

Respect for Persons and Public Justification

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1 PUBLICLY JUSTIFYING THE SUMMONS

In explaining Fichte's analysis of moral relations, Stephen Darwall points to the centrality of "the summons." In making a moral claim, Darwall observes, I issue an RSVP: I address the agency of the other, expecting uptake or rebuttal given her perspective. Moral demands are not simply proclamations ("You must!"), or ultimatums ("Do it or else!"), but engagements with the reasons of others.¹ Thus understood, the very idea of moral relations involves interpersonal justification. By addressing oneself to the reasons of the other, the moral summons seeks to determine the action of the other through her own rational will. "The summons is to someone as a free agent ... so in being aware of it, the summoned is aware of herself as thus regarded."² In this way moral relations are deeply informed by dignity and respect. I respect the other by engaging with her as a free rational agent while, at the same time, I assert my own dignity by claiming that she must honor what she owes to me according to the authoritative norms that mediate our relations.³

I assume in this essay that a summons with these characteristics must be one based on the shared rules of a publicly justified social morality. As I have explained elsewhere, a rule *R* is a part of a publicly justified social morality obtaining in a group *G* when (i) each person in *G* endorses *R* as a moral grounds for a summons; (ii) each person in *G* has normative expectations that others expect him to act on *R* when summoned (so each believes that others believe that *R* grounds a summons); (iii) each person in *G* expects the overwhelming majority to act on *R*.⁴ When these conditions are met the members of *G* understand *R* as a rule that actually mediates their various moral viewpoints and so provides the basis for interpersonal moral claims that respect each as a free and equal moral person. Thus only in a society whose rules of social morality are publicly justified — can be endorsed by all — can a system of mutual demands be fully reconciled with respect for each as a reasoning moral agent.

¹ Stephen Darwall, *The Second-person Standpoint: Morality, Respect and Accountability* (Cambridge, MA: Harvard University Press, 2006), p. 256.

² Ibid. See J. G. Fichte, *Foundations of Natural Right According to the Principles of the Wissenschaftslehre*, edited by Frederick Neuhouser, translated by Michael Baur (Cambridge: Cambridge University Press, 2000), pp. 34-7.

³ Darwall, *The Second-person Standpoint*, p. 260.

⁴ See Gerald Gaus, *The Order of Public Reason* (Cambridge: Cambridge University Press, 2011), pp. 172-82.

The intimate relation between respect for persons and public justification is widely endorsed in contemporary liberal political philosophy.⁵ However, while it is widely accepted that these ideas are tightly linked, the nature of this link is disputed. Here I focus on what I see as the two main accounts, the *Coercion Justifying* and *Authority Justifying* analyses of public justification. My aim is not to simply dismiss one and uphold the other, as I believe each has important insights into the nature of a social, moral life among free and equal persons. Both, we shall see, play critical roles in Fichte's and Darwall's accounts: they are by no means mutually exclusive alternatives. Nevertheless, I shall argue that the Coercion Justifying Account fails to secure what some of its proponents seek — a categorical and universal foundation for permissible coercion.⁶ In contrast, the Authority Justifying Analysis, I shall argue, does indeed establish a categorical basis for the demands of social morality. In that regard it is the foundational link between moral personality and public justification.

Part I. The Coercion Justifying Analysis

2 RESPECT FOR PERSONS AND COERCION

2.1 *Justification and Coercion*

It is widely thought that the appeal of public justification is an account of justified coercion. "*Respect for others requires public justification of coercion: that is the clarion call of justificatory liberalism.*"⁷ According to Kevin Vallier, the master principle of "public reason liberals" is the "Public Justification Principle" according to which "A coercive law *L* is justified only if each member *I* of the public *P* has some sufficient reasons(s) *R*, to endorse *L*."⁸

⁵ See, for example, Jeremy Waldron, "Theoretical Foundations of Liberalism" in his *Liberal Rights* (Cambridge: Cambridge University Press, 1993): 35-62 at pp. 36-7; Charles Larmore "Political Liberalism" in his *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996): 121-51, at p. 137; Charles Larmore, "The Moral Basis of Political Liberalism" in his *The Autonomy of Morality* (Cambridge: Cambridge University Press, 2008): 139-67; Martha C. Nussbaum, "Perfectionist Liberalism and Political Liberalism," *Philosophy & Public Affairs*, vol. 39 (2011): 3-45, at pp. 17ff.

⁶ This part of the analysis can be seen as a generalization of Chad Van Schoelandt's thesis in "Justification, Coercion, and the Place of Public Reason," *Philosophical Studies*, 172 (2015): 1031-1050. However, as the reader will see (§8), I attribute more importance to the public justification of coercion than does Van Schoelandt. I have learned a great deal from conversations about these matters with him; in many ways this essay was spurred by them.

⁷ Christopher Eberle, *Religious Convictions in Liberal Politics* (Cambridge University Press, 2002), p. 54. Emphasis in original.

⁸ Kevin Vallier, *Liberal Politics and Public Faith: Beyond Separation* (New York: Routledge, 2014), p. 24.

Now at first glance the public reason (or “justificatory” or “political”) liberal’s commitment to publicly justifying coercive laws may appear orthogonal to our concern with the moral rules that ground our mutually recognized moral summonses. Larmore claims that the scope of his analysis is limited to “the institution of coercive principles” and so “avoids the many peculiarities of Kantian ethics as a whole.”⁹ For Larmore, then, it would seem that a commitment to public justification characterizes the distinctly political dimension of morality. The aim of liberalism, he tells us, “is to found principles of political association upon a core morality that reasonable people can accept”¹⁰

Larmore’s thought seems to be that political regulation is inherently coercive, while much of the rest of morality is not, and it is this coerciveness that triggers the demand for interpersonal justification.¹¹ Now it certainly seems correct that not all moral judgments are coercive. When, for example, I am reading an historical study and pause to judge that, say, Napoleon acted wrongfully, my judgment is entirely non-coercive. Yet it seems wrong to claim (I am not confident that Larmore would do so), that the threat of sanctions and use of coercion is not only a feature of, but a defining feature of, the political, and so not an important feature of the non-political moral. John Stuart Mill warned of this error in *On Liberty*.

Like other tyrannies, the tyranny of the majority was at first, and is still vulgarly, held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant — society collectively, over the separate individuals who compose it — its means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates: and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practises a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself. Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency, of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them....¹²

⁹ Larmore, “The Moral Basis of Political Liberalism,” p. 149.

¹⁰ Charles Larmore, “Pluralism and Reasonable Disagreement” in *The Morals of Modernity*, 152-74 at p. 167.

