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## Can there be a Virtue Ethics of Institutions?

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## Can there be a Virtue Ethics of Institutions?

### 1. Introduction

Michael Slote has defended an agent based virtue ethics<sup>1</sup> which ‘treats the moral or ethical status of acts as entirely derivative from independent and fundamental *aretaic* ethical characterizations of motives, character traits, or individuals’.<sup>2</sup> It is with admirable ambition that he has extended the scope of his approach to a conception of democratic social justice derived from virtuous motives, including that of appropriately balanced care for one’s political society and others<sup>3</sup>, according to which:

[J]ust as individualistic agent-basing regards individual acts as morally good if they reflect morally virtuous motivation and wrong if they reflect vicious or deficient motivation, an agent based account of social morality will treat customs, laws and institutions as morally good (positively and admirably just) if they reflect virtuous (enough) motivations on the part of (enough of) those responsible for them as morally bad (or unjust) if they reflect morally bad or deficient motivation.<sup>4</sup>

I say that Slote’s ambition is ‘admirable’ not least because he seems to me to offer a truly virtue-ethical approach to contemporary normative political theory. Whilst it may stretch a point to say he is the first to do this, his approach is in this respect certainly a novel one which, also, proffers a theory that is interesting in its own right. To see how, we can distinguish it from some other contemporary arguments and ideas about virtues and virtue ethics in politics. One kind of argument is for certain political structures being most conducive to a society’s members flourishing and being virtuous, and another is that there are certain politically oriented virtues which individual citizens or members of a society need in order to uphold certain political values and structures. For an example of the first kind of view, the neo-Aristotelian virtue ethicist Rosalind Hursthouse<sup>5</sup> responds to the twin spectres of anachronism and authoritarianism in virtue ethics’ ancient Platonic and Aristotelian genealogy (a worry also recognized by Slote<sup>6</sup>) by suggesting that a just and virtuous society

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<sup>1</sup> *Morals from Motives* (Oxford: Oxford University Press, 2001)

<sup>2</sup> Slote, ‘Law in Virtue Ethics’, *Law and Philosophy* 14 (1995), 91-113, 92.

<sup>3</sup> In earlier works, Slote considered a similar model using as the model a motive a concern for self-sufficiency based on the Stoic conception of *autarkeia*. See ‘Law in Virtue Ethics’ and ‘Virtue Ethics and Democratic Values’, *Journal of Social Philosophy* 24 (1993), 5-37. What I have to say about the agent based theory of social justice applies to either the balanced caring or the *autarkeia* models.

<sup>4</sup> *Morals From Motives*, 99.

<sup>5</sup> Rosalind Hursthouse, ‘After Hume’s Justice’, *Proceedings of the Aristotelian Society* 91 (1991), 229–247.

<sup>6</sup> ‘The best known and recently influential ancient virtue ethicists are, of course, Plato and Aristotle, and both espoused anti-democratic ideals. For that reason virtue ethics has great deal to live down and one may wonder whether, in the light of present day democratic thinking, ancient models can provide a relevant or plausible basis for our understanding of political values’ ‘Virtue’, in *A Companion to Contemporary Political Philosophy*, Phillip Pettit and Robert E. Goodin, eds. (Oxford: Blackwell, 1993), 645. Both Slote and Hursthouse explicitly reject Alasdair MacIntyre’s views as a satisfactory starting point for a political virtue ethics: Slote on the basis that it seems ‘either unwilling or unable to defend democratic or liberal ideas of justice’ (‘Law in Virtue Ethics’, 94 fn5), Hursthouse because ‘few if any of us want to follow MacIntyre into authoritarianism’ (‘After Hume’s Justice’, 229).

most conducive to its members living good human lives would necessarily not be morally authoritarian, and thus turn out to be most conducive with pluralistic conditions of liberal democracy.<sup>7</sup> As for the second kind of view, political theorists have developed conceptions of civic virtues or liberal virtues that are, they argue, necessary for living well in a good or liberal society. William Galston, for example, understands ‘the liberal virtues [...] instrumentally, as means to the preservation of liberal societies and institutions’.<sup>8</sup>

