quite possible for me to think that each is as good as the other in terms of the contribution it makes to the work or, for similar sorts of reasons, that one is better than the other. If one is better than the other, that would justify keeping it and getting rid of the other one. Kant’s point is that human beings have a sort of value that does not constitute a contribution they make to a greater whole. It is a sort of value that does not support this sort of additive thinking. Suppose that for some reason the death of one of the victims of Auschwitz caused someone else to be born, someone who was just as good as they are, and (for some mysterious reason) would not have been born if it had not been for the victim’s murder. In that case, the additive approach would seem to imply that on the whole no harm was done, that nothing was lost. Of course, this would be the *wrong* approach. As far as the value of the life that was destroyed is concerned, its destruction was not canceled by the addition of another good, it was simply lost.

As I have suggested, the idea of dignity supports the idea of deontic constraints by

providing a motivation for them: the constraints we accept in our treatment of human beings is worth it. They are worth it, and they are worth it not because (that is, not just because) they produce value, but because these constraints are a way of respecting a value: namely, human dignity. Deontic norms are connected with value, not by way of producing it, but by way of respecting it. This is a way of connecting a moral idea with value that is sharply different from saying that it maximizes something.

The idea of dignity also supports the idea of deontic constraints in another way: not only by providing motivation, but also by giving it some content. When I first introduced the idea of deontic norms, I gave no hint as to what these norms require or forbid us to do: I only specified that if they are to hold out any hope of going beyond the clearly inadequate utilitarian way of understanding moral evil, they must apply deontically. The idea of dignity, however, clearly implies one thing that such norms must do. They must prohibit absolutely the sacrifice of any individual to produce greater net value. Since “net value” in such cases will have to mean the benefit of other individuals, this means that they must prohibit sacrificing one individual or group of individuals simply to benefit other individuals. That is, it implies at least something like Kant’s “Formula of the End in Itself”: “Act in such a way that you always treat humanity, whether in your own person or that of any other, never merely as a means, but always also as an end.”<sup>15</sup> The idea of dignity also helps to explain the fact, so peculiar from a utilitarian point of view, that moral norms do apply deontically. If we suppose that respecting human dignity, as I have characterized it here, is part of the point of having a system of ethical norms, then that means that part of their point is to block us from searching for reasons for doing injurious things that lie, merely, in the beneficial further results those injuries might have for others.

By now it is almost obvious how respect, together with other, closely related ideas, can carry us far beyond utilitarianism in understanding wherein the moral enormity of the Auschwitz phenomenon consists. It also clearly indicates an absolute difference between that phenomenon and more “normal” moral wrongs, such as theft. The thief who breaks into my house to steal my property treats me as a mere means to his ends, but he has not deliberately turned against the very idea of human dignity. He simply doesn’t care about it: he only wants my property. On the other hand, the Auschwitz phenomenon, as I have described in, is the ultimate extreme of using humans as a means, even to the point of point of literally breaking them down into raw materials to serve one’s own ends. Clearly, there is a difference here that is not merely a matter of degree. It is possible to discuss at length exactly what this difference is, but for our purposes I think it suffices merely to indicate that it has to do with the fact that the Auschwitz phenomenon represents a conscious choice to treat someone as a mere resource for the use of others, and that it also has to do with the thoroughness and the consistency of both the choice and the action based on it.

4. Obviously, the idea of dignity, and respect for dignity, as I have sketched them here so far, raise a great many issues. One of them is, why should we think that human beings have dignity, that they deserve respect, at all? All I have said so far is that the idea is supported by an intuition that I think we have, that the Auschwitz phenomenon, represents the ultimate in evil. I’m sorry to say I will not be able to say more about that issue here. What I have instead committed myself to talking about is the issue of the relation between this idea and the state.

