

Introduction to Ethics

An Open Educational Resource

Collected and Edited by
Noah Levin, PhD

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Introduction to Ethics: An Open Educational Resource

Collected and Edited by Noah Levin, PhD

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Introduction

I would like to take a brief moment to explain the origin, purpose, layout, and uses of this work. I first got involved in using Open Educational Resources (OER) all the way back in 2005 through the influence of numerous professors and other graduate students when I was in graduate school at Bowling Green State University (in Ohio, not Kentucky) and continued to use them six years later as a clinical assistant professor at Washington State University. This was before the materials we used were known as OER. Instead of a traditional textbook, in some of our courses we used a combination of works in the public domain and/or articles available to all students electronically through the school's library. It took some effort to gather them and point students to them, but there was no loss in educational quality and the students were able to save money by not having to buy what could be very expensive textbooks. In fact, a majority of the material we used (and I still use) is present in many textbooks. Fast forward to today, and there are many OER works coming from many different sources: single-author works, works written by multiple authors, textbooks that are old enough the publishers don't care about them anymore so the authors decided to release them into the public domain, edited collections of articles by authors willing to give their work away for free (as is the case with this volume), and works that are collections of classic texts that are old enough to be in the public domain (which make up the bulk of the OER textbooks I have created). I believe it is vital to approach all textbooks as learning tools, which means they should never be relied upon as the only method of conferring information and can even be inaccurate, assuming the inaccuracies are used as learning points. With this attitude, it follows that OER works, even if they are not as polished or perfect as traditional textbooks, are *just as* useful, of comparable quality, and are greatly more accessible due their free and electronic nature.

I have organized this textbook around the way I teach my introductory course in ethics. Since I got to design this textbook and it's for use in my own courses, it directly follows the order in which I teach the topics and each chapter makes up the reading assignment for about 1.5 hours of class time. In other words, I meet with students for thirty 1.5-hour sessions in a semester (hence there are 30 chapters in this work), and for the first meeting, we read and discuss chapter 1, for our second we cover chapter 2, then chapter 3, and so on. It leaves the guess work out of what we cover and when we cover it and keeps things very organized and streamlined. I tell you this now to give you some insight into the way I approach my classroom and time with my students. Since this is intended for an intro-level course, keeping things on track, moving, and organized in this way has proved to be very beneficial for my students.

I know that this work is the same quality as the classic and standard textbooks used in many introduction to ethics courses, which includes a number of chapters on important contemporary topics in ethics that students ought to be familiar with. Having read through everything in this volume multiple times, I know that students will benefit from the great quality of the pieces contained within it. These works come to us for free from the donated time of numerous philosophers to whom I am greatly indebted and are acknowledged on the previous page. Because of their hard work, I know this textbook will be useful for anyone that is taking an introduction to ethics class or is interested in learning more about ethics. The articles, while sometimes challenging, are readable and accessible even to newcomers to philosophy. If you find this work useful, I humbly ask that you spread the good news to others about this work and other OERs. The more people use and create these materials, the better and more accessible education will become.

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UNIT ONE: INTRODUCTION TO CONTEMPORARY ETHICS: TECHNOLOGY, AFFIRMATIVE ACTION, AND IMMIGRATION

As you enter this textbook, I would like you to remember two of the greatest quotes from arguably the greatest Philosopher, Socrates: “I am the wisest man alive, for I know one thing, and that is that I know nothing” and “the unexamined life is not worth living.” They are both from Plato’s *Apology* that describes the trial of Socrates in Athens for, most importantly, “corrupting the youth of Athens.” Despite the English connotations of the title, Socrates does not “apologize” for anything nor is he sorry – the Greek word *apologia* (the origin of the title) means “formal defense.” These quotes come up in the context of his illustrating how much more intelligent he is than his accusers (not the best idea when his life is on the line, but Socrates was true to himself) and defending his practice of encouraging the people of Athens, especially its youth, to think critically and rationally for themselves. Combine these two quotes, however, and we are left a bit of a conundrum: we must examine life for it to have value, but we are unlikely to come to know anything from this examination. Still, Socrates would argue, the pursuit of knowledge is important and fruitful. Examining life, ideas, knowledge, experience, and anything and everything we can think of, in a pursuit of truth and knowledge, is of the utmost importance. Yet, we must also recognize the limits of our abilities and approach all endeavors with a healthy dose of humility and openness. But if we are to examine life, where would this pursuit take us?

His two successors, Plato and Aristotle, had a goal in mind: we do Philosophy to arrive at an understanding of the ideal society. What’s the point of living if we aren’t achieving a life of, as Aristotle puts it, excellence (*arête* in Greek) and flourishing (*eudaimonia*)? Their philosophical examinations culminated in proposing an ideal state, and examining such a society falls under the umbrella of **Political Philosophy**. An integral part of a flourishing society includes setting up a system wherein everyone can attain happiness and live the good life. But why should we care about happiness? Or even other people? Why not just care about our own pleasures? An important part of their analyses is doing **Ethics**: studying right, wrong, good, and bad. How do we value happiness? Why do we value it? Do we value other things? Other people? What makes someone good? And so on. Thus, the final aim of Plato and Aristotle, and the purpose of Philosophy, was to do Ethics. I might be biased, however, since this is an Ethics textbook and I am primarily an Ethicist by training. Of course, anyone could argue that their field of Philosophy is more important to living a good life, like **Metaphysics** (the study of the nature of reality), **Epistemology** (the study of knowledge), **Logic** (the study of reason), and any other field. And they’d be right: you can’t do ethics without doing all of these things (and I’d argue you can’t do those without doing ethics). You have to be clear on the ideas you’re using and how they relate to get anywhere in any branch of philosophy. Most people don’t necessarily concern themselves with abstract concepts of knowledge on a daily basis, but we have to interact with people daily and are thus confronted with making moral decisions many times every day. We have to do things for ourselves and others, so how do we know what’s right to do? That is, of course, assuming we want to be good people. But what does good even mean?

This textbook will cover these topics, and many more, in detail. To frame these questions and analysis, we will focus primarily on contemporary moral issues, from those in medical ethics (euthanasia, abortion, etc.) to how we should treat non-human things (like the environment and animals)

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and issues that affect society as a whole, like technology and immigration, which is where we'll begin. There will also be readings (mostly classic selections from extremely influential philosophers that you might have actually heard of, like Aristotle, John Stuart Mill, and Immanuel Kant) that cover the theories behind the moral principles we will be applying. It is actually much easier to understand these theories after examining how we normally apply them in our daily lives, so these chapters with "classic" readings will come in the later half of this work. It might seem backward, as it would seem more natural to learn the theories and then apply them, but it's really not. You already know how to do ethics and you do moral analyses on a daily basis, and once you examine how we all regularly do morality, you are better positioned to appreciate the concepts that drive our moral habits.