What matters for our purposes is not the success or otherwise of these kinds of arguments but the way in which Slote’s is different from them and is, I think, more akin to the evaluative criteria of virtue ethics *per se* than either of them is. Slote’s formulation of social justice prioritizes neither a set of political conditions, structures or principles that make for virtuous persons, nor a certain class of politically virtues which would best facilitate a certain kind of society or moral life. Rather, his view roots the justice and ethical admirability of a society and its institutions *in* the motivations and ethical character of individual agents who constitute them, and this direction of fit is genuinely faithful not only to agent-basing but also, arguably, to the distinctive structure of normative virtue ethics in general, the hallmark of which being its (somehow) locating the criterion of rightness or wrongness of acts in the character traits and motivations of agents. To this extent, Slote tackles head-on his own (and others’) worry that contemporary virtue ethics has lagged behind rival moral theories which can more readily ‘be systematically applied to both individual moral and political questions’.<sup>9</sup> Aside from advancing virtue ethics’ scope and offering to assuage the internal worry just mentioned, Slote’s idea also stands up as a quite radical form of political philosophy. For, arguably, the standard work-flow of normative political theory is its formulating and justifying the political principles and institutions which are to clothe the individual constituents of a polity, and here it is reversed. Slote not only seeks to derive morals, but also the justice and rightness of political institutions and societies, purely from motives.

In this paper I will argue that despite its strengths, the socially and politically extended version of agent-based theory defeats itself in attempting to derive the justice and, perhaps, the legitimacy<sup>10</sup> of social structures from individual motives. A plausible account of what motivates (and what should motivate) individuals in creating and sustaining institutions requires a separate and prior account of those institutions’ purposes or values and the various rules, customs, laws, obligations and duties they determine. Agent-basing cannot give such an

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<sup>7</sup> Ibid, 241. See also Douglas B. Rasmussen, ‘Liberalism and Natural End Ethics’, *American Philosophical Quarterly* 27 (1990), 153-161.

<sup>8</sup> *Liberal Purposes* (Cambridge: Cambridge University Press, 1991), p. 220. Stephen Macedo, similarly, sees the liberal virtues as ‘those forms of excellence appropriate to citizens of liberal regimes and conducive to flourishing in the kind of society liberalism creates’ *Liberal Virtues* (Oxford: Oxford University Press, 1991), 4. See also David A. Strauss, ‘The Liberal Virtues’, in *Nomos XXXIV*.

<sup>9</sup> Roger Crisp and Michael Slote (eds), ‘Introduction’, in *Virtue Ethics* (Oxford: Oxford University Press, 1997), 24. Karen Stohr has also observed more recently that ‘with a few exceptions, virtue ethicists have had relatively little to say about contemporary political issues’ ‘Contemporary Virtue Ethics’, *Philosophy Compass* 1 (2006), 22–27, 27.

<sup>10</sup> Slote does not himself mention the notion of an institution’s political legitimacy, e.g. the legitimacy of legal and penal institutions, and no others, have to imprison people. But it seems to me that an interpretation of Slote’s agent-based formulation could do its work here. For in citing laws and institutions as positively and admirably just if they reflect virtuous motivations, he seems to want to say not only that they will be just (i.e. will afford justice) but that their very presence and continued authority is *justified*.

account, so here it falls short of offering a cogent line in political philosophy. If Slote's theory is essentially virtue ethical, as I have just claimed, then the problem may have implications for political versions of virtue ethics *per se*. I end by considering how far this problem in Slote's account might generalize and threaten to undermine any kind of virtue-ethical project into social and political philosophy. I do not think it need do this as long as it understood that institutions, and the social structures they define for individuals, are things quite different from individual persons, and thus that a variety of virtue ethics that applies to political and social institutions rests on formulating a distinctly institutional variety of virtues.