Perhaps the best way to introduce this issue is by means of a certain problem in political philosophy, which I think of as “the problem of the double standard.”<sup>16</sup>

It rests on phenomena that are actually quite familiar to us all. Consider what officers of the state are doing when they collect taxes. They are not passing a hat and asking for money. They are *telling* you to pay, and if you fail to give them the amount they demand, they have various ways, all more or less painful, to make you sorry you did not cooperate. Of course, private citizens sometimes act the same way, but when they do, we call them thieves and insist that they be stopped and punished. When ordinary individuals do it, it is called stealing, but when representatives of the state do what, in a perfectly straightforward way, seems to be the very same thing, it is called taxation. The same sort of thing can be said about what the state is doing when it practices military conscription. Here they are forcing people, in some cases very much against their will, to do work that is not merely unpleasant but may very well get them killed. If private individuals do such things, these practices are called abduction, kidnaping or perhaps something worse, and we stop them if we can. When done by representatives of the state, they are treated and spoken of completely differently, even by people who think such policies are unnecessary or ill-advised.

Finally, consider what officers of the state are doing when they try to keep individuals outside or, as it may happen, inside the nation whose state is represented by those particular officers. They are coercively preventing people from crossing an imaginary line on the ground, somewhat in the way you or I might prevent an unwanted guest from entering our homes. But of course the imaginary line on the ground in this case does not represent the boundaries of the officer’s property. Further, even if the line it does happen to coincide with the boundary line of

some individual's property, that individual may have no interest in preventing the coerced person from crossing it. The officer's right to do this, if it exists, is not based on the sorts of consideration that could give a private individual a right to do something similar. In this case, what the officer is doing is something that private individuals, including criminals, don't do at all, but the same point can be made here as in the case of taxation and conscription: we do not treat or speak of the officers in anything like the way we would treat private individuals who did the very same thing.

Rather obviously, this process can be repeated in connection with a vast array of government activities. The questions thereby raised are accordingly also multifarious. Why isn't taxation theft? Why isn't conscription abduction? Such questions can be multiplied at great length. The problem I am pointing to here is accordingly rather large and amorphous, but there is one conspicuous feature that unites the examples I have given so far. In each case, we have individuals pursuing their goals by using force against others. Two simple facts about the way we ordinarily think about moral matters are sufficient to make these questions real issues. First, according to the moral ideas we apply to our own conduct and that of our fellow human beings, we are not generally permitted to pursue our goals by the use of force. Ordinarily, it makes no difference how morally lofty my purpose is. I may know that you are about to spend the contents of your wallet by going to a movie, whereas I would donate the same amount of money, if I had it, to a highly effective charitable organization, which might actually use it to save a human life. Still, taking the money would be stealing, and for that reason I do not do it. Second, the officers in my examples are individual human beings like you and I. There is no obviously good reason why the standard I apply to myself and my neighbors should not also apply to them. And yet we

do seem to apply some completely different standard to them. What, if anything, might justify this? This is what I call this the problem of the double standard.

For present purposes, my point is that both these features of ordinary moral thought are supported and emphasized by the respect tradition in ethics. First, using force against others in order to achieve your own ends seems to be a clear case of using another person as a mere means. Suppose a man has a sexual fantasy about a woman he sees walking down the street. Is he using her as a mere means? In some sense, the answer is yes, but if the question is about the sort of “using” someone that might violate a basic principle of morality, or violates their dignity or disrespects their humanity, the answer is probably “no.” If, on the other hand, we imagine him forcing himself on her, the answer to the same question is obvious. It is an interesting and potentially complex question, what sorts of behavior should we think are ruled out by a principle like the Formula of the End in Itself. It seems that *at a minimum* the class of excluded behaviors should include acts in which an individual is coerced in order to serve purposes that are not that individual’s purposes.

Second, the examples I gave as I set out the problem of the double standard suggest that we tend to think of officers of the state as if they were on a different moral plane from ourselves. The basic rules – and I mean *very* basic rules – that apply to us do not apply to them. We must respect others’ property rights, right to life, and right against bodily assault and they – what? It is as if a fundamentally different set of moral principles apply to them. That *can’t* be right. And that of course is exactly what the respect tradition says. Whatever it is about human beings that gives them dignity (whether it is having a will that is an author of moral law, or something else) it is generally thought to be something that we have equally. This seems to imply that respect,

insofar as it is a moral category, must be equal respect. And equal respect is precisely what we would be *failing* to show if we treat some people as exempt from the basic rules that apply to others.