¹¹ Larmore, “Political Liberalism,” p. 138.

¹² John Stuart Mill, *On Liberty* in *The Collected Works of John Stuart Mill*, vol. 18, edited by J. M. Robson (Toronto: University of Toronto Press, 1977), pp. 220-1.

Recent work on informal rules of fairness, for example, strongly supports Mill's insight: they are accompanied by informal sanctions against violators and, indeed, it is most doubtful that the mutual expectations essential to social morality (§1) could be fully secured without such sanctions.¹³ It thus seems that a threat of coercive sanctions is a general feature of social morality though, as Larmore rightly observes, not of all moral judgments.

Darwall, again following Fichte, presents a different analysis of the relation between moral claims per se and coercion. In making a justified moral claim on the will of another — issuing a summons — I direct his action in a way that “respects his authority as free and rational” as opposed to simply “imposing” my will on him, depriving him of his ability to act freely — “that is, by coercion.”¹⁴ To simply impose one's will on another, Fichte indicates, is the essence of coercion, and violates “his authority as a free and rational person.”¹⁵ An interpersonally justified summons, on the other hand, allows us to “command by not commanding.”¹⁶ Moral justification, then, exempts our demands from the charge of coercion. In contrast to Larmore's concern with justifying coercion, Darwall's Fichtean account sees interpersonal justification as a way to determine the will of another without exposing oneself to the charge of mere coercion. For both, however, the specter of merely coercive relations is critical in driving us to public justification.

2.2 *The Person to be Respected*

As I interpret it, then, the Coercion Justifying Analysis claims that public justification ensures that sanctions enforcing compliance with a moral demand are not instances of inherently disrespectful brute coercion. And, further, those committed to respect for persons will abjure brute coercion. Now if the commitment to respect for persons is to be critical in supporting the public justification of (non-brute) coercive interferences, the Coercion Justifying Analysis must identify a compelling account of personhood that not only shows that respect for such personhood is necessarily inconsistent with mere coercive imposition, but also, and critically, that coercion-with-respect requires interpersonal justification. I stress this rather obvious point as it is easy to simply focus on the claim that coercion is inconsistent with respect for persons while leaving unresolved whether interpersonal justification is required to obviate the disrespect. For example, some advocates of respect for persons appeal to the humanity formula of the categorical imperative, according to which one must never treat humanity as a means only but

¹³ For a review of some of the evidence, see *The Order of Public Reason*, pp. 103-22.

¹⁴ Darwall, *The Second-person Standpoint*, p. 261

¹⁵ *Ibid.*, p. 252.

¹⁶ Fichte, *Foundations of Natural Right*, p. 83.

always as an end in itself. Even if we suppose that the exercise of brute force and coercion is treating another as simply a means, it would not follow that interpersonal justification is the necessary prescription. As William Galston sees it, if Alf explains his reasons to Betty, even though she utterly rejects them, he does not treat her as simply a means or an instrument.¹⁷ Whoever explained his aims to an electric drill?

Perhaps that is too strong, and it is disrespectful for Alf to simply explain to Betty why he is about to push her aside and ignore her concerns and objections. However, as Christopher Eberle points out, it is far more plausible to hold that Alf respects Betty if he takes up her perspective, and considers things from her point of view, though, having done so, he ultimately decides that his point of view must trump hers. Suppose Alf engages in sustained, sincere argument, trying his best to understand and respond to Betty's concerns, but he still fails to convince her; she simply cannot appreciate the reasons that he sees as definitive. Alf has respected her as "capable of thinking and acting on the basis of reasons:"¹⁸ he taken account of her different perspective and certainly not simply treated her as a means to his ends.¹⁹ This, though, seems to allow that having rendered respect, Alf can now coerce without securing interpersonal justification. This stance of respectful "conscientious engagement"²⁰ does not get us to a commitment to interpersonal, public, justification, which requires that in some sense the other freely wills one's summons. Hence the importance of Fichte's insight for the justificatory liberal's linking of respect and public justification.

3 BENN'S ANALYSIS OF PERSONHOOD AND INTERFERENCE

3.1 *The Itinerary from Natural to Moral Personhood*

S. I. Benn presented the most careful argument leading from personhood to the inherent disrespectfulness of coercion and (as we shall see in §3.2) on to a case for interpersonal justification. He commences with the idea of "natural personhood." "To be a natural person," says Benn, "is to possess, and be aware of oneself as possessing, certain causal capacities. It is to distinguish oneself from things in the world which are simply the subjects of happenings,

¹⁷ William Galston, *Liberal Purposes* (Cambridge: Cambridge University Press, 1991), p. 109.

¹⁸ Larmore, "The Moral Basis of Political Liberalism," p. 148. For a fuller account of Larmore's analysis of respect for persons, see his *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987), pp. 59-67. Larmore's views are multifaceted; I certainly have not fully captured them here.

¹⁹ Eberle, *Religious Conviction in Liberal Politics*, p. 99.

²⁰ *Ibid.*, pp. 104ff. Eberle posits additional conditions, but this, I think is the crux of such engagement.

carried along by the tide of events.”²¹ Natural persons, Benn argues, see themselves as centers of intention formation and decision making; they understand themselves as able to form plans and act on them in a way that is causally efficacious in attaining their ends. Thus the will of the natural person is not guided by random volition, but by reasoned choices.

On Benn’s account such persons are simply a sort of natural phenomenon. Not all humans qualify, and non-humans may well qualify. Schizoid personalities, for example, typically see their actions as controlled by another, as so they do not understand themselves to be natural persons, whose decisions control their own action.²² So it is not necessary that a human adult conceives of herself as a natural person, but almost all of us do, and for those who do it is well-nigh impossible to rid ourselves of this self-conception.²³

The next step in Benn’s analysis is to move from this self-conception to conceiving of others as natural persons. Again, he insists this move is not conceptually necessary. Philosophically, one *could* be a convinced solipsist, seeing others as “complex automata whose behavior is in many ways analogous to his own.”²⁴ Still, as he says, to carry out this program of (re)conceptualization and explanation of the behavior of others would be devilishly complicated, and remains an outlying, “bizarre” possibility.²⁵ For the overwhelmingly vast — approaching unity — proportion of humanity, we see ourselves as natural persons in a world of natural persons.