## 2. Virtue Ethics, Agent-Basing and Social Justice

One quite general objection to politics in contemporary virtue ethics appears to have particular import for an agent-based version, some discussion of which will help illuminate key features of agent-basing. The general objection is that the characteristic concerns and scope of political philosophy are not about any agent in particular, still less her particular traits and motives, but rather, by definition, about the ways and extent to which large numbers of such individuals should or should not stand and be bound in relation to each other and to institutions of society and State. These include, for example, the arrangement of social, political, legal institutions, the distribution of goods and resources, the role and legitimacy of authority and laws that determine which set of constraints individuals in a given society are subject to, and why.<sup>11</sup> By contrast, any virtue ethics' starting point is the subject of the individual and their moral character, where those that give accounts of rightness and wrongness of actions do so in terms of the virtues or vices, the traits, motivations and reasons, on which the particular agent acts. The general objection is that political philosophy and virtue ethics are in an important sense talking about different things: The former speaks about supra-individual entities and their relation to individuals; and the latter speaks about the inner lives of those individuals.

*A fortiori*, given that agent-basing construes the rightness of action directly and entirely from inner psychological and affective states of the person acting, the objection to agent-based version of virtue ethics is to its apparently inherent difficulty in accounting for legal requirements, rules and laws or political constraints or obligations. (As Slote is keen to point out, this does not commit agent-basing to the view that an individual's having a morally admirable character is sufficient for all or any of their actions to be right, but the action will be right if it *exhibits* such a morally admirable motive.<sup>12</sup>) So, on the plausible assumption that any political theory must recognize the necessity of at least some kinds of normative structures in the form of institutions – (e.g. legal institutions) and their requirements and constraints (e.g. laws and punitive measures), and that these things are something other than the motivational states of particular agents, one might wonder just how agent-basing can account for, still less justify, legal and political institutions.<sup>13</sup> How, then, can only the virtuous

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<sup>11</sup> Jonathan Wolff has offered a pithy, incomplete, but also instructive definition of political philosophy as framed by two basic questions: 'who gets what?' and 'who says?'" *An Introduction to Political Philosophy* (Oxford: Oxford University Press, 1996), 1.

<sup>12</sup> *Morals from Motives*, 16-17.

<sup>13</sup> 'Law in Virtue Ethics', 92.

motivation of individuals do justice to social and political justice? What exhibits or reflects the virtuous (enough) inner motivation of individuals in acts and entities affecting the lives and relations between potentially millions of different individuals?

Consider, firstly, the agent-based theorist's claim that an action cannot be deemed right unless it arises from a virtuous motive. Slote responds to the objection that this renders agent-basing implausible as a moral theory,<sup>14</sup> but in any case this feature of the agent-based view may not be especially implausible in the case of large-scale political action. Where such morally deficiently motivated military action, for example, has resulted or could have resulted in some putatively positive outcome such as the removal of a dictator, some have called it (or may call it) 'the right war for the wrong reasons'. But it is reasonable to suppose that to the extent that it is a political act *driven* by morally deficient motivations it is or was (or would be) the wrong, unjust, war.<sup>15</sup>

More pressing, however, seems to be the converse objection, that acting from admirable motivations far from guarantees good or right actions, and instead may well often result in well-intentioned moral failure. The political twist to the 'good motives can and do result in wrong actions' objection comes with thinking about the way in which those in high public office, and their institutions, are faced with decisions of moral conflict which would not seem adequately, justly, rightly resolved in action by merely having a virtuous or virtuous enough motivation. In these cases the morally admirable motivations of individuals may appear to hamper the right (positively just) or best political action rather than produce it, and we might think that those making decisions on matters which affect entire societies need to be dispassionate or especially assiduously objective in doing so. So here the thought is not, contra the 'no right actions from morally deficient motives' commitment of agent-basing, just that motives do not matter in politics as long as the 'job gets done'. Rather, it is that motives matter a lot. In particular the motive towards getting the job done should override motives which, in other parts of life, we call virtuous. Given the kinds of decisions over actions that politicians face, the primary motivational state appropriate for political acts would seem to be something like a teleological concern for doing whatever needs to be done to achieve the right, or overall best, outcome. Adopting for the sake of argument a Machiavelli-like stance, a primarily consequentialist disposition<sup>16</sup> might seem a requirement for those in public office who may on occasion have to dirty their hands to attain the best overall results in matters of

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<sup>14</sup> *Morals from Motives*, 13-14.