A similar implication seems to follow from another “formula” that Kant gives for the fundamental principle of morality: the Formula of Universal Law. This of course is the idea that one should always act in such a way that one can at the same time will one’s maxim to be a universal law. There is a large literature on this simple-sounding idea, indicating that the issues it raises are far from simple. There is, however, an idea here that has extremely wide intuitive appeal, one that makes a great deal of sense, regardless of what one might think of the rest of Kant’s system. It concerns the general problem of *what it would take* to justify an action. Suppose that I take something that belongs to you. The idea is that if this action on my part is justified, then it would be justified on the part of any individual in relevantly similar circumstances. Obviously, there must be some background notion here of what could count as “relevantly similar circumstances,” without which the principle cannot have any definite implications. Clearly, *who I am* cannot be the relevant circumstance. It cannot be the case that I can take your property because I am me, because I am that special. The idea is, among perhaps other implications, that no one can possibly be special in that way. By a parity of reasoning, it would also seem that the relevantly similar circumstance cannot be that I am the King of France, or the Duke of Milan. “Who I am,” in *that* sense, is also excluded. But this would seem to mean that one’s status, insofar as that is something that is conferred by human beings, by human convention or something like convention, cannot constitute the relevantly similar circumstance. Note, however, that the position occupied by an officer of the state – the tax collector, the

immigration official, the chair of the draft board – is just such a humanly-conferred status. This would seem to mean that no officer of the state may do anything that no private individual could do in relevantly similar circumstances. But isn't this last statement tantamount to a sort of philosophical anarchism? By that I mean, wouldn't it imply that states, in and of themselves, *as* states, have no rights at all. Any right that anyone has to do anything is a right that they hold as a human being, not as an official.

5. I will not be able to suggest a solution here the problem of the double standard, this problem that I have claimed is rooted in common sense and reenforced by the respect tradition. But I would like to comment briefly on two questions about the problem itself. First, how *pervasive* is the problem? By this I mean, to what extent does it involve characteristics that are essential to the state? Second, how *deep* is it. That is, how deeply rooted is it in ideas, in particular the idea of moral respect, that have deep intuitive appeal?

As to the first question. There are several essential features of the state that seem to be at the very least closely relevant to this problem. One is the characteristic that Max Weber was attempting to capture in his famous definition of the state: "Today we must say that the state is a human community that claims the monopoly of the legitimate use of physical force in a given geographical area."<sup>17</sup> As Nozick has shown, it is not very easy to formulate this definition correctly. Obviously, it is not sufficient to *claim* such a monopoly. If I were to go insane and claim such a monopoly, that would not make me a state.<sup>18</sup> The difficulties do not entirely disappear if we limit ourselves, as I am doing here, to seeking characteristics of the state that are merely necessary for its existence, rather than both necessary and sufficient. I would imagine

that all states recognize the right of private citizens to use force, including lethal force if need be, to defend themselves and others against criminal attacks. So claiming to be the only *legitimate* user of force is not a necessary feature. As Nozick points out, one thing that states always do is to claim the right to say whether any given use of force is legitimate or not. More exactly, he says, they announce an intention to punish (and so use force against) anyone who uses force without their express permission (which may be granted *ex post*, or before the fact in the form of general rules, eg., defining reasonable self-defense).<sup>19</sup> I would add something else, necessary features that are closely related to this one. They are, once again, difficult to formulate exactly. Here are my attempts.

First, all actual states, as far as I know, claim the exclusive right to make rules that must be followed by everyone within their territory.

Second, they all, apparently, claim the right, and the exclusive right, to enforce these rules by means of punishments like imprisonment and death.

Third, as I suggested above, they finance these and other activities through coercive means known as taxation.