There are two terms that will be used interchangeably in this work: **ethics** and **morality**. They are clearly separate words and you would assume (and many people do) that they would thus mean different things. But, for the branch of philosophy that is called both "Ethics" and "Morality", they mean the exact same thing. Many people will take issue with this and want to say I'm wrong (which is a moral or ethical claim). But I get to play the expert card right now: in Philosophy, I have yet to meet someone that is an expert in the field of Ethics (or Morality) and believes the two mean something significantly different. Oftentimes non-philosophers will want to correct me and say that "Ethics is the theory; Morality is how we apply it" (or is it the other way around?), and I will admit that in some fields that might be how they use the terms. There is a branch of philosophy that deals with the theory of morality, however, and that is called **Meta-Ethics** (from the Greek for "about ethics"), so we do have a word for that. The application of moral theories to actions is sometimes called **Applied** or **Normative Ethics**, so there is also a term for that. But morality and ethics mean the same thing here, so why do we have two words that mean the same thing? It's simple: ethics (as a word) comes from Greek and morality (as a word) comes from Latin. English uses words from many languages, and we tend to keep them all, even when they mean the same thing. I've probably written more than I need to already, but all I want to make clear is that you, the reader, should understand that ethics and morality mean the same things in this work. You will come to learn that getting very clear on the terms we use is vital to doing a proper moral analysis, so it is important to always pay close attention to language and clarify terms whenever it seems necessary. You don't want to be misunderstood and you don't want to misunderstand others. The philosopher Ludwig Wittgenstein once believed that *all* philosophical problems are just linguistic problems. He changed his mind about this later on in his life, but he had a point: a lot of problems we have with each other are often not due to genuine disagreements (where we will be unable to find some common ground) but are rather misunderstandings due to language.

This first unit is meant to give you a taste of ethics and how it is applied. Chapter 1, *The "Trolley Problem" and Self-Driving Cars: Your Car's Moral Settings*, is a fictional short story about potential moral settings for self-driving cars in the near future. Chapter 2, *What is Ethics and What Makes Something a Problem for Morality?* by David Svolba, explains the basic aspects of doing ethics and how it uniquely deals with problems. Chapter 3, *Letter from the Birmingham City Jail* by Martin Luther King, Jr, is a powerful letter written to his fellow clergymen while he was imprisoned for leading civil disobedience movements (in this case, the Alabama bus boycotts) in an attempt to end segregation in the United States. Chapter 4, *A Defense of Affirmative Action*, explores the reasons on all sides of policies that are aimed at helping minorities obtain positions in a system that unfairly overlooks them. Chapter 5, *The Moral Issues of Immigration* by B.M. Wooldridge, discusses the various angles of immigration and its problems and benefits. Chapter 6, *The Ethics of our Digital Selves*, analyzes the role that emerging technologies have on conceptions of our personal identities and how this has ethical implications.

1 The “Trolley Problem” and Self-Driving Cars: Your Car’s Moral Settings Noah Levin¹

“We have decided to put the moral decisions related to our crash-avoidance and self-driving features into the hands of the consumer. After all, it is your vehicle and you will be behind the wheel. Or maybe you won’t be. Our proprietary system allows for you to customize all settings depending on who is in the vehicle, who is driving, and what conditions present themselves on the road,” Bob, the salesman, told Hillary.

“What do you mean ‘moral decisions’?” Hillary asked.

“There’s a classic problem in philosophy known as ‘The Trolley Problem’ and it’s a simple version of a scenario we like to analyze to help determine your settings. Are you familiar with it? No? It can help explain what we have in mind, so it’s a good starting point. Let me show you how it works,” Bob said as he touched his screen a few times causing a holographic projection of a red trolley (the type that were still in use on the streets of San Francisco) to appear on the table between them.

“You see, this is a runaway trolley and it’s flying downhill on the track. There’s a fork ahead and it’s headed toward the path to the right. You happen to be standing at the trolley tracks and your hand is on the lever controlling the fork, so you can choose which track it goes down,” Bob explained as the hologram zoomed out a little to reveal the fork in the tracks while a lever appeared in front of Hillary indicating the switch would currently send the trolley down the right path.

“OK, so what’s the issue? There’s no one in the trolley and I don’t know where it wants to go, so what do I need to do?” Hillary asked, a little intrigued by the simulation. She hadn’t bought a car in years and was unprepared for both the sophisticated level of technology in her potential vehicle and the tactics used by the salesman.

“Correct, there’s no one in the trolley, but there are people down both of the tracks. You see, a mad philosopher – I know, bear with me, this was popularized by the philosopher Judith Jarvis Thompson after all – has tied down a number of people. Specifically, there are 5 people on the track the trolley is headed down and 1 on the other track,” Bob said as the hologram zoomed out further to show the situation. All 6 of the people on the tracks had indiscernible features to the point that Hillary couldn’t make out any details, not even general age or gender.

“Now, you have a decision to make,” Bob continued as the trolley slowly rolled toward the fork. “You can do one of two things: nothing or pull the switch. If you do nothing, the trolley will kill the 5 people. If you act and pull the lever, then the trolley will switch tracks and kill the single person. What will you do? All you need to do is pull that switch to change the track.”

“Those can’t be the only two options. Can I shout at those people? Untie them in time? Hop on the trolley and pull the brakes? Put the switch in the middle so the trolley derails?” she said as she delicately moved the switch trying to get it to stick in the middle, having no luck.

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“Nope! There are only those two options. Anything else you try to do won’t work, and will take up any time you have to make a decision which would mean the trolley will continue down its track and kill the 5 people. That’s the point of this: you must choose between those two options,” Bob said.

Hillary thought as the trolley continued on its path toward the fork. It didn’t take her much longer to deliberate, and she set the lever to the track with the 1 person on it.

“Well, it’s kill 1 or 5, right? I’d rather less people die. This is all really the fault of the ‘Mad Philosopher’ anyway,” she stated.

“Most people make the decision you just made, and for those same reasons. However, there’s something to think about: rather than saving those 5 people, did you just kill 1? After all, that person wasn’t going to die until you did anything,” Bob asked.

“In some sense, I suppose I did, but someone was going to die. If I didn’t do anything, then those 5 people would die, and there was something I could have done to prevent that. It’s unfortunate for that one person, but I’d hope they would understand,” she stated.

“There are those people that believe there is a big moral difference between allowing something to happen and doing it yourself. But I can tell that you don’t think so. Whatever happens in this situation is in your hands, and you’re ultimately partly responsible for the results it would seem. That’s why it’s so important that you think about what settings you want to use in your new car,” Bob stated.

“But what settings are there exactly? If it’s just to choose how many people to save, then that’s easy: save more people. Why wouldn’t I pick that option?” Hillary asked.