<sup>15</sup> Notice that even a consequentialist could include motivational considerations in a judgment as to the rightness of war (and not only that of whether the war-monger is motivated by consequentialism). Assuming they sought to include all the relevant costs and benefits of going to war in their judgment, the question of whether some individual or class is at least partly motivated by potential self-benefit – so e.g. the war will be prosecuted because of what she/they stand to gain from doing so at the cost of others' lives – could surely be weighed in the judgment.

<sup>16</sup> In 2008 the British Prime Minister Gordon Brown said that Members of Parliament (MPs) should be allowed to "vote with their consciences" for or against an Embryology Bill to which the Vatican Council of the Roman Catholic Church was opposed. In an article in the *New Statesman* (April 10, 2008) Baroness Mary Warnock disagreed, arguing instead that the role of an MP is to represent their constituents and serve public interests aside from their personal views or sympathies. Thus according to Warnock "it is the role of legislators to be consequentialists". We should not on this basis deem Warnock a Machiavellian by any means (as it were), but the point about overriding dispositions is made here, I think.

public policy and state.<sup>17</sup> Insofar as those responsible for political acts and institutions, laws etc. need strong motives of care it is that they need to care *about* getting these results and avoiding others, where the primary concerns are the ends of politics (including that of just societies) and the best means (policies, acts, laws) by which to realize these ends. In assessing whether political actions are right or best, basic or general dispositions of caring are the last thing we should look at, if we should look at them at all.

Slote's response to the objection that agent-basing is too inward-looking is instructive for his formulation of social justice here. He explains that a properly virtuous motive, if genuinely held, will direct its possessor to look outwards at the relevant scope of any act which flows from that motive:

If one morally judges a certain course of action or decision by reference to, say, the benevolence of the motives of its agent, one is judging in relation to an inner factor that itself makes reference to and takes account of facts about people in the world. One's inward gaze effectively "doubles back" on the world and allows one [...] to take facts about the world into account in one's attempt to determine what is morally acceptable or best to do.<sup>18</sup>

Bringing this condition to the social and political version of agent-basing, the construction and sustenance of institutions, the instituting of laws, declarations, policies and political acts will, also, only reflect or exhibit virtuous (enough) motives if those responsible properly consider the facts about the world and the people affected by these things. Thus the politician who is deciding on acting, sanctioning an act or on voting on a policy, would not be genuinely motivated by care for his country (and others) or benevolence if in doing so she failed to do her utmost to find and properly consider what effects each decision (or lack of decision or abstention) would have.<sup>19</sup> Slote himself provides an apposite example of the necessity of this kind of reflection for acting morally in a political or social role. Taking Sidgwick's case of the prosecutor who fulfils his duty to prosecute but does so from a motive of malice rather than that duty, Slote considers what motive would be manifest if the prosecutor failed to fulfil that duty, where: 'one very likely explanation will be that [the prosecutor] lacks real or strong concern for doing his job and playing the contributing social role that that involves'.<sup>20</sup>

We can glean two important points for agent-based political theory from this example. The first point is that agent-basing can accept the reality of obligations and duties that arise from social and political institutions without locating a moral criterion somewhere other than motives. Following Slote on Sidgwick, agent-basing construes duties and obligations of social and political roles as features of the world which the correctly virtuously motivated individual

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<sup>17</sup> Michael Walzer, "Political Action: The Problem of Dirty Hands", *Philosophy and Public Affairs* 2 (1973), 160–180. See also C.A.J., Coady, and Onora O'Neill, 'Messy Morality and the Art of the Possible', *Proceedings of the Aristotelian Society* 64(Supplement (1990)), 259–294.

<sup>18</sup> *Morals from Motives*, 39.

<sup>19</sup> This is also in tune with familiar thoughts on social and political responsibility. A judgment that it is a bad state of affairs in which some political institution, policy, government or tenure of representative is sustained by virtue of an insufficiently informed electorate seems quite naturally amenable to an agent-based understanding.