Now humans who see themselves as natural persons in a world of natural persons — i.e., almost all of us — are presented with a unique vista for the exercise of their natural personhood: strategic relations with others. If Alf solipsistically saw himself as the sole natural person, his decision-making would be purely parametric. In “*parametric choice*,” David Gauthier points out, “the actor takes his behavior to be the sole variable in a fixed environment. In parametric choice the actor regards himself as the sole center of action. Interaction involves *strategic choice*, in which the actor takes his behavior to be but one variable among others, so that his choices must be responsive to his expectations of others’ choices, while their choices are similarly responsive to their expectations.”²⁶ Strategic choice only arises in a world of mutually

²¹ S. I. Benn, *A Theory of Freedom* (Cambridge: Cambridge University Press, 1988), pp. 90-1.

²² See further my *Value and Justification* (Cambridge: Cambridge University Press, 1999), pp. 387-9.

²³ Benn insists that a natural person need not understand herself to possess an uncaused will; he argues for a compatibilist position. *A Theory of Freedom*, pp. 92-4.

²⁴ *Ibid.*, p. 95. See also my *Value and Justification*, pp. 275ff.

²⁵ Benn, *A Theory of Freedom*, p. 96. To get an idea of its bizarre nature, see B. F. Skinner’s *Walden II* (Indianapolis: Hackett, 1948).

²⁶ David Gauthier, *Morals by Agreement* (Oxford: Clarendon Press, 1986), p. 21.

recognized natural persons; in such a world persons are confronted with complex questions of strategic interaction.

Imagine natural persons who recognize themselves as inhabiting a world of natural persons, yet view these other natural persons *simply* strategically, as simply means to promote their goals.

Each person in such a world could be aware of others having distinctive points of view, each with his own beliefs and action commitments, and enterprises, and he would prudentially take account of these as facts of life to which he must accommodate his own. Provided each stood to gain and none could simply take possession of another's contribution, they might even contrive to collaborate in a limited sort of way, provided that no one was ever required to commit anything to the enterprise before others had done so, and provided everyone expected the conditions favoring collaboration to endure until the task was completed and the outcome available for all to enjoy. Mostly, however, they would find themselves wrestling with free-rider problems, unable to ensure continuing cooperation.²⁷

"Between natural persons so related, 'reactive feelings and attitudes that belong to involvement or participation with others in human relationships' are ruled out because the subjects would be incapable of conceiving of others as the intentional objects of such feelings and attitudes. There could be no love or friendship between them as equals, for each would see the rest of humanity as potentially available instruments for his own purposes."²⁸ In systems of natural persons informed by the reactive attitudes a vast array of new types of human relations arise; this array of trusting, loving, collaborating, fair relations is possible because natural persons *come* to link natural to moral personhood.²⁹ "Attitudes like resentment . . . presuppose, at the very least, the recognition that by virtue of being a natural person one has a minimal right to be considered in a particular way, as possessing a point of view, an appreciation of events and states of affairs not only as a subject of experiences but also as an evaluator, a decision maker and a project maker."³⁰ In these more complex systems of human relations one resents other natural persons (who are now conceived of as moral persons too) who impinge on the exercise of one's natural personality simply on the basis of their own projects. As Darwall stresses, such resentment constitutes a claim that the impingement is

Emphasis in original.

²⁷ Benn, *A Theory of Freedom*, p. 96.

²⁸ *Ibid.*, p. 97. Benn is quoting P. F. Strawson, "Freedom and Resentment," *Proceedings of the British Academy*, vol. 48 (1962): 187-211, at p. 194

²⁹ Fichte seems to have sought a deduction from mutual recognition of natural personality to moral personality. See Frederick Neuhaus's "Introduction" *Foundations of Natural Right*, pp. xvi-xvii.

³⁰ Benn, *A Theory of Freedom*, p. 98.

untoward; it does not accord one the respect that is due to another natural person.

It is critical that Benn does not claim is that it is rational to “acknowledge the connection between moral and natural personality” *in order* to secure these richer and more valuable social relations.³¹ Rather, his point is that having achieved them, we cannot now possibly have reason to abandon them for the impoverished social world of pure natural agents, for we have erected rich and cherished ways of life on the presupposition that natural persons are moral persons too.³² Finding ourselves as a moral person in a web of social relations with other moral persons, it is a mug’s game to search for reasons to abandon our conceptual scheme in favor of a relentlessly self-interested world.

3.2 *Interference and the Interpersonal Point of View*

Two features of Benn’s analysis of moral personhood make it especially relevant for the Coercion Justifying Analysis of public justification.

(i) Moral personhood, we have seen, is a conceptual elaboration of the fundamental idea of natural personhood, and the latter is critically concerned with an agent who intentionally pursues projects, plans, and goals. We might say that the natural itinerary of natural persons engaged in social cooperation arrives at moral personality. And this is by no means an outlandish claim: there is a great deal of evidence that human social cooperation for mutual benefit among something like mere natural persons has indeed evolved into a moral system based on claims to freedom and equality.³³ Given this, we would expect that a moral person would demand that his own natural personality would not be subjugated to the projects, plans, and goals of other natural persons.³⁴ Thus Benn argues that a fundamental principle regulating the relation of such persons is a principle of noninterference.

Imagine Alan sitting on a public beach, a pebble in each hand, splitting one pebble by striking it with another. Betty, a casual observer, asks him what he is doing. She can see, of course, that he is splitting pebbles; what she is asking him to do is to explain it, to redescribe it as an activity with an intelligible point, something he could have a reason for doing. There is nothing untoward about her question, but Alan is not bound to answer it unless he likes. Suppose, however, that Betty had asked Alan to justify what he was doing or to give an excuse for doing it. Unlike explanations, justifications and excuses presume at least prima

³¹ *Ibid.*, pp. 98-9.

³² For an extended discussion of this claim, see my *Value and Justification*, pp. 278-306.

³³ For an overview see my essay, “The Egalitarian Species,” *Social Philosophy and Policy*, vol. 31 (Spring 2015): 1-27. For a more extensive treatment, see Philip Kitcher, *The Ethical Project* (Cambridge, MA: Harvard University Press, 2011).

³⁴ See further section 8 below.

facie fault, a charge to be rebutted, and what can be wrong with splitting pebbles on a public beach? Besides, so far as we can tell, Alan is not obliged to account to Betty for his actions

Suppose Betty were to prevent Alan from splitting pebbles by handcuffing him or removing all the pebbles within reach. Alan could now quite properly demand a justification from Betty, and a *tu quoque* reply from her that he, on his side, had not offered her a justification for splitting pebbles, would not meet the case, for Alan's pebble splitting had done nothing to interfere with Betty's actions. The burden of justification falls on the interferer, not on the person interfered with. So while Alan might properly resent Betty's interference, Betty has no ground for complaint against Alan.³⁵

Thus, Benn argues, among moral persons interference with the activity of another moral person always requires justification, while simply acting on one's concerns as a natural person requires no such justification. We now see that that this claim can only be understood given the conceptual relations between natural and moral personality. The "Public Justification Principle's" (§2.1) reference to coercion, then, can be interpreted as a special, egregious, case of interference, in which a person not only interferes with the activity of another moral person without justification, but seeks to control it through force or the threat of it.