Fourth, liability to pay taxes, like liability to follow state-made rules, is not at the discretion of the individual subject. You cannot “resign” from a state.

Finally, the group that is the author of any particular state-made rule is always smaller (usually very much smaller) than the entire population of those to whom the rule is applied.

In all the above ways except for the last one, states as they presently exist differ from the state-like entity justified by Nozick. Clearly, the state as we know it is coercive in multiple ways, a fact to which I will return in a moment. To what extent does this bring it into conflict with the

ideas and assumptions that lie behind the respect tradition? This of course is the second of the two questions that I just promised to address: how deeply rooted is the problem of the double standard? My provisional answer, which for the present I can only put forth as a hypothesis, is the rather unexciting one that it depends on what sort of coercion one is contemplating. Are we coercing one person or group to benefit another or group? That clearly violates respect as I have sketched it out here. Are we coercing them for their own benefit? Here there are at least two different situations that yield potentially different answers.

First, we may be coercively preventing people from doing things that they would only do because they do not know as well as we do what is good for them, or because they are too weak to act on that knowledge. We are coercively defending them, not against some attacker, but against themselves. This is paternalistic coercion. The answer to this question is not immediately obvious, at least not on the basis of what I have said here. In doing so, we are not using the person as a means to *someone else's* ends. Does it make sense to say that it is wrong to use somebody as a mere means to *their own* ends? Kant, who thought that it is possible to wrongfully use yourself as a mere means to your own ends, probably would have said yes.<sup>20</sup> A more intuitively appealing answer, probably, would be to bring into the foreground an idea that has so far mostly lurked in the background of my remarks: the idea of dignity. I have said that respect involves valuing people. "Dignity" is Kant's attempt to name the kind of value one thereby places in them. Is paternalistic coercion a violation or denial of dignity? I am inclined to say yes. For to use paternalistic coercion against an adult human being is to indicate that their capacity to manage their own affairs is so flawed that their choices do not have the sort of significance, the sort of moral force, that choices normally have. The reason this shows a lack of

respect is not that it is insulting (though of course it is insulting): respect is not esteem (which could be defined as have a relatively high opinion of one's achievements, skills, or character). The reason is that it shows a lack of regard for the adult individual's decision-making authority. An adult subjected to paternalistic coercion is thereby placed on a moral plane below that of other adult human beings, whose choices are taken to be reasons why (provided that doing so does not involve violating the rights of another) we should allow whatever they choose to actually transpire.

The two sorts of coercion I just described might be called "paternalistic coercion" and "exploitative coercion." There are other sorts of coercion, and some of the others are ones that plainly are not at odds with the respect tradition. The trouble is, however, that, as we can see by recalling the features of states that I described above, states are extremely likely to indulge in these dignity-violating sorts of coercion, and probably on a massive scale.<sup>21</sup> Because state-made rules need not be unanimous, they may not reflect the preferences or perceived interests of everyone in the territory. Because, in addition, they are coercive and there is no easy exit from the system (no "resignation"), they can be forced on people contrary to those preferences or perceived interests. This obviously opens the door to both exploitation and paternalistic coercion. To the extent that people in the rule-making group (in a democracy, they may be a simple majority) know that there is something of value that might be extracted from others outside the group, they will have a very powerful reason to use state coercion to exploit those outside the group. For the same reasons, similar things will be true if they have strong preferences concerning the self-regarding behavior of those outside the group, with the result being paternalism rather than exploitation. I take it as obvious that all these conditions

characterize the existing societies that are known to us.