<sup>20</sup> *Morals from Motives*, 14.

must consider in order to assess what would be the morally right or best action in those roles. The prosecutor could not properly be properly evincing a virtuous motive if he shuns his duty, precisely because he would be failing to look outwardly and take into account his office of prosecutor and what it is that a prosecutor (and not just any agent) is supposed to be doing. Similarly, in other cases of acts by political representatives, delegates or public officials, the fact that one holds such a role and is bound by its obligations, and those obligations, must inform the deliberation of anyone who is properly virtuously motivated to act well. This is what we should expect of an agent-based theory, or indeed any kind of virtue ethics that does not implausibly deny that there are, as a matter of fact out there in the social world, obligations that attach to certain offices and roles.<sup>21</sup> On any such view there are surely at least some actions *qua* certain kind of professional, or family member, or club-member, the rightness or wrongness of which is not adequately assessed without considering those roles and their obligations. The second point, to which I turn next, is more problematic for agent-basing.

### **3. Problems for an Agent-based Theory of Social and Political Justice**

While agent-basing on this construal sets socially and politically institutionally determined duties and obligations (such as those of the prosecutor) within the proper scope of the virtuous motives of individuals, it so far fails to say anything about what those duties and obligations should be like. Still less does it tell us about the relevant qualities of the institutions that determine those duties and obligations. That is, so far it does not give justificatory grounds for duties and obligations such as the prosecutor's duty to prosecute. Articulating and specifying these duties and obligations at various levels of state and society is what social and political institutions do (as the legislator's may be articulated in a political constitution and the prosecutor's duty specified by institutions of law, for example). And crucially, the task of normative political philosophy is to formulate and justify such institutions and their arrangement together – not only give an account of how individuals can best act in relation to them as entities they encounter in the world. Where agent-basing in the individual case sees structural political and social phenomena as aspects of the world that virtuously motivated individuals need to see and reflect upon, a political theory of social justice seeks to justify those phenomena and, to some extent, that world. So agent-basing may get morals, but not yet the justice of institutions, from socially and politically reflective motives.

Slote of course sees that the agent-based view must account for the justness or rightness of these structural phenomena and institutions. For, his hope is that agent-basing can evaluate 'laws, customs and institutions' in terms of whether they 'reflect or exhibit or reflect virtuous (enough) motives on behalf of (enough) of those responsible for them.' How then is this

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<sup>21</sup> See for example, Justin Oakley and Dean Cocking, *Virtue Ethics and Professional Roles* (Cambridge: Cambridge University Press, 2002); Christine Swanton, 'Virtue Ethics, Role Ethics, and Business Ethics', in Rebecca L. Walker and Philip J. Ivanhoe (eds.), *Working Virtue* (Oxford, Oxford University Press, 2007); Rosalind Hursthouse, 'Two Ways of Doing the Right Thing', in Colin Farrelly and Lawrence B. Solum (eds.), *Virtue Jurisprudence*, (Hampshire, UK, Palgrave MacMillan, 2007).

evaluation to be made? The agent-based view that the rightness or justice of some institution – or some law or custom it defines – is the extent to which it reflects or exhibits virtuous (enough) motives on the part of (enough) of those responsible for it. In order to exhibit virtuous motivation in upholding and sustaining that institution either (enough of) those responsible must take into account what that institution requires of them, or the virtuous (enough) motivations that instantiate rightness and justice do not take institutional requirements into account. The problem is that first option is difficult to reconcile with the agent-based view, and the second gives us an implausible, inadequate view of the value (rightness and justice) of social and political institutions, or so I will argue next.

Taking the first part of the disjunction, we cannot see institutional requirements as features of the world to which well-motivated individuals need to be attuned, at least not as easily as we can in the case of the prosecutor who stands in relation to obligations that come from the role. For in evaluating the justice and rightness of legal institutions themselves, we are not assessing the motives of individuals as bound by external social, institutional constraints. Rather, to reiterate, we are assessing the rightness and justice of the constraints and the structures that maintain those constraints. But we cannot make such a move in agent-based terms by allowing into the motivational picture prior and non-motive based considerations of what makes a certain institution (such as a legal institution) – and the rules and obligations it determines – right or just. We cannot, on that view, say that the legal institution is right and just when enough of those responsible for it sustain it from virtuous motives, *and* add that the proper expression or exhibition of such motives will involve considering requirements and constraints determined by that legal institution. At least, the agent-based theorist cannot do this without positing a conception of legal justice that is prior to or separate from those motives, and to do so would be to defeat that theory.