“Great question! Let’s change this up a little. Instead of the train heading down the track with the 5 people, it’s headed down the track with only 1 person,” as Bob said this, the 5 people shifted to the other track in the hologram, but the track the trolley was headed down remained empty.

“Now, Hillary, I don’t mean any offense by this, and I don’t want you to be shocked, but we’ve found this to be very effective at helping you decide which settings are correct for you and your family,” and, as he said this, a little girl just five-years-old appeared on the track the Trolley was headed down.

“Vanessa? What is she doing there? Why is *my daughter* in your little game?!” she shouted.

“My apologies, I’ll take her out,” as he said this, the girl was replaced with a boy version of Vanessa. “You get the point. What would you do if you had to choose between the life of your daughter and 5 strangers?” Bob asked.

“Well, my daughter, of course! What kind of monster would kill their own child?” Hillary shouted again.

“Of course you would save her. But remember what you had just said about saving more lives than less – that only matters to you when you don’t know anything about the people that might be killed. Now, I assure you, that there are people that choose to, sadly enough, sacrifice their own child to save those 5 lives. It’s not an easy decision to make, but they believe their child would want to make that sacrifice,” Bob said, attempting to calm Hillary. He was clearly used to these sorts of reactions.

“I really don’t see what this has to do with my new car. When would my daughter be in the road and the only way to avoid her is by killing 5 strangers? And where am I? I’m not even a part of this. I’m just standing on the outside,” Hillary asked.

“You’re right! You are not really involved in this situation, so it isn’t exactly something that might happen when you’re driving your new car. This is why we’ve devised a different scenario to help you understand the actual options in our moral decision-making algorithm and choose the most appropriate parameters for your family. The Trolley Problem was just the beginning so you can better appreciate this scenario,” Bob said as he began tapping at his screen once again. The holographic simulation of the trolley disappeared and the minivan that Hillary was considering appeared driving

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down a curvy mountain road.

“Now, let’s say you’re out for a relaxing mountain drive. You need some time to yourself and just needed to get away, so you’re blasting your favorite tunes on our 12-speaker award-winning sound system using our safety assist driving mode, which puts you in control but keeps an eye on things so that you don’t get into an accident, not that you would, but just in case you lose yourself too much in your music, the car has you covered. Suddenly, you turn a corner and see a family of 5 standing in the middle of the road since they just emerged from their wrecked car when it hit a boulder that had recently fallen off the mountainside. They were driving a very old car that didn’t have the latest auto-braking technologies, but had all thankfully survived with only minor injuries. You’re in control of the wheel and have just enough time to react. You see that there are only 2 options: smash into the back of their car and risk serious injury to yourself or avoid it and hit the family. Plunging off the cliff would be certain death (we don’t have ejection seats – yet!), so it’s either hit the family or take your chances crashing. Our safety systems are topnotch and we receive the highest crash rating year after year. But you never know what’s going to happen in an accident like this. The family might be fine as well if you hit them or they might jump out of the way in time, but they aren’t surrounded by 7 different airbags like you are. Now, what would you do?” As Bob explained the scenario, the hologram changed to match. Only instead of a switch, there were two buttons in front of Hillary: one that said “Hit the car” and another that said “Hit the family.”

“I can’t help but see my family standing there when I look at these people. I couldn’t hit them, so I’d take the chance on myself,” Hillary said as she pushed the button indicating her choice. The hologram stopped just before impact.

“That’s quite noble of you. But – now, again, don’t be shocked – what if *your family* were in the car with you? Let’s keep it limited. Not your entire family, but just you and...Vanessa, was it?” Bob asked, now sounding more like a casket salesman than a car salesman.

“I can’t risk her like I will risk myself. My job as a parent is to protect her. That family shouldn’t have been standing in the middle of the road anyway, so it wouldn’t be entirely my fault,” she stated, reassuring herself of her decision.

“Of course, I understand. From what you’ve said, it sounds like you’re interested in our most popular settings, which a full 91% of new car owners choose. There are a lot of options, but I can summarize how it will work out in the real world for you, if you like,” Bob said as a list with at least 50 checkboxes appeared in place of the simulation.

“Please, go on,” Hillary said.

“You’re willing to sacrifice yourself for the sake of others – again, that’s very commendable of you – and always want to save the most lives that you can, unless your family is on the line–” Bob said before Hillary interrupted him.

“No, not my entire family, just children. Nephews, nieces, and any other kids included,” Hillary clarified.

“And grandchildren someday, of course! My apologies, I misspoke. Yes, we will prioritize the lives of any children in your new vehicle, but count adults in your vehicle the same as those outside of it. While we’re on the topic, should we also prioritize the lives of children outside the car as well? We can put whatever weighting on them you like when the system does its calculations in the unfortunate event of unavoidable catastrophe. Most customers opt for a 2:1 value ratio – minors count twice as much as adults. However, we do have customers that value the elderly at a higher rate. We can set the parameters however you want, and we need not make these decisions now,” Bob said.

“2:1 for children under 15, and 1.5:1 for children between 16-21. Anyone older than that can

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fend for themselves,” Hillary stated.

“Yes, of course. You can always change your LVRs, Life Value Ratios, later, and tune them exactly to your liking based on whatever traits you choose to specify. There’s even a specific setting for ex-husbands!” Bob joked. Hillary let out a forced chuckle.

“Sorry, to continue, the system will prioritize the most lives, weighted to your specifications, weighing adults inside and outside the vehicle the same, but giving a higher value to children, and giving those in the car the highest values. There is also a setting that will give the occupants in the car priority in the event the algorithm results in a tie. Sound good?” Bob explained.

“Yes, that sounds quite good. Does a sunroof come standard?” Hillary inquired. All this safety talk was getting tedious, and she suddenly remembered how much she enjoyed the sunroof on her old car.

For Review and Discussion:

1. What are your thoughts on the “classic” Trolley Problem? Would you switch the track (to kill the one person) or let it kill the five people? Do you think there is a difference between “doing” and “allowing” in this scenario?
2. What moral settings would you use on your self-driving car and why?
3. Who would be responsible for a fatal accident in the event that a self-driving car injures someone because it made a decision based upon a moral algorithm? The driver? The car company? Nobody? Why?

2 What is Ethics and What Makes Something a Problem for Morality?

David Svolba¹

I. A Hard Case

We begin with a *hard case*, one which might pull us in different directions.

Baby Theresa. Theresa is born an anencephalic infant, which means that she will never be conscious, though she may live for several months since she has a functioning brain-stem that controls respiration and other life-sustaining processes. Theresa's parents are understandably devastated. After consulting with Theresa's doctors, the parents make a decision: they request that Theresa's healthy organs be removed, thereby killing her, and given to otherwise healthy children who will die if they do not receive an organ. The alternative is to donate Theresa's organs after she dies, but as we wait for nature to take its course children will die who could have been saved, and Theresa's organs will become less viable.²

Would it be *ethically wrong* to kill Baby Theresa in order to save the lives of other children?