The question is, under such circumstances, what could possibly prevent massive state-generated exploitation and paternalism? I can think of two such factors. First, there might be some clever constitutional mechanism that prevents them from occurring. At present, I do not know of any actual state that has such a mechanism in place, nor do I know what such a device it would look like. The other possibility would be that the members of the rule-making group might firmly believe in an ethic of respect which pronounces such uses of state power to be wrong. We have reason to doubt that this will happen, provided only that we make a certain assumption, one that I think is unfortunately very plausible: namely, that the state has a certain mystique of authority, such that people have to some degree a tendency to believe that its rules, whatever they might be, are right.<sup>22</sup> Unfortunately, the state is also an instrument, by means of which people achieve their purposes. These two features of the state, its mystique of authority plus the fact that, for members of the rule-making group, it is an instrument by means of which they achieve their ends, combine to afflict them with a sort of *moral anesthesia* regarding some of their own actions: namely, those that are carried out through the instrumentality of the state. This would of course put the state at odds with the morality of respect, preventing such a moral code from restraining state action that violates respect.

6. One reason people might resist my conclusion here, that there exists a certain powerful tension between the principles of the respect tradition on the one hand and the state on the other, is a tendency to confuse it with something else. In the late work, the *Tugendlehre*, Kant contrasts respect with another moral idea that has a similar sort of importance and fundamentality: namely,

what he calls love. Respect, he says, is a duty to “degrade no other man merely as a means to personal ends (do not require another person to throw himself away in order to pander to one’s own ends).” Love, on the other hand, he characterizes as “the duty to make the ends of others (as long as they are not immoral) one’s own.”<sup>23</sup> It seems obvious that both ideas are essential to any sound moral code. Kant put the matter like this:

When the laws of duty (not laws of nature) concerning the external relationships of men to one another are under consideration, we regard ourselves as being in a moral (intelligible) world in which, by analogy with the physical world, the association of rational beings (on earth) is effected through attraction and repulsion. According to the principle of *mutual love* they are directed constantly to approach one another; by the principle of *respect* [*Achtung*] which they owe one another they are directed to keep themselves at a distance. Should one of these great moral forces sink, “so then would nothingness (immorality) with gaping throat drink up the whole realm of (moral) beings like a drop of water,” if I may here make use of Haller’s words, but in a different connection.<sup>24</sup>

Still, indispensable as both principles are, it would be easy to conceive of a system of moral principles and ideals in which one or the other of these two ideas are given prominence. An ethic that places great emphasis on making the ends of others one’s own might, for instance, be an ethic of care, in which the ethically ideal relation with others is characterized as that of a nurturing parent or a supportive friend.<sup>25</sup> Another example can be seen in a recent series of works Martha Nussbaum, in which the most important moral virtue is pity or compassion, and one’s fellow human beings are viewed as, more than anything else, “needy” and vulnerable to all sorts of calamities.<sup>26</sup> Here the ends of others that one would be making one’s own would typically be those of being rescued from past calamities, or being granted safety from future mishaps. Clearly, if adherents to one of these systems were to sufficiently de-emphasize what Kant calls respect, they would have a point of view that is potentially very friendly to state coercion.

This becomes quite obvious if one entertains the extreme case of eliminating respect altogether, and simply relying on what Kant calls love as one's moral ideal. Note that it is impossible to fully pursue all the ends of others, just as it is impossible for me to pursue fully all of my own ends. To pursue some I may have to sacrifice others. Also, bear in mind that the "personal" end for which respect forbids me to use another person can be one that is (otherwise) morally good, including their own good or that of some other person besides myself. Making the ends of others my own, I will need to sacrifice some to others that have more value, just as I do with my own ends. In the absence of what Kant calls respect, love would permit me to coerce some people simply in order to serve the interests of others. (This suggests, among other things perhaps, that at their extreme point ethical codes based on love tend to collapse into utilitarianism.) Supposing that it is impossible to achieve these most highly valued results to be achieved without coercion (perhaps because people refuse to sacrifice their interests voluntarily to more highly valued ends) it may even *require* state coercion to bring these ends about.

Moralities based on love and those based on respect are similar in that both can be formulated in humanistic terms, as ways of valuing people, but the sort of value that they place on people is quite different, with very different implications and commitments.

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1. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 333-34.
  2. Benjamin B. Ferencz, *Less than Slaves: Jewish Forced Labor and the Quest for Compensation* (Cambridge, Massachusetts: Harvard University Press, 1979), p. 28.
  3. Joseph Borkin, *The Crime and Punishment of I. G. Farben* (New York: Free Press, 1978) p. 121.
  4. Ferencz, p. 18.