To illustrate further we can ask how we might intuitively think of how a motivation of someone responsible for sustaining legal institutions would be virtuous or morally deficient. We might well say that virtuous motivation or its deficiency in this context would involve a concern or lack of concern for the values, purposes and practices embodied by that institution. These could include a concern that (some conception of) justice is done, that due processes are followed, that evidence is subject to proper scrutiny, that no one is punished unless guilt is found beyond reasonable doubt, and so on. But the point of agent basing is that derives the justice or rightness not on the basis of whether it realizes such institutionally specified features but entirely from constituent agents' virtuous motives. So if it is to derive institutional rightness or justice this way then it cannot coherently *presuppose* the presence and normative pull of these institutional features as those from which constitutive virtuous individuals' 'inner gaze' should 'double-back'.

In order coherently to construe the justice and rightness of a political institution, then, the agent-based view must go for the second option, and hold that a certain institution is right or just by the extent to which it exhibits or reflects morally virtuous (enough) motives of (enough) of those individuals responsible for it, where those individuals' deliberations are not laden with specifically institutional values and considerations.



The immediate difficulty with this strategy, hinted at in the penultimate paragraph, is that it is entirely plausible that institutionally grouped and constitutive individuals will and should consider institutionally determined features in their deliberations. One way to allow this of these individuals, whilst keeping the requirement to evaluate an institution from non-institutionally laden virtuous motives, would be to exercise some licence with the concepts of exhibition or reflection. For we could, I think, allow that the way in which an institutional collective currently operates and the conventions it embodies could exhibit or reflect a general motivation among enough of its members (think here of how we might take this view of a collective which we hold to be morally repugnant, such as those of organized crime).

Following this line, suppose that many individual legal professionals are well motivated by benevolence or balanced caring to uphold the institutions of law, where this motivation will characteristically, perhaps even essentially, involve their considering the separately and institutionally defined aims of their respective professions. Here, the underlying and basic motives of care or benevolence could, as it were, shine through when aggregated together in exhibition or reflection as the institutional collective. There is nothing metaphysically fishy (or quiet possibly nothing metaphysical at all) about motivational features which are tangled up with others in individuals but revealed distinctly as such only in collectives. Consider in a different context, for example, a strong team spirit the exhibition of which requires only that a sufficient number of team-players have a minimal basic commitment to the team's achievement. In each individual this could be bound up with other motivations such as personal glory or fame. Nor does conceiving the motivation of the institutional collective in this aggregative, emergent, way commit the agent based theory to positing and defending distinctly collective agents or collective virtues or motivations.<sup>22</sup> The motives really are there in several (and enough of) the relevant individuals, and the non-institutionally directed and basic quality of the motivations can be instructively inferred just when these motives are exhibited in institutional concert. This would also help the agent-based theorist deal with two further worries about how to disentangle those individuals responsible for sustaining an institution from those who are not, and to what extent some individuals who no longer exist were responsible for the way some institution operates now (and if so, what their motives were and how they are exhibited or reflected).

The aggregative and emergent motivation strategy, then, may allow us to infer a kind of collective basic virtuous motive from individuals' institutionally affected virtuous motives. But in doing so it raises a further damaging problem with attempting to obviate the particularity of this or that institution. Suppose that we could find the basic, aggregated and emergent motive of care or benevolence manifested in legal institutions, in institutions of local or national government, in those of the civil service, in health or medical institutions or in military institutions, for example. But now, stripped of institutionally directed qualities

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<sup>22</sup> On institutionally organized group moral agency see for example Peter French 'The Corporation as a Moral Person', *American Philosophical Quarterly* 16 (1979), 207–15. On collective virtues see Michael D. Smith, 'The Virtuous Organization', *Journal of Medicine and Philosophy* 7(1982), 31–42; Miranda Fricker 'Can There Be Institutional Virtues?', in Hawthorne and Gendler(eds.), *Oxford Studies in Epistemology, Social Epistemology* (Oxford University Press, 201); and Donald Beggs, 'The Idea of Group Moral Virtue', *Journal of Social Philosophy*, 34 (2003), 457– 474.

specific to each case, what would it mean for, say, the ministry of justice to be evincing benevolence or balanced care, as opposed to, say, the UK National Health Service doing the same? Without some sense of what each different institution is doing or is supposed to be doing, we seem to have at best a very shaky grip on answering and saying what the manifestation of a virtuous motivation, in an individual or at the collective level, looks like in each case. To understand whether or not each very different kind of institution is exhibiting or reflecting its constituent individuals' virtuous motivations in *any* sense, it seems we need some purpose or some value which those responsible can reflect on to exhibit institutionally relevant virtuous motivation at all. Thus the non-institutionally enriched interpretation of virtuous motives as comprising institutional rightness or justice, which does without this requirement, is consistent with agent-basing but implausible and uninformative.