(ii) Central to Benn's analysis of the case of Alan the pebble splitter is that he will be indignant at Betty's interference — he will experience the Strawsonian reactive attitudes.³⁶ Alan insists that Betty does not properly take account of him — she does not treat him with good will — because she does not take account of his perspective on his own action in her attempt to determine that very action. "For Betty to respect Alan . . . is to extend the perspective from which her reasons for action can derive." She must supplement in her deliberations the reasons "viewed not only from her own standpoint, [but also] by the account he would give, from his."³⁷ Thus Alan's fundamental complaint is that Betty has not engaged in interpersonal justification when interfering with his natural personality; she shapes his activity simply according to her own viewpoint, subjugating his. Thus interpersonal justification is indeed the prescription for coercive interference (§2.2), for the objection to interference is the subjugation of his activity to her view when she interferes — because she refuses to take up an interpersonal perspective.

It might be thought that Eberle's ideal of respectful conscientious engagement (§2.2) would suffice. After all, in such engagement Betty does

³⁵ Benn, *A Theory of Freedom*, p. 87.

³⁶ *Ibid.*, p. 88.

³⁷ *Ibid.*, p. 108.

“view things from Alan’s standpoint” as well as hers. Yet, in the end, she is quite willing to impose the judgment of her standpoint in determining his action. From Alan’s perspective the problem is the same: his concern is not that he feels demeaned or ignored by Betty, but that Betty is usurping his natural personality on the basis of reasons he does not acknowledge. Indeed in this case we are supposing that Betty acknowledges that her intervention is not based on reasons that Alan is able to endorse.³⁸ So on Benn’s account Alan would still feel resentment at her interference.

4 THE FAILURE OF THE CATEGORICAL IMPERATIVE NOT TO COERCE

4.1 *Rejection of the First Categorical Claim: Not A Universal Imperative*

Most advocates of respect for persons endorse what I shall call:

The First Categorical Claim: The demands of respect for persons binds everyone, independently of time and place.³⁹

On Larmore’s influential interpretation of The First Categorical Claim, the principle of respect for persons “has universal validity, but there is no reason to suppose that all reasonable people must find grounds to agree.”⁴⁰ Note that (i) respect for persons is universally binding; (ii) it cannot itself be interpersonally justified; (iii) yet we if accept the core Fichtean thesis that a respectful summons requires that the person summoned must freely will the summons, then we are led to the result that (iv) there cannot always be a respectful summons to respect persons. If Betty cannot “find grounds” to endorse the principle of respect for persons, Alf cannot issue a summons to respect him that respects her as a reasoning moral agent.

Given this, when Alf recognizes that Betty cannot find the requisite grounds, he cannot rationally be indignant if Betty coerces *him* without justification. She cannot be seen as manifesting ill-will toward him; she is not denying him anything that she can see that is owed to him. And he certainly cannot say that she should have known better for he has acknowledged that given the historical contingencies, she could not have. Unlike Alan in Benn’s tale, he cannot be indignant at her coercing him without justification: despite the assumption that she is “bound” to respect him, he is unable to issue a respectful summons that she must. On the other hand, given that he recognizes the categorical bindingness of respect for persons, he must not coerce Betty without justification. Should she initiate coercion he is apt be unable to issue a summons for her to desist; but unless *he* can interpersonally

³⁸ Benn suggests that there are agent-neutral reasons that all perspectives can appreciate, but I shall not pursue that difficult question here.

³⁹ Larmore, “The Moral Basis of Liberalism,” pp. 150-51, 164ff.

⁴⁰ *Ibid.*, p. 165.

justify coercing *her*, he is bound to refrain by his commitment to respect persons, and is appropriately guilty should he coerce her.

This seems an unfortunate result. Fichte, like Benn, thought that a refusal to recognize others as a free moral persons was inconsistent with a system of social cooperation: one who withholds recognition “must then remove himself from all human community.”⁴¹ In Benn’s social world respect for persons is a constituent principle of the moral relations pertaining among individuals engaged in social relations. Friendships and love, and trusting cooperation, are the great goods that are built on relations among moral persons who respect each other’s natural agency. And, as I have said, this is not simply a just-so story: even the earliest human systems of cooperation are premised on avoidance of domineering interventions by one person on others.⁴² This, though, is a natural history of the rise of *conditional recognition*, not of *unilateral, categorical* respect for the moral personhood of others. One cannot be a friend or a trusting trader with another who does not respect you as a moral person; as Fichte rightly held, one cannot share a social life with such a person. And, indeed, we do not share social lives with all natural persons. Although today our world-wide system of cooperation crisscrosses and overlaps so that innumerable cooperative systems are bound together, all are not cooperators with all.

An important reason for this is that not everyone can find terms of cooperation with everyone else that all can endorse. Take an extreme example: Betty, a moral person who, perhaps on the basis of religious convictions, is a thoroughgoing pacifist — she refuses to sanction any use of, or threat of force.⁴³ On those terms most others will be unable to share a system of social cooperation with her. Unless one knows her exceedingly well, her refusal to accept the justifiability of any sanction will be apt undermine trust in her. More importantly, she would, we suppose, reject any system of coercive sanctions, so she would refuse to do her part in any collective undertaking to institute and maintain such a system, and may well be committed to undermining it. If others are, as the First Categorical Claim implies (and given the Coercion Justifying Analysis), nevertheless bound to justify coercion against her, they will find themselves radically constrained in defending themselves. On a more plausible analysis, I think, others may withhold effective recognition of Betty as a moral person, for they may well be convinced that they cannot secure a cooperative social life with her. Although

⁴¹ Fichte, *Foundations of Natural Right*, p. 12.

⁴² See section 8.