How would we even begin to answer a question like this?

II. Some False Starts

Why not seek an answer to the question by...

Consulting the law?

But there may not be a law that covers the hard case, in which case the law will not offer us any guidance. More importantly, however:

Is the law a reliable guide to right and wrong? Let's consider: can we think of actions (real or imagined, current or historical) that are legal but unethical? Can we think of actions that are illegal but ethical? If so – if legality and ethics can diverge – then the law probably isn't a reliable guide to determining the right thing to do.

Conducting an opinion poll?

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² Drawn from the actual case of Theresa Ann Campo Pearson. For an overview of the ethical issues involved, see <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5606434/>.

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But others may be as torn as we are concerning what to do, in which case an opinion poll won't offer us any guidance. More importantly, however:

Are opinion polls a reliable guide to right and wrong? Let's consider: can we think of actions that are (or *were*) popularly approved of but unethical? Can we think of ethical actions that are not popularly approved of? If so – if popular opinion and ethics can diverge – then opinion polls will not be a reliable guide to determining the right thing to do.

Going with 'gut feelings,' or the dictates of conscience?

But especially when it comes to hard cases, we may not have clear feelings one way or the other—or, more likely still, our feelings might pull us in opposing directions, leading us to draw different conclusions about right and wrong. More importantly, however:

Are 'gut feelings' (or conscience) a reliable guide to right and wrong? Again, let's apply the same divergence test we applied when considering the first two suggestions: can we think of examples in which conscience errs, or a person's gut feelings lead her astray? We might also reasonably wonder about the *source* of gut feelings or dictates of conscience. Why think that these give us glimpses of ethical truth, rather than, for example, merely reflecting on assumptions and biases that we have accumulated through our upbringing and socialization?

III. Ethical Argument

There is a better approach to ethical hard cases than any of the false starts canvassed above: we can *think* about them. We can consider the *reasons* for and against certain ethical evaluations. We can construct and evaluate *ethical arguments* and see in which direction the weight of reasons tilt.

You might not be accustomed to thinking of ethics as a subject we can reason about. After all, many ethical disagreements seem anything but reasonable: they are often passionately emotional and intractable. But this might simply reflect the fact that we are not prone to reason about ethics *well*. Really, this is not so surprising, since reasoning well about any subject, and certainly a subject as complex and difficult as ethics, requires considerable experience.

A first step in learning how to reason well about ethical issues is to learn how ethical arguments work. One standard form of ethical argument seeks to derive *particular ethical judgments*—for example, the judgment that it would be wrong to kill Baby Theresa—from *general ethical principles*. A general ethical principle is a statement that says that a certain *kind of action* is ethical or unethical.

Here, for example, is a general ethical principle, which we may call the Benefits-Without-Harm Principle, or

BWHP: If an action will benefit people, without harming anyone, then it is ethically right.

BWHP identifies what philosophers call a *sufficient condition* for ethically right action. If an action

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benefits people without causing any harm, then that's enough – it's sufficient – to make that action ethically right, regardless of other features of the action or the circumstances in which the action is performed.

Suppose we find BWHP intuitively compelling. Does it shed any light on our question about whether killing Baby Theresa would be unethical? It might seem to, for one could appeal to BWHP in making the following ethical argument:

A1

1. If an action will benefit people, without harming anyone, then it is ethically right.
2. Killing Baby Theresa will benefit people, without harming anyone.
3. Therefore, killing Baby Theresa is ethically right.

For the moment, never mind whether this argument is convincing. Rather, try to appreciate how this method of arriving at ethical judgments differs significantly from the false starts we considered above.

IV. Evaluating Ethical Arguments

In evaluating a simple ethical argument like A1, there are two basic questions we can ask:

Q1. Is the general principle to which the argument appeals (in this case, BWHP) a plausible one?

Q2. Is the principle correctly applied to the case under consideration?

As for the first question, one common way to assess the plausibility of a general ethical principle is by using what philosophers call the *method of counterexample*. This involves searching for cases (real or imagined) in which the principle gives the intuitively wrong result. Let's illustrate this method by devising a possible counterexample to our sample principle, BWHP:

Benefactor. I am a very wealthy man in a small city with two hospitals. One hospital (Sunnyvale) serves the very rich and is decked out with all the latest and greatest medical equipment and is staffed by the most talented doctors and nurses. The other hospital (City General) serves the rest of the city (a majority of the population) and is badly under-equipped, under-staffed, and desperately in need of upgrades and repairs. Despite being aware of the dramatic inequality in the relative state of these two hospitals, I donate several million dollars to Sunnyvale and give nothing to City General. My reason is that I have been a patient at Sunnyvale several times in the past and am grateful for the treatment and care I received there.

Have I acted ethically right? Was giving several million dollars to Sunnyvale the *right thing to do*? BWHP suggests that it was. After all:

A2

1. If an action will benefit people, without harming anyone, then it is ethically right.

2 What is Ethics and What Makes Something a Problem for Morality?

David Svolba

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2. Donating the money to Sunnyvale benefits people without harming anyone.
3. Therefore, donating the money to Sunnyvale is ethically right.

But suppose we disagree with the claim that donating the money to Sunnyvale is the ethically right thing to do. What I should have done, we might argue, is donate the money to the hospital that needed it most—City General—where it could have done significantly more good. In our estimation then, BWHP yields the incorrect verdict in the case of *Benefactor*, and that’s a reason to doubt its validity.

Of course, counterexamples in ethics are never *conclusive*, since one always has the option to ‘bite the bullet’ and take on-board the counterintuitive ethical judgment. For example, a proponent of BWHP could give up the judgment that the money should have been donated to City General (and thereby state that giving it to Sunnyvale was the right thing) instead of giving up on BWHP. In ethics, counterexamples give us a choice: we can modify our principles to fit our ethical judgments, or we can modify our ethical judgments to fit our principles. Unfortunately, there is no algorithm for deciding when to do which. The best we can do is try to use good judgment and be on guard against various forms of bias.

In any case, let’s suppose that BWHP passes our tests. Let’s suppose we’ve considered a wide range of cases in which an action benefits people without harming anyone, and without exception we are disposed to judge these actions ethically right. When evaluating arguments like A1, there is still work to be done even if we find acceptable the general ethical principle to which the argument appeals. We need to ask whether the principle actually applies to the case under consideration. In evaluating A1, for example, we have to ask whether it is true that killing Baby Theresa would benefit people without harming anyone. We may disagree about whether an individual like Baby Theresa is harmed by being killed. In evaluating A2, we might disagree about whether there can be circumstances in which not bestowing a gift constitutes a harm, and, if so, whether these circumstances obtain in *Benefactor*. Complex conceptual and empirical issues like these arise all the time when thinking about right and wrong and form a large part of the workload in philosophical ethics.