Of course the requirement that constitutive motives are non-institutionally enriched does not entail that these individuals responsible for some institution cannot look at *any* facts about the world and people in deliberating about what to do with respect to that institution. And the agent-based theorist could allow that institutionally relevant virtuous motives take into account certain values and facts about the world which, whilst not institutionally determined, are informative as to how one should act with respect to that particular institution. On this strategy,<sup>23</sup> those responsible for upholding legal or healthcare institutions need not look to features of those institutions as such, but are guided by the concepts or ideals of justice or health for which – we can reasonably assume – legal or healthcare institutions are instantiated. This way of understanding the rightness or justice of institutions in terms of motives allows that well-motivated individuals, or collections of individuals, can gaze out at features of the world and bring them into their deliberations about how best to instantiate a particular kind of institution, without their having to presuppose the institutional features they are seeking to instantiate.

A weakness in this view, however, is that though it allows into the motivational picture the values and concepts which underlie the institutions in question, it does not allow into their deliberations the typically quite specific and concrete institutional interpretations of those concepts. So, the concept or ideal of justice might be considerable for the virtuously motivated individuals who are responsible for upholding a certain legal institution, but this itself won't get us far at all in evaluating whether or not its working on a certain conception of procedural justice, or its jury selection criteria, or its adversarial system of trial – as opposed to other conceptions, criteria or practices – reflect or exhibit virtuous motivations (or fail to do so). This is because these are instituted features of a particular conception of legal justice, and its practices, which are not specified apart from a conception of that institution.

Yet it is not clear that all or even any such concepts and values, ones that might appear coherently and rightly to figure in the agent-based theory of institutions, could be grasped without institutional concepts and values. For in many cases, questions of what comprises such concept may not be answerable without reference to the practices of institutions which

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<sup>23</sup> A non-agent-based Aristotelian virtue ethical version of this view of 'regulative ideals' of roles is well articulated in Oakley and Cocking, *Virtue Ethics and Professional Roles*.

have shaped that concept. It may not be the case that we can identify the concept or ideal as a relevant motivating condition or concept apart from the institution(s) that realize(s) it, because institutions inform concepts, and vice versa. Alasdair MacIntyre makes something like this point using the example of education:

‘How we categorize educational institutions and what norms define education for us cannot be separated. Equally, how we write the history of any particular educational institution will depend upon our judgments as to its continuity and identity; and these in turn will involve judgments as to generalizations about and norms governing educational practice. Normative debate is ineliminable from the question of how the concept of education is to be applied. The concept [...] turns out to be essentially contestable.’<sup>24</sup>

To this extent, well-motivated agents who consider these more abstract phenomena in weighing up actions in relation to their institution would need to include and presupposing some aspect of that institution in their deliberation, and the necessity of prior non-agent based considerations in the relevant individuals’ motivations would once again loom.

We can recapitulate some key points of the preceding discussion by briefly and finally considering a slightly different way for agent-basing to conceptualize institutional collectives and their motives or quasi motives. A promising way forward might seem to be in averting to the subject of collective agents, as the bearer of those motives and characters, rather than individual agents. However, if there is or could be a successful account of group (moral) agency such that group moral agents could have motives, it seems that the problems discussed above would still afflict a group-agent-based theory of social justice. This is because, to recap, different kinds of social and political institutions embody some of their own distinct purposes, functions and social values. So collectivising the agency of institutions’ constitutive individuals would not yield an adequate picture of what it would mean for this or that particular institutional collective agent to have or evince virtuous motivations. Once again, what would it mean for the town planning committee, or army, or shadow cabinet, or high court of justice each to be caring or benevolent? We seem unable to answer by virtue of these groups of people being the same *kind* of moral agent, as we might with individual moral agents. If such institutionally defined groups are collective agents at all, they are very much more like individual agents with specific jobs to do, being bound by particular and specific obligations, than they are like the individual moral agent simpliciter. And here the problem that agent-basing has with specifying those particular and specific obligations – the job description – re-emerges at the level of institutional collective agents.