⁴³ Space precludes consideration of nuanced cases, where these points must all be modified. For a sensitive critical discussion, see Christopher Eberle, “Consensus, Convergence, and Religiously Justified Coercion,” *Public Affairs Quarterly*, vol. 25, (October 2011): 281-303.

they may see her as capable of moral personality, the extreme conditions for mutual recognition to which her perspective commits her could well lead them to effectively treat her as simply a natural person, subject to strategic but not moral interactions. But this means that they will reserve the liberty to employ coercion as part of a strategy of self-defense, should she threaten their social life. If she and her like-minded fellows plan to break into police stations to disable weapons, Alf can reasonably seek to deter them, even if he cannot hold them accountable. He cannot justify his coercion to her, but this does not itself imply a prohibition on its use. Absence of justification need not imply its impermissibility.⁴⁴ Justified coercion implies a moral authority to coerce, and so the coercion constitutes an interpersonal summons which the coerced could freely acknowledge, and which forms the basis of mutual accountability and the reactive attitudes. But none of that implies that unjustified coercion is necessarily impermissible: it is, we might say, a natural act of a natural person.

Nevertheless, while Alf may permissibly coerce, he is precluded from issuing a moral summons to Betty to desist. This is a great cost. As I have said, their relations are reduced to something like the impoverished strategic considerations that obtain among merely natural persons. I do not believe that those political liberals who appear to drastically restrict the “justificatory constituency” sufficiently appreciate these costs. According to Jonathan Quong, for example, political liberalism is “a theory of political justification addressed only to citizens who are reasonable: citizens are willing to propose and abide by fair terms of social cooperation, provided others are likewise willing, and who accept the burdens of judgment and the consequent fact of reasonable pluralism.”⁴⁵ Quong stresses that the “unreasonable” are to be awarded liberal rights; but since these rights are not interpersonally justified to them, they cannot constitute freely-willed summonses. Quong is entirely correct that the liberal may permissibly act to enforce these rights, but they do not establish interpersonal norms of accountability between them and the “unreasonable.” If there are a large number of such “unreasonable” citizens, then there will be a large number of citizens who cannot be held morally accountable for their violations. In lieu of the rational endorsement of many

⁴⁴ Some moral systems are based on the principle “That which is not prohibited is permitted;” in such systems a justified permission is not required for an act to be permissible. In contrast, some moral systems *do* require justification for all permissible acts, holding “that which is not permitted is prohibited.” See John Mikhail, *The Elements of Moral Cognition: Rawls’ Linguistic Analogy and the Cognitive Science of Moral and Legal Judgment* (Cambridge: Cambridge University Press, 2010), esp. §6.3. For an exploration of both systems, see Gerald Gaus and Shaun Nichols, “Moral Learning in the Open Society: The Theory and Practice of Natural Liberty,” *Social Philosophy & Policy*, vol. 34 (Spring 2017).

⁴⁵ Jonathan Quong, *Liberalism without Perfection* (Oxford: Oxford University Press, 2011), p. 290.

citizens, they will be bound only by sheer habit and the force of the state.

The orthodox way of rescuing The First Categorical Claim is to abstract to some shared perspective — what can be “accepted by a free and rational being as such”⁴⁶ — and insist that from that perspective all really do share mutually acceptable terms of social and moral engagement. This raises the vexed question of how great an “idealization” of the commitments of moral personality is consistent with retaining true interpersonality of perspectives.⁴⁷ If all moral persons reason identically qua moral persons, interpersonal justification becomes otiose.⁴⁸ Like parties in Rawls’s original position, everyone reasons in the same way: the reasoning of one is the reasoning of all.⁴⁹ Now whatever the merits of the claim that, from some perspective, each has the same reasons, it is hard to see how such reasons could ground the reactive attitudes. To resent another person’s moral violations, I must perceive it as expressing an ill-will: she could have honored my claims but did not. In some sense, I must believe she had access to reasons indicating the right thing to do but she did not take the trouble to deliberate or she turned her back on them. Surely this implies some limit on how different the reasons I attribute to her “idealized” (fully rational, fully reasonable) self can be from her empirical self — which, after all, is the target of my reactive attitudes. If the actual person could not have appreciated these reasons under actual plausible conditions — sincere and competent deliberation would not have revealed them to her — then it looks as if my resentment is ill-grounded. Given this, I believe we must suppose genuine widespread valuational disagreement, and so should reject the orthodox rescue and, so, the First Categorical Claim.

5.2 Rejection of a Second Categorical Claim

Consider a (considerable) variation of another case of Benn’s, that of Desmond and Caroline.⁵⁰ Desmond, let us say, works for a national park in South Africa, which has decided to cull their elephant herd because of overpopulation. Caroline recognizes his aims as laudable, but insists that culling is unacceptably inhumane and ineffective; and elephants may qualify as natural persons. She cannot justify intervention to Desmond, who firmly believes culling is the best thing to do. Or suppose that Desmond is performing experiments on stem cells and Caroline insists that they are ensouled beings.

⁴⁶ See Darwall, *The Second-person Standpoint*, p. 274. On this matter Darwall departs from Fichte, who linked recognition to social life. See *ibid.*, pp. 262-5.

⁴⁷ For an excellent discussion see Vallier, *Liberal Politics and Public Faith*, chap. 5.

⁴⁸ See Van Schoelandt, “Justification, Coercion, and the Place of Public Reason.”

⁴⁹ John Rawls, *A Theory of Justice*, revised edition (Cambridge, MA: Harvard University Press, 1999), p. 232.

⁵⁰ See *A Theory of Freedom*, chaps. 5 and 6.

Again, she cannot justify intervention to Desmond, who firmly believes this is the best thing to do. Caroline may conclude that she must seek to deter Desmond, and threatens moderate force or severe social censure. If we understand respect for persons as categorical qua unqualified — it is not simply morally desirable but always morally required — then as a respecter of persons Caroline could never have sufficient moral reasons to press ahead and coerce Desmond without interpersonal justification.

Although some might insist on this, it is a very strong claim indeed. Coercion (as we are understanding it here) is a natural act type, and it seems very hard to say that in principle it is strictly impermissible to ever engage in this act type without interpersonal justification. Such cases are always wrenching: one concludes that one is committed by one's deep evaluative standards to treat other moral persons in ways they cannot endorse. This should always be a matter of deep concern. But it hardly seems that we can resolve this difficult issue by claiming that such cases simply cannot arise. If one agrees that there are cases in which a moral Caroline would go ahead without justification, we thus should also reject:

The Second Categorical Claim: Given that respect for persons obtains between Alf and Betty, it requires that Alf never employ coercion against Betty that is not interpersonally justified.

A possible way to reconcile the Second Categorical Claim with Caroline – Desmond type cases is to accept that respect for persons always prohibits unjustified coercion, but morality does not categorically require that we respect persons. Respect for persons, on this view, could be morally qualified (overridden).⁵¹ This rescues one version of the categorical claim by jettisoning another: that respect for persons is always required by morality. And it is to give up the core idea of the Coercion Focused Analysis of public justification. To allow that respect for persons is qualified would imply that the commitment to public justification is also qualified (for it is based on respect for persons). The clarion does not sound: respect for others would not require the justification of coercion, and so the “Public Justification Principle” would not advance a necessary condition for permissible coercion (§2.1).