V. Other Important Argument Forms

Thus far we’ve looked only at ethical arguments in which a particular action is said to conform to a general ethical principle. These arguments have the following *form* or *pattern*:

1. General Principle: Actions of type X are ethically right (or ethically wrong).
2. Particular judgment: This action, *a*, is an X.
3. Conclusion: Thus, *a* is ethically right (or ethically wrong).

As you begin to read more widely in philosophical ethics you will notice that there are many different argument-forms that philosophers commonly employ. Learning these patterns will improve your comprehension of arguments in ethics and your ability to offer compelling support for your own ethical views. Here we will cover two more forms: *arguments from analogy* and *arguments from inference to the best explanation*.

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Arguments from Analogy

1. X is ethically right (or ethically wrong).
2. Y is just like X in all ethically relevant respects.
3. Thus, Y is ethically right (or ethically wrong).

Arguments from analogy are very common and can be very powerful. They derive their persuasive force from a basic principle of rational consistency stating that *we should treat like cases alike*.

A great illustration of this argument-form can be found in the philosopher Peter Singer's essay "Famine, Affluence, and Morality." In that essay Singer aims to show that people in an affluent society like ours have an ethical *obligation* to contribute money to charitable organizations working to help the global poor. In supporting this claim, Singer asks us to imagine that we are passing by a shallow pond in which a small child is drowning. Supposing we could save the child at little cost to ourselves, Singer thinks that

1. Nearly everyone would acknowledge that they have in these circumstances an ethical obligation to help the drowning child.

He then argues:

2. There are no ethically relevant differences between the situation of the drowning child and the situation of the global poor.

And so, Singer concludes:

3. We have an ethical obligation to help the global poor.

In evaluating any argument from analogy, Singer's included, the most important (but not the only) question to ask is whether it is true that there are no ethically relevant differences between the cases being compared. After all, if there are ethically relevant differences, these could justify reaching a different conclusion about the two cases (there is no principle stating we must treat *unlike* cases alike). And indeed this is the issue on which Singer and critics of his now classic essay have focused.

Arguments from Inference to the Best Explanation

1. X is ethically right (or ethically wrong).
2. The best explanation for why X is ethically right (or ethically wrong) is captured by a general principle P.
3. Thus, we should accept P.
4. But P implies that Y is ethically right (or ethically wrong).
5. Thus, Y is ethically right (or ethically wrong).

Another common argument-form in ethics, arguments from inference to the best explanation trade on the fact that when we accept an ethical principle we commit ourselves to accepting its implications. A great illustration of this argument-form can be found in Don Marquis' essay, "Why Abortion is

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Immoral.” In that essay Marquis argues as follows:

1. It is wrong to kill a normal, adult human being.
2. The best explanation for why it is wrong to kill a normal, adult human being is the Deprivation Principle: it is wrong to deprive an individual of a future-of-value.
3. Thus, we should accept the Deprivation Principle.
4. But the Deprivation Principle implies that abortion is wrong, since abortions deprive individuals (the fetuses) of a future-of-value.
5. Thus, abortion is wrong.

In evaluating arguments from inference to the best explanation, Marquis’ included, the most important (but not the only) question to ask is whether the proffered explanation for the initial ethical judgment really is *best*. Perhaps there is an alternative principle that explains the initial judgment just as well or better, and which doesn’t imply what the proffered principle implies. And indeed this is the issue on which Marquis and his critics have focused.

VI. Ethical Theories

We’ve seen that ethical arguments often appeal to general ethical principles, and that one way we might try to justify such principles is by showing that they fit well with our ethical judgments about an (ideally) wide range of cases. There is another way we might try to justify ethical principles. We might develop and defend an *ethical theory*, or an account of what, ultimately, ethical value consists in. With an account of ethical value in hand we can proceed to *derive* general principles to guide ethical evaluation and ethical decision-making.

Philosophers have developed many important ethical theories, but three in particular are generally regarded as being especially significant, perhaps because many other ethical theories can be regarded as being more or less direct descendants of them. These are *utilitarianism*, *Kantianism*, and *virtue ethics*. Obviously we cannot hope to do justice to the richness and subtlety of these theories in a short chapter like this, but we can offer rough sketches of their way of understanding ethical value and the principles that flow from this understanding.

Utilitarianism

The great 18th-century English ethical theorist John Stuart Mill thought that

there ought to be some one fundamental principle or law, at the root of all morality, or if there be several, there should be a determinate order of precedence among them; and the one principle, or the rule for deciding between the various principles when they conflict, ought to be self-evident....

Mill thought he had found that one fundamental principle or law. He called it the *Greatest Happiness Principle*: “[A]ctions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness.” For Mill, nothing could be more self-evidently true than the claims that (i) *happiness* is the greatest good, (ii) more of it is always better than less, and hence that (iii) the

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ethically good person will concern herself always and above all else with maximizing happiness—not simply her own, of course, “but that of all concerned.” Mill’s Greatest Happiness Principle figures in countless ethical arguments, having the form:

1. Actions are ethically right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness.
2. This action (to some extent) promotes happiness.
3. Thus, this action is (to that extent) ethically right.

Now knowing how to evaluate general ethical principles, what do we think of Mill’s Greatest Happiness Principle? Can we think of counterexamples to Mill’s principle?

Kantianism

Philosophy is funny, inasmuch as what is self-evidently true to one philosopher is sometimes equally self-evidently false to another. The 18th-century German philosopher Immanuel Kant would have agreed with Mill that all of ethics is rooted in a single, fundamental principle, but Kant didn’t think this principle had anything to do with promoting happiness. The problem with happiness, argued Kant, is that it is only a *conditional good*: whether it is good in any particular case depends on the circumstances of that case. For example, the happiness experienced by the sadist through his acts of cruelty hardly seems good, and indeed may seem *bad*: it would be better if the sadist derived no happiness at all from his sadistic behavior. Kant thought that since happiness is not unconditionally good, promoting happiness cannot be unconditionally right, and thus that we must look elsewhere for the ‘fundamental principle or law.’

Kant thought that he had discovered this fundamental law of ethics in his *Categorical Imperative*: “Act only in accordance with the maxim through which one can at the same time will that it become a universal law.” Kant’s idea, roughly, is that all of our ethical obligations are rooted in one basic command—viz., to treat as a reason for action in our own case only features of our circumstances that we would treat as a reason for action for everyone. By committing ourselves to acting only on ‘universalizable maxims’ (as Kant called them) we show respect for the dignity of other rational persons and their status as “ends-in-themselves,” rather than as mere things to be used or manipulated for our own purposes. Kant’s ethics has been profoundly influential; it represents one of the two major pillars of Western philosophical ethics, alongside Mill’s utilitarianism. It has influenced important contemporary ethicists like John Rawls and Thomas Scanlon, both of whom develop Kantian theories in which ethics is fundamentally about acting in ways that others could not reasonably reject.