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5. Borkin, p. 125.

6. Borkin, pp. 126.

7. The Jews and the Gypsies did not fit the Nazi *Blut und Boden* theory of the identity of a *Volk*, in that their identity was not indexed to a particular plot of soil (*Boden*). They were international, and therefore, from the point of view of National Socialism, their culture was hopelessly unhealthy.

8. In Himmler's words: "We of the SS must carry out this order [ie., the 'Final Solution']. If it is not carried out now, then the Jews would later on destroy the German people." Raul Hilberg, *The Destruction of the European Jews* (New York: Holmes and Meier, 1985) p. 231.

9. Though I have no reason to insist on this point here, and indeed am sure that all of the above explanations have some validity, my own view is that this last one is the poorest of the available explanations. As far as we know, all nations and cultures have been marred by intergroup prejudice. Why, then, is there only one Holocaust? Or, given that there have probably been other events relevantly like the Holocaust in history, why did inter-group hatred result in such an event in this case even though it *usually fails to do so*?

10. Borkin, p. 127.

11. Robert Nozick, *Invariances: The Structure of the Objective World* (Cambridge, Massachusetts: Harvard University Press, 2001), pp. 238-40.

12. Immanuel Kant, *Groundwork of the Metaphysic of Morals*, trans. by H. J. Paton (New York: Harper and Row, 1956), p. 105.

13. Kant, p. 107.

14. Kant, p. 102.

15. The translation is my own. The German can be found on p. 429 of the Royal Prussian Academy edition of the *Groundwork of the Metaphysic of Morals*.

16. The next four paragraphs appear in an article that is forthcoming in a book of essays from Westview Press, ed. by Roderick Long and Tibor Machan, title undetermined at present.

17. Max Weber, "Politics as a Vocation," in *From Max Weber: Essays in Sociology*, trans. and ed. by H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1946), p. 78.

18. *Anarchy, State, and Utopia*, p. 23. One of his comments misses the mark, however. He points out that there can be other organizations that use force within the relevant geographic area, so that the existence of a state does not require a full and complete monopoly of force. This is true, of course, but Weber defines the state in terms of a monopoly of the *legitimate* use of force. Mere *de facto* users of force cannot prove him wrong.

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19. Ibid. p. 24.

20. See his remarks on suicide in *The Metaphysical Principles of Virtue: Part II of the Metaphysics of Morals*, trans. by James Ellington (Indianapolis, Indiana: Bobbs-Merrill, 1963), p. 84.

21. In the rest of this paragraph and in the following one, I am to some extent retracing steps made in the paper cited in n. 16, above.

22. We need not assume that this mystique is something that the state has intrinsically, nor that the rule by itself causes people to believe that it is right. Other causal mechanisms might be involved. We might say, for instance, that there is a class of “public intellectuals” who advocate various possible state actions by various arguments and that, when there is a new rule or policy that is because these intellectuals have convinced enough people. Because of the state’s coercive nature, because it is perfectly adapted to serve as an instrument of exploitation, there will be a tremendous temptation to be influenced by discreditable motives in being swayed by the arguments of these intellectuals. The arguments would in that case serve only as “ideology,” in the Marxist sense: they would be rationalizations.

23. *Metaphysical Principles of Virtue*, section 25, p. 114.

24. *Metaphysical Principles of Virtue*, section 24, p. 113.

25. A familiar example of such an ethic is presented in Nell Noddings, *On Caring* (Berkeley, California: University of California Press, 1984).

26. I discuss two relevant books in my “Martha Nussbaum on the Emotions,” *Ethics*, vol. 116 no. 3 (April 2006), pp. 552-577. Since then, she has published a more complete defense of these views in *Frontiers of Justice: Disability, Nationality, and Species Membership* (Cambridge, Massachusetts: Harvard University Press, 2006). 23 4.40