Part II. The Authority Justifying Analysis

6 SOCIAL MORALITY AS MUTUAL AUTHORITY TO ISSUE SUMMONSES

In law, a summons is often understood as an authoritative command.⁵² As a

⁵¹ Ibid., pp. 112ff.

⁵² See, e.g., *Burton's Legal Thesaurus*, fourth edition (New York: McGraw-Hill Professional Publishing, 2006), “authoritative command.”

private citizen Betty can command Alf, but only with the proper authority can she issue a summons. In this latter case she has standing to issue the command. As Darwall rightly observes, without the requisite standing the command would lack legitimacy.⁵³ However — and this is the fundamental point that distinguishes Fichte’s and Drawall’s analyses of the summons from mine — *we should not take this to imply that issuing the command would be “illegitimate” qua impermissible (that is the thought that leads to the Coercion/interference Justifying Analysis) but rather that it would fail to possess legitimacy — that it would be without effect.* A person without standing simply cannot issue a summons. In trying to do so she need not do anything wrong, any more than I do something wrong by seeking to award an O.B.E. to Jim Kelly.⁵⁴ Alf’s recognition of Betty’s authority to issue a summons derives from his recognition of the interpersonal rule of social morality as grounding her standing; because she has standing to issue demands and complaints her summons comes attached with Darwall’s “RSVP.”

A moral summons thus manifests respect for persons as moral agents. Such a summons, specified by rule *R* in group *G*, must be such that all within *G* can will or endorse the acts required by *R*. When that occurs, as Fichte said, *R* commands all in *G* without anyone in *G* commanding. When Alf, a member of *G*, fails to act on *R*, others can confidently conclude that he should have known better, for *R* was interpersonally justified to him. Thus Betty is warranted in feeling resentment and indignation at his violations; she had standing to demand that he act on *R* and he failed to comply. Note that she would not be so warranted if she lacked the standing to issue the summons, for he would not be ignoring any authoritative claim of hers. Alf does not owe Betty compliance for every command she issues.

Under public justification, the relations among members of *G* constitutes one of mutual respect of their status as free and equal moral persons. This understanding of moral personality, however is not a simple outgrowth of mutual recognition of natural personality as in Benn’s coercion-focused analysis, but a recognition that each is capable of guiding herself by normative criteria and standards, and that only if the interpersonal rules of social morality can be endorsed by each can those rules ground a practice of mutual moral accountability. Thus what Fichte called the summons is a constituent feature of a system of mutual accountability and constitutes a mutual recognition of the moral personhood of each.

On this view, then, respect for persons is not a grounding principle of public justification; it is an inherent feature of a system of moral rules that constitutes respect for persons. To secure public justification simply *is* to

⁵³ Darwall, *The Second-person Standpoint*, p. 259.

⁵⁴ Officer of the Order of the British Empire.

secure respect for persons — and vice versa. If we start out with a commitment to public justification we are led to respect for persons, while an initial commitment to respect for persons necessarily leads to public justification. If one commences with a commitment to the practice of moral accountability with the reactive attitudes, one will be led to respect for persons and public justification. No commitment must be assumed as more basic than the others.⁵⁵

Now social morality is a system of publicly endorsed moral requirements determining when one is accountable to others (§1). A summons in social morality is one that we issue to others, with well-grounded expectations that it will be honored because the other's reasons also endorse it. A successful summons is thus necessarily one which grounds accountability relations, expressing respect for persons through public justification. Thus in social morality — when one seeks to issue a summons to another — one must, necessarily, respect others as free and equal moral persons. Social morality without respect for persons is impossible, for without addressing a summons to the perspective of others it is without legitimacy: it fails as a summons, as an authoritative command. There can be no question whatsoever in social morality of justifying overriding respect for persons — for such a “justification” would fail to supply an interpersonal summons. We should, finally, accept a categorical claim:

The Third Categorical Claim: That (i) *R* is the basis of summonses in social morality in *G*, implies (ii) *R* is publicly justified and (iii) appeals to *R* categorically respect everyone in *G* as a free and equal moral person. Only if each person is respected does social morality possess legitimate authority.

7 NO CATEGORICAL REQUIREMENT TO PARTICIPATE IN SOCIAL MORALITY

7.1. *Two Modes of Moral Reasoning*

To participate in social morality categorically requires respecting the moral personhood of others. However, a moral person is not (categorically) required to participate in social morality. And, perhaps, surprisingly, this is precisely because one is a moral person.

Alf, as a moral person, possesses reflective moral standards. A common view of moral thinking — perhaps most characteristic of moral philosophy — understands reasoning about moral claims to be, in a fundamental sense, akin to reasoning about ordinary factual judgments. On this commonsense approach, when Alf deliberates about some matter of, say, justice, he considers the best reasons as he understands them, including what he takes to

⁵⁵ This, I take it, is the important truth in Darwall's “hermeneutical circle” in *The Second-person Standpoint*.

be the correct normative principles, perhaps checks his conclusions with others to see if he has made any errors, and then comes to the conclusion, “we all ought to ϕ .” His moral reasoning may refer to facts about other people (say, their welfare), but it is not a general requirement on the moral reasoning of any competent agent that he always takes as one of his reasons the moral deliberations of others. To be a little more precise, we can identify:

“I believe we ought” reasoning: As a competent moral agent, if (i) Alf conscientiously deliberates and concludes that, given what he takes to be the correct normative premises and relevant empirical information, one ought to ϕ under conditions C , where this does not require taking account of the conclusions of the deliberations of others and (ii) he reasonably concludes that morality instructs that we all ought to ϕ under conditions C , then (iii) he acts with (nonpublic) justification if he ϕ s in circumstances C , and demands that others do so as well.

It is important that “I believe we ought” reasoning does not imply that Alf maintains that we all ought to ϕ in C because he believes that we ought to ϕ : Alf may believe that “we ought to ϕ ” in C because it is a moral truth that we ought to ϕ , or that an impartial spectator would approve of our ϕ ing. The important point is that once Alf conscientiously comes to the belief that one ought to ϕ in C — it is, we might say, his best judgment about the normatively best thing to do — then, as a competent moral agent, he will justifiably ϕ in circumstances C , and indeed demand that we all do so, for that is what we ought to do.