A Kantian argument in ethics might look like this:

1. Actions are ethically right if and only if, in acting, the person acts on a universalizable maxim.
2. In doing X, person *p* acts (or does not act) on a universalizable maxim.
3. Thus, in doing X, person *p* does (or does not) do what is ethically right.

Faced with arguments like these we may raise the same question we put to arguments appealing to Mill’s Greatest Happiness Principle--viz., are we obliged to accept the principle expressed in (1)? Can

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we think of a counterexample to this claim?

Virtue-Ethics

The theories of Mill and Kant anchor all of ethics in a single principle. For theorists like Mill and Kant, other important ethical concepts—like that of an ethically good person, for example—will be derived from the account of the fundamental ethical principle(s). For any particular ethical theory focused on principles in this way, the ethically good person will simply be the person who regulates her conduct in accordance with the relevant principle(s). An important contrasting approach is found in *virtue ethics*, which has its roots in the Ancient Greek philosopher, Aristotle, but which can take on many forms. For the virtue ethicist, ethical theory should focus first and foremost on developing a conception of the *good person*. With such a conception in hand, a principle for distinguishing right from wrong naturally suggests itself: do what the good person would do, and refrain from doing what the good person would not do! The virtue ethicist's project is to give content to this principle—to give, that is, an account of the *virtues*, or the character traits, that define the good person. Most virtue ethicists think that we already have a good, if incomplete, understanding of these character traits. They are just the traditional virtues like honesty, compassion, generosity, courage, fairness, and the like.

Virtue-based arguments in ethics may look something like this:

1. You should do what the virtuous person would do.
2. In these circumstances, a virtuous person would X.
3. Thus, in these circumstances, you should X.

Presented with these competing ethical theories one may naturally wonder how one is supposed to adjudicate between them. That's a complicated issue that we won't address. Here we'll just point out that it is possible to be *ecumenical* with respect to the major ethical theories in the Western philosophical tradition, and to see each as drawing our attention to different but equally salient aspects of ethical value. Even then, if we ultimately resist a theory's claim to have fully explained the nature of right and wrong, we may find it useful for directing our attention to right-making (and wrong-making) features of the world and furnishing us with principles to use in ethical evaluation and decision-making.

VII. Meta-Ethics

There remains one final stop on this whirlwind tour of philosophical ethics. We have been proceeding as if the idea of ethics, or right and wrong, is itself uncomplicated, and that all the work happens when we start trying to figure out *what's* right and wrong. But this is misleading. There is a major branch of philosophical ethics devoted to questions about whether ethics as we ordinarily think and talk about it is even *possible* or *coherent*.

This is the area called *meta-ethics*, since its questions are not really about right and wrong per se, but rather about what exactly we are doing when we think and talk about right and wrong. For example, a central question in meta-ethics is whether ethical assertions are objective or subjective.

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To say that ethical assertions are *objective* is to say that they purport to state *facts*, and hence that they can be *true* or *false* depending on whether they state the facts accurately or inaccurately. To say that ethical assertions are *subjective* is to say that they do not purport to state facts, but rather that they do something else—for example, they express the speaker’s feelings, emotions, or tastes, or perhaps they are just a way in which we exhort each other to act in one way and refrain from acting in others. Since things like feelings and exhortations cannot be true or false, ethical assertions, claims the subjectivist, cannot be true or false.

These are profoundly different ways of characterizing ethical assertions with obvious implications for ethical thought and practice. For example, if the subjectivists are right, it is unclear what ethical disagreements are about, or what we are doing when we engage in ethical debate and give reasoned arguments in support of our ethical views. If, on the other hand, the objectivists are right, then the pretensions of ordinary ethical thought and talk may be preserved, but we may justifiably demand from the objectivist an explanation of how ethical facts fit within the natural world and how we are able to access these facts. These are the kinds of issues on which *meta-ethicists* focus.

VIII. Conclusion

Ethics is a fascinating area of philosophy with clear practical relevance. This chapter has barely scratched the surface, but will hopefully have given you enough background to dive in to the great works of historical and contemporary ethics without feeling lost or overwhelmed.

For Review and Discussion:

1. Make a list of unethical actions that have been legally permitted *somewhere*, at some point in human history.
2. Here’s an activity for identifying general ethical principles that you already accept.³ Draw a table with three columns. In the first column, list actions that you believe are *ethically right*, meaning *either* that you believe the actions are ones we must always perform *or* that you believe the actions are ones we may, but do not have to, perform. In the second column, list actions that you believe are *ethically wrong*, meaning that you believe the actions are ones we *may not* perform. In the third column, you will list actions that you are unsure about; you haven’t yet made up your mind whether these actions belong in the first or second column. Take your time and give it some thought. You should aim for 8+ actions in each column.

Once you’ve filled in your table, consider the actions listed in the first and second column. Ask yourself whether there is some *criterion* that you have been implicitly applying, a criterion that is guiding your decisions about whether a particular action belongs in the class of ethically right actions or rather in the class of ethically wrong actions. In an effort to identify the implicit criterion you might ask yourself whether there is something about the ethically right actions, a property they all share in common, by virtue of which they count as ethically right, and whether there is something about the ethically wrong actions, a property they share in common, by virtue of which they count as ethically

³ To my knowledge, this activity was originally devised by Nathan Nobis.

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wrong.

Once you've identified the general ethical principle underlying your intuitive ethical judgments, look again at the actions lists in column 3. Does your principle imply anything determinate about these actions?

3. Construct an ethical argument using the general ethical principle that you identified in the activity described in Exercise 2.

3 Letter from the Birmingham City Jail

Martin Luther King, Jr.¹

Birmingham City Jail
April 16, 1963

My dear Fellow Clergymen,

While confined here in the Birmingham City Jail, I came across your recent statement calling our present activities "unwise and untimely." Seldom, if ever, do I pause to answer criticism of my work and ideas. If I sought to answer all the criticisms that cross my desk, my secretaries would be engaged in little else in the course of the day and I would have no time for constructive work. But since I feel that you are men of genuine goodwill and your criticisms are sincerely set forth, I would like to answer your statement in what I hope will be patient and reasonable terms.