#### **4. A Problem for Virtue Ethics *per se*?**

In the introduction to this paper I said that Slote’s agent-based view offers a distinctly or purely virtue ethical form of a theory of political and social justice, where in order to be a form of political philosophy faithful to virtue ethics (as distinct from a view which gives a role to virtues in a political philosophy), such a theory needs to account in some way for the value or rightness/justice of social and political institutions primarily in virtue terms. Slote

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<sup>24</sup> Alasdair MacIntyre, ‘The Essential Contestability of Some Social Concepts’, *Ethics* 84 (1973), pp.1-9, 7.

gets this right but, as I have argued, the agent-based theory of social and political justice has a problem not so much with explaining the rightness or wrongness of individuals' action in a social and political world, but with its key task of accounting for the rightness and justness of political and social institutions themselves. So if this is the case then we might wonder to what extent if any the problem in his account threatens to hamper any contemporary virtue ethical foray into political philosophy.

I do not think that the problems I have raised mean that the first basic objection to contemporary virtue ethical politics *per se* – that there is a fundamental mismatch of individual and political matters – is a fatal one. At least, that mismatch does not seem hopelessly insuperable if we were to seek a variety of virtue ethics that applies distinctly somehow to political and social institutions and structures themselves, a distinct from individual agents. At the end of the last section we saw that collectivising the agency of institutionally grouped individuals would not avoid problems of the individual agent-based strategy, and that this is because of the specific purposes and functions that different institutions serve and maintain. This underlines the way in which institutions are not only collections of individuals oriented towards a certain goal or function, but are also social and political institutional *structures*, including rules, practices requirements, obligations and powers to enforce those requirements on individuals. These things are of course instantiated and sustained by agents, but they are not themselves agents who can bear virtues or evince motives of any kind.

My own view in light of these points is, roughly put, is that that insofar as we can evaluate social and political institutions in virtue and vice terms, they are best conceived as structural and functional social artefacts – like social or political ‘tools’ – which bear virtues and vices – in the senses of excellences and defects – *qua* that kind of artefact, and from which role-obligations and duties that bind individual agents stem. Institutional virtues and vices in this sense are appropriately quite different from the cognitive, motivational and affective traits of personal character, because they are not predicated of agents as such. This idea of course has its roots in the Aristotelian notion of characteristic activity – *ergon* – or function of a thing, and a notion of an institution being a kind of social artefact that is created for something:

[a]ll associations come into being for the sake of some good - for all men do all their acts with a view to achieving something which, in their view, a good. It is clear therefore that all associations aim at some good<sup>25</sup>

Clearly it is doubtful whether some institutions – from criminal gangs to those of slavery – are aiming at any good at all except the perceived good of those who benefit from them. But recognizing bad, vicious institutions, and that we have good reasons to eradicate them, would also surely be part of such a version of institutional virtue theory, the point of which would be to specify what it is about which particular institution that makes its life *qua* that thing go well. Insofar as institutions are unlike people and more like tools, establishing the uses or functions to which we do and should put them does not seem an impossible or fruitless endeavour.

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<sup>25</sup> Aristotle, *Politics* 1252a1-a7

I outline this view a bit further elsewhere,<sup>26</sup> and if it is to stand up then it will require development and defence elsewhere still. Here I mention it only as an indication of where a potentially socially and politically enriched form of virtue ethics should start. Certainly such an approach may not prove to be the best or only way to a successful political virtue ethical theory. Nonetheless I hope it exemplifies that such success rests not on extracting institutional values from the virtues or motivations of individuals, but rather on formulating a distinctly institutional variety of virtues.

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<sup>26</sup> 'Virtuous Persons and Social Roles', *Journal of Social Philosophy* 42 (2011), 254–272.