It would be wrong to deny that such reasoning is genuine moral reasoning; a person often has definite and deep views about what we all must do. It would also be wrong to say that such reasoning fails to respect persons; there is no disrespect in Alf’s moral deliberation. However, such reasoning does not issue a summons to Betty. That Alf has concluded that we all must ϕ does not ground an authoritative command to Betty to ϕ , for Alf’s judgments about justice are not authoritative to her, and she does not owe him an “RSVP.” Having no legitimate grounds to demand an answer, Alf cannot feel indignant when Betty fails to provide one. Now in some moral domains this is not critical: some of Alf’s deliberations, even about what “we should do,” are mostly intended to guide his own action, and not that of others. For example, Alf may believe “we all should vote” but as far as he is concerned the practical import of this is that he should. But as Kant was well aware, this is not the case with many matters of justice. Kant famously insists that, even if we imagine individuals “to be ever so good natured and righteous,” when each does what “seems just and good to him, *entirely independently of the opinion of others*” they live without justice.⁵⁶ This apparently paradoxical conclusion —

⁵⁶ Immanuel Kant, *The Metaphysical Elements of Justice*, second edition, edited and

that a world of people who acted only on their own sincere (“I believe we ought”) convictions about justice would live without justice⁵⁷ — highlights a distinctive feature of justice (and other parts of social morality): to achieve justice we must align our normative expectations so that we can hold each other accountable for departures. For Kant the problem of universal private judgment was that “when there is a controversy concerning rights (*jus controversum*), no competent judge can be found.”⁵⁸ Each, thrown back on her own reasoning, thwarts coordinated adjudication and leads to the absence of mutual accountability. Understood thus, a necessary role of justice (or social morality more generally) is to provide an interpersonally endorsed adjudication of conflicting claims.⁵⁹ Securing justice, on this second view, is inherently something we do together.⁶⁰ If no other good-willed and conscientious moral agent accepts that in circumstances C justice demands ϕ , Alf’s demand will not secure just social relations.

To achieve rules of justice that ground mutual accountability under shared empirical and normative expectations (§1) “I believe we ought” reasoning needs to be supplemented by something along the lines of:

“We believe we ought” reasoning: Alf and Betty share a grounds for mutual accountability under a common rule of justice when they believe “we believe we ought to ϕ in conditions C.”⁶¹

When they both believe “we believe we ought to ϕ ” then, of course, they have a grounds for issuing summonses to each and treating each other as free and equal moral persons, for the demand to ϕ will be one that the reason and will of each endorses.

7.2 The Gap

It is tempting — especially for those who understand the importance of respect for persons — to insist that there is an imperative to engage in “We

translated by John Ladd (Indianapolis: Hackett, 1999), p. 116 [§43]. Emphasis added.

⁵⁷ I have defended this paradox in some depth in “The Commonwealth of Bees,” *Social Philosophy & Policy*, forthcoming.

⁵⁸ Kant, *The Metaphysical Elements of Justice*, p. 116 [§43]. Emphasis added.

⁵⁹ See John Rawls, “An Outline of a Decision Procedure for Ethics” in *John Rawls: Collected Papers*, edited by Samuel Freeman (Cambridge, MA: Harvard University Press, 1999): 1-19.

⁶⁰ It is not only contract theorists who think this. See G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008), pp. 175ff.; R. B. Brandt, *A Theory of the Good and the Right* (Oxford: Clarendon Press, 1979), chap. 9.

⁶¹ This, of course, raises important questions about the nature of reasons and deliberation. I try to make some progress on them in *The Order of Public Reason*, pp. 232-58.

believe we ought” reasoning rather than “I believe we ought” reasoning about justice. That would provide the grounds for the conclusion that it is imperative to engage in public justification, an imperative that most “public reason liberals” would welcome. Yet that is to ignore the importance that good-willed and competent moral agents place on their “I believe we ought” judgements. Moral individuals are almost certain to be at least a bit torn between these two modes of reasoning.

To see the problem more clearly, let us focus on an abstract formulation. Suppose that there are only three alternative rules of justice, R_1 , R_2 and R_3 , that might regulate the moral relations among members of G over some matter — say rules about promising. Suppose, Alf and Betty each engage in “I believe we ought” reasoning and arrive at the conclusions in Table 1.

Alf	Betty
R_1 : the conclusion of “I believe we ought” reasoning.	R_3 : the conclusion of “I believe we ought” reasoning.
R_2 : a departure from “I believe we ought reasoning” but “sufficiently just” ⁶²	R_2 : a departure from “I believe we ought reasoning” but “sufficiently just”
R_3 : simply not just	R_1 : simply not just

TABLE I: ALTERNATIVE RANKINGS OF RULES

What I have called “The Gap” is a person’s judgment of the acceptable difference between her “I believe we ought” reasoning and what she considers “sufficiently” just. Some people might tolerate a large Gap, because they stress “We believe we ought” reasoning and put great moral importance on relations of mutual accountability. Of course even they are apt to draw the line somewhere. Although we might suppose that Betty seeks relations based on interpersonal justification, she may find R_1 simply unacceptable: it departs so much from her “I believe we ought” conclusion that she cannot understand it as a rule of justice. In our toy example, both Alf and Betty can endorse R_2 , and so of the three it alone provides the basis for interpersonally justified claims, and so summonses. But each must accept a Gap.

In the history of moral philosophy many seek to avoid the problem of The Gap by claiming that from some preferred perspective — say, of freedom and rationality as such⁶³ — each will rank the same rules (principles, etc.) as most

⁶² Rawls, *Political Liberalism*, p. 428. The idea of The Gap is central to Rawls’s notion of legitimacy.

⁶³ Or from the original position, where everyone ranks the two principles of justice as best.

just. I shall not enter (again) this debate, except to recall (§5.1) that if the rules are to ground actual reactive attitudes and real relations of moral accountability the “ideal agents” endorsing them cannot be so radically abstracted from actual agents that the latter cannot plausibly recognize as valid the deliberations of their idealized counterparts. Our practice must plausibly claim that as an actual member of *G*, Betty could have reasoned her way to endorsing *R*, and that is why we can hold her to account for refusing the summons based on it. Given this, at the level of idealization capable of grounding the reactive attitudes we can expect agents to deeply disagree as to what are the optimal rules of justice (the results of their “I believe we ought” reasoning). If so, then any convergence on one member of a set of rules must imply that some individuals are tolerating a Gap between the rules they live under and that which would obtain if they were the sole arbiters of justice.