I think I should give the reason for my being in Birmingham, since you have been influenced by the argument of "outsiders coming in." I have the honor of serving as president of the Southern Christian Leadership Conference, an organization operating in every Southern state with headquarters in Atlanta, Georgia. We have some eighty-five affiliate organizations all across the South -- one being the Alabama Christian Movement for Human Rights. Whenever necessary and possible we share staff, educational, and financial resources with our affiliates. Several months ago our local affiliate here in Birmingham invited us to be on call to engage in a nonviolent direct action program if such were deemed necessary. We readily consented and when the hour came we lived up to our promises. So I am here, along with several members of my staff, because we were invited here. I am here because I have basic organizational ties here. Beyond this, I am in Birmingham because injustice is here. Just as the eighth century prophets left their little villages and carried their "thus saith the Lord" far beyond the boundaries of their home town, and just as the Apostle Paul left his little village of Tarsus and carried the gospel of Jesus Christ to practically every hamlet and city of the Graeco-Roman world, I too am compelled to carry the gospel of freedom beyond my particular home town. Like Paul, I must constantly respond to the Macedonian call for aid.

Moreover, I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality tied in a single garment of destiny. Whatever affects one directly affects all indirectly. Never again can we afford to live with the narrow, provincial "outside agitator" idea. Anyone who lives inside the United States can never be considered an outsider anywhere in this country.

¹ King, M.L., Jr. (1963). *Letter from The Birmingham City Jail*. This version, originally released without copyright in 1963 and disseminated widely, is assumed to be in the Public Domain.

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You deplore the demonstrations that are presently taking place in Birmingham. But I am sorry that your statement did not express a similar concern for the conditions that brought the demonstrations into being. I am sure that each of you would want to go beyond the superficial social analyst who looks merely at effects, and does not grapple with underlying causes. I would not hesitate to say that it is unfortunate that so-called demonstrations are taking place in Birmingham at this time, but I would say in more emphatic terms that it is even more unfortunate that the white power structure of this city left the Negro community with no other alternative.

In any nonviolent campaign there are four basic steps: (1) Collection of the facts to determine whether injustices are alive; (2) Negotiation; (3) Self-purification; and (4) Direct action. We have gone through all of these steps in Birmingham. There can be no gainsaying of the fact that racial injustice engulfs this community. Birmingham is probably the most thoroughly segregated city in the United States. Its ugly record of police brutality is known in every section of this country. Its unjust treatment of Negroes in the courts is a notorious reality. There have been more unsolved bombings of Negro homes and churches in Birmingham than any city in this nation. These are the hard, brutal, and unbelievable facts. On the basis of these conditions Negro leaders sought to negotiate with the city fathers. But the political leaders consistently refused to engage in good faith negotiation.

Then came the opportunity last September to talk with some of the leaders of the economic community. In these negotiating sessions certain promises were made by the merchants -- such as the promise to remove the humiliating racial signs from the stores. On the basis of these promises Rev. Shuttlesworth and the leaders of the Alabama Christian Movement for Human Rights agreed to call a moratorium on any type of demonstrations. As the weeks and months unfolded we realized that we were the victims of a broken promise. The signs remained. As in so many experiences of the past we were confronted with blasted hopes, and the dark shadow of a deep disappointment settled upon us. So we had no alternative except that of preparing for direct action, whereby we would present our very bodies as a means of laying our case before the conscience of the local and national community. We were not unmindful of the difficulties involved. So we decided to go through a process of self-purification. We started having workshops on nonviolence and repeatedly asked ourselves the questions, "Are you able to accept blows without retaliating?" "Are you able to endure the ordeals of jail?"

We decided to set our direct-action program around the Easter season, realizing that with the exception of Christmas, this was the largest shopping period of the year. Knowing that a strong economic withdrawal program would be the by-product of direct action, we felt that this was the best time to bring pressure on the merchants for the needed changes. Then it occurred to us that the March election was ahead, and so we speedily decided to postpone action until after election day. When we discovered that Mr. Connor was in the run-off, we decided again to postpone action so that the demonstrations could not be used to cloud the issues. At this time we agreed to begin our nonviolent witness the day after the run-off.

This reveals that we did not move irresponsibly into direct action. We too wanted to see Mr. Connor defeated; so we went through postponement after postponement to aid in this community need. After this we felt that direct action could be delayed no longer.

You may well ask, Why direct action? Why sit-ins, marches, etc.? Isn't negotiation a better path?" You

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are exactly right in your call for negotiation. Indeed, this is the purpose of direct action. Nonviolent direct action seeks to create such a crisis and establish such creative tension that a community that has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored. I just referred to the creation of tension as a part of the work of the nonviolent resister. This may sound rather shocking. But I must confess that I am not afraid of the word tension. I have earnestly worked and preached against violent tension, but there is a type of constructive nonviolent tension that is necessary for growth. Just as Socrates felt that it was necessary to create a tension in the mind so that individuals could rise from the bondage of myths and half-truths to the unfettered realm of creative analysis and objective appraisal, we must see the need of having nonviolent gadflies to create the kind of tension in society that will help men rise from the dark depths of prejudice and racism to the majestic heights of understanding and brotherhood. So the purpose of the direct action is to create a situation so crisis-packed that it will inevitably open the door to negotiation. We, therefore, concur with you in your call for negotiation. Too long has our beloved Southland been bogged down in the tragic attempt to live in monologue rather than dialogue.

One of the basic points in your statement is that our acts are untimely. Some have asked, "Why didn't you give the new administration time to act?" The only answer that I can give to this inquiry is that the new administration must be prodded about as much as the outgoing one before it acts. We will be sadly mistaken if we feel that the election of Mr. Boutwell will bring the millennium to Birmingham. While Mr. Boutwell is much more articulate and gentle than Mr. Connor, they are both segregationists dedicated to the task of maintaining the status quo. The hope I see in Mr. Boutwell is that he will be reasonable enough to see the futility of massive resistance to desegregation. But he will not see this without pressure from the devotees of civil rights. My friends, I must say to you that we have not made a single gain in civil rights without determined legal and nonviolent pressure. History is the long and tragic story of the fact that privileged groups seldom give up their privileges voluntarily. Individuals may see the moral light and voluntarily give up their unjust posture; but as Reinhold Niebuhr has reminded us, groups are more immoral than individuals.

We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed. Frankly I have never yet engaged in a direct action movement that was "well timed," according to the timetable of those who have not suffered unduly from the disease of segregation. For years now I have heard the word "Wait!" It rings in the ear of every Negro with a piercing familiarity. This "wait" has almost always meant "never." It has been a tranquilizing thalidomide, relieving the emotional stress for a moment, only to give birth to an ill-formed infant of frustration. We must come to see with the distinguished jurist of yesterday that "justice too long delayed is justice denied." We have waited for more than three hundred and forty years for our constitutional and God-given rights. The nations of Asia and Africa are moving with jet-like speed toward the goal of political independence, and we still creep at horse and buggy pace toward the gaining of a cup of coffee at a lunch counter.