7.3 *Respect for Persons: The Social Achievement View*

We can now appreciate why there is no moral imperative to participate in social morality, for that would be to morally mandate that individuals only follow “We believe we ought” reasoning, regardless of how large a Gap they perceive between it and their “I believe we ought” reasoning. Kant was certainly correct that moral relations without interpersonally justified summonses are fraught with conflict and, in a significant sense, fail to secure justice. Yet to secure this great moral good, individuals must discover what rules of interpersonal morality can be widely shared given their Gaps.⁶⁴ The typical view in the contemporary literature on public justification is that there *must, necessarily*, be some such rules, and the philosophical task is to uncover them. Indeed, tremendous focus is put on tales of possible outliers (the Nazi usually comes up here) to whom the rules could not be justified, with the implication that such outliers somehow defeat the analysis. And on the Coercion Justifying Analysis this may be correct, for surely coercion against the Nazis was warranted. But it was perhaps only warranted on the grounds of “I believe we ought” reasoning, not on the basis of joint reasons that ground a summons. In these outlier cases — assuming, as is seldom the case, the facts are really correct⁶⁵ — we may indeed be unable to issue a moral summons, though this does not imply we cannot act as we think right.

Communities whose relations are grounded on publicly justified moral rules secure a wide variety of critical moral goods: fair cooperation,

⁶⁴ I have not considered in this essay the claim, characteristic of the social contract tradition, that we can identify a unique, rational, Gap that all should accept. I criticize such views in “Self-organizing Moral Systems: Beyond Social Contract Theory” (at www.gaus.biz).

⁶⁵ The psychology of the Nazi, for example, was more complex and ambivalent than the typical philosopher’s example. See my *Value and Justification*, pp. 292-3.

conformity to shared notions of justice, a system of mutual accountability and respect for each as a free and equal moral person. Only when these goods are widely secured can it be said that a society is reasonably just. However, no philosophical argument can secure them, even if it is supposed individuals “to be ever so good natured and righteous.” The discovery of what moral rules can be shared by those with deep moral disagreements — what rules can be tolerated by their understanding of acceptable Gaps — is a process of ongoing social discovery. As I have argued elsewhere, the moral rules characteristic of the open society are such achievements, providing a framework for shared justice under great diversity.⁶⁶ Yet these rules too are changing and adjusting, as we learn better ways to share a morality premised on respect for persons.

8 THE PUBLIC JUSTIFICATION OF COERCION IN A MORAL ORDER:
FUNDAMENTAL, NOT FOUNDATIONAL

I have argued that the permissibility of coercion is not at the root of public justification, nor does a commitment to respect for persons itself entail a commitment to the justification of coercion. There is no categorical requirement to justify coercion based on respect for persons. Now this would seem to abandon the “clarion call of justificatory liberalism” that “respect for persons requires the justification of coercion,” and so undermine the force of Vallier’s “Public Justification Principle” (§2.1). Not so — not if we understand the principle to be a fundamental principle *within* a moral order, but because it is itself publicly justified not a foundational principle *of* the order entailed by the very idea of respect for persons.

The deep truth in the coercion-focused analysis is that once natural persons such as us achieve a system of mutual moral authority manifesting respect for persons, one of the very first claims that they will make against each other is to justify coercion used against them. *When* natural persons share a social life based on mutual moral authority, they inevitably come to endorse rules that prohibit one from the willy-nilly coercing of others. Recent studies of the evolution of moral cooperation have found that in the earliest forms of human cooperative moral life, pride of place is assumed by a norm regulating the direct use of force on one’s fellows — indeed, even more basically, the prevention of domination through intimidation. Christopher Boehm’s comprehensive studies of the earliest forms of social cooperation, nomadic forgers, concludes that they are universally “and all but obsessively” concerned with resisting would-be dominators and bullies.⁶⁷ “Minimally, this

⁶⁶ *The Tyranny of the Ideal*, chap. 4

⁶⁷ Christopher Boehm, *Hierarchy in the Forest: The Evolution of Egalitarian Behavior* (Cambridge, MA: Harvard University Press, 1999), p. 68.

means that all the active hunters (generally the adult males) insist in being seen as equal and that among themselves they tolerate no serious domination — be this in hogging vital food resources or in bossing others around.”⁶⁸ Bohem describes the natural persons in such basic human cooperative settings as “guided by a love of personal freedom. For that reason they manage to make egalitarianism happen, and do so in spite of competitiveness.”⁶⁹ It is widely recognized by ethnographers that forger societies tend to put tremendous stress on preserving personal freedom and autonomy.⁷⁰

A cooperative social life among moral equals — those who are able to issues summonses to each other — will, perhaps before anything else, determine that coercion must be justified. Benn’s philosophical itinerary of natural persons to the principle of noninterference is concordant with what we know of the natural history of moral cooperation. It is understandable that this fundamental role of the justification of coercion within a moral order should lead philosophers to the error of also seeing it as the foundational principle of the moral order.

9 CONCLUSION

Respect for persons, I have argued, is not the foundation for a commitment to public justification, nor is public justification necessarily focused on permissible coercion. These familiar claims seem to capture a strong idea of the categorical nature of respect for persons that strike philosophers as intuitively plausible but, I have argued, ultimately lead to implausible doctrines. In their place I have tried to show how respect for persons is a social and moral achievement, in which individuals come to endorse relations of mutual authority, which manifest respect for each other as moral persons. And once they do, they demand that coercion against them be justified. What seemed like an objective foundation turns out to be a social achievement. For many this will be wholly unsatisfying, for they view morality as a way to transcend, or at least go deeper than, human history and our historical self-consciousness. As Frans De Waal observes, like theologians many philosophers are drawn to “top-down” reasoning. Morality’s commands must come down from outside of us; only once we are assured that morality is part of the fabric of the universe can we trust it.⁷¹ Like de Waal, my view is just the opposite: it is because morality is a human achievement that it, and our

⁶⁸ Christopher Boehm, *Moral Origins: The Evolution of Virtue, Altruism and Shame* (New York: Basic Books, 2012), p. 109.

⁶⁹ Boehm, *Hierarchy in the Forest*, p. 65.

⁷⁰ Peter M. Gardner, “Foragers’ Pursuit of Individual Autonomy,” *Current Anthropology*, 32 (Dec., 1991): 543-572 at p. 543. See my “The Egalitarian Species.”

⁷¹ Frans de Waal, *The Bonobo and the Atheist* (New York: W.W. Norton, 2013), pp. 17ff.

species, is so very remarkable. We are not naughty children who need to be told what to do, but beings who seek out moral relations with others. Perhaps our crowning, though always incomplete, achievement is our ability to find ways of living together that respect all as free and equal moral persons.

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