I guess it is easy for those who have never felt the stinging darts of segregation to say wait. But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate filled policemen curse, kick, brutalize, and even kill your black brothers and sisters with impunity; when you see the vast majority of your twenty million Negro brothers smothering in an air-tight cage of poverty in the midst of an affluent society; when you

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suddenly find your tongue twisted and your speech stammering as you seek to explain to your six-year-old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her little eyes when she is told that Funtown is closed to colored children, and see the depressing clouds of inferiority begin to form in her little mental sky, and see her begin to distort her little personality by unconsciously developing a bitterness toward white people; when you have to concoct an answer for a five-year-old son asking in agonizing pathos: "Daddy, why do white people treat colored people so mean?"; when you take a cross-country drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you; when you are humiliated day in and day out by nagging signs reading "white" men and "colored"; when your first name becomes "nigger" and your middle name becomes "boy" (however old you are) and your last name becomes "John," and when your wife and mother are never given the respected title "Mrs."; when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tip-toe stance never quite knowing what to expect next, and plagued with inner fears and outer resentments; when you are forever fighting a degenerating sense of "nobodiness" -- then you will understand why we find it difficult to wait. There comes a time when the cup of endurance runs over, and men are no longer willing to be plunged into an abyss of injustice where they experience the bleakness of corroding despair. I hope, sirs, you can understand our legitimate and unavoidable impatience.

You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, it is rather strange and paradoxical to find us consciously breaking laws. One may well ask: "How can you advocate breaking some laws and obeying others?" The answer is found in the fact that there are two types of laws: There are just laws and there are unjust laws. I would be the first to advocate obeying just laws. One has not only a legal but moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with Saint Augustine that "An unjust law is no law at all."

Now what is the difference between the two? How does one determine when a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of Saint Thomas Aquinas, an unjust law is a human law that is not rooted in eternal and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. To use the words of Martin Buber, the great Jewish philosopher, segregation substitutes an "I-it" relationship for an "I-thou" relationship, and ends up relegating persons to the status of things. So segregation is not only politically, economically, and sociologically unsound, but it is morally wrong and sinful. Paul Tillich has said that sin is separation. Isn't segregation an existential expression of man's tragic separation, an expression of his awful estrangement, his terrible sinfulness? So I can urge men to obey the 1954 decision of the Supreme Court because it is morally right, and I can urge them to disobey segregation ordinances because they are morally wrong.

Let us turn to a more concrete example of just and unjust laws. An unjust law is a code that a majority inflicts on a minority that is not binding on itself. This is difference made legal. On the other hand a just

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law is a code that a majority compels a minority to follow that it is willing to follow itself. This is sameness made legal.

Let me give another explanation. An unjust law is a code inflicted upon a minority which that minority had no part in enacting or creating because they did not have the unhampered right to vote. Who can say that the legislature of Alabama which set up the segregation laws was democratically elected? Throughout the state of Alabama all types of conniving methods are used to prevent Negroes from becoming registered voters and there are some counties without a single Negro registered to vote despite the fact that the Negro constitutes a majority of the population. Can any law set up in such a state be considered democratically structured?

These are just a few examples of unjust and just laws. There are some instances when a law is just on its face but unjust in its application. For instance, I was arrested Friday on a charge of parading without a permit. Now there is nothing wrong with an ordinance which requires a permit for a parade, but when the ordinance is used to preserve segregation and to deny citizens the First Amendment privilege of peaceful assembly and peaceful protest, then it becomes unjust.

I hope you can see the distinction I am trying to point out. In no sense do I advocate evading or defying the law as the rabid segregationist would do. This would lead to anarchy. One who breaks an unjust law must do it openly, lovingly (not hatefully as the white mothers did in New Orleans when they were seen on television screaming "nigger, nigger, nigger") and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and willingly accepts the penalty by staying in jail to arouse the conscience of the community over its injustice, is in reality expressing the very highest respect for law.

Of course there is nothing new about this kind of civil disobedience. It was seen sublimely in the refusal of Shadrach, Meshach, and Abednego to obey the laws of Nebuchadnezzar because a higher moral law was involved. It was practiced superbly by the early Christians who were willing to face hungry lions and the excruciating pain of chopping blocks, before submitting to certain unjust laws of the Roman Empire. To a degree academic freedom is a reality today because Socrates practiced civil disobedience.

We can never forget that everything Hitler did in Germany was "legal" and everything the Hungarian freedom fighters did in Hungary was "illegal." It was "illegal" to aid and comfort a Jew in Hitler's Germany. But I am sure that, if I had lived in Germany during that time, I would have aided and comforted my Jewish brothers even though it was illegal. If I lived in a communist country today where certain principles dear to the Christian faith are suppressed, I believe I would openly advocate disobeying these anti-religious laws.

I must make two honest confessions to you, my Christian and Jewish brothers. First, I must confess that over the last few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negroes' great stumbling block in the stride toward freedom is not the White Citizen's "Council" or the Ku Klux Klanner, but the white moderate who is more devoted to "order" than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says "I agree with you in the goal you seek, but I can't agree with your methods of direct action"; who paternalistically feels that he can set the timetable for

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another man's freedom; who lives by the myth of time and who constantly advises the Negro to wait until a "more convenient season." Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.

I had hoped that the white moderate would understand that law and order exist for the purpose of establishing justice, and that when they fail to do this they become dangerously structured dams that block the flow of social progress. I had hoped that the white moderate would understand that the present tension in the South is merely a necessary phase of the transition from an obnoxious negative peace, where the Negro passively accepted his unjust plight, to a substance-filled positive peace, where all men will respect the dignity and worth of human personality. Actually, we who engage in nonviolent direct action are not the creators of tension. We merely bring to the surface the hidden tension that is already alive. We bring it out in the open where it can be seen and dealt with. Like a boil that can never be cured as long as it is covered up but must be opened with all its pus-flowing ugliness to the natural medicines of air and light, injustice must likewise be exposed, with all of the tension its exposing creates, to the light of human conscience and the air of national opinion before it can be cured.

In your statement you asserted that our actions, even though peaceful, must be condemned because they precipitate violence. But can this assertion be logically made? Isn't this like condemning the robbed man because his possession of money precipitated the evil act of robbery? Isn't this like condemning Socrates because his unswerving commitment to truth and his philosophical delvings precipitated the misguided popular mind to make him drink the hemlock? Isn't this like condemning Jesus because His unique God consciousness and never-ceasing devotion to His will precipitated the evil act of crucifixion? We must come to see, as federal courts have consistently affirmed, that it is immoral to urge an individual to withdraw his efforts to gain his basic constitutional rights because the quest precipitates violence. Society must protect the robbed and punish the robber.

I had also hoped that the white moderate would reject the myth of time. I received a letter this morning from a white brother in Texas which said: "All Christians know that the colored people will receive equal rights eventually, but is it possible that you are in too great of a religious hurry? It has taken Christianity almost 2,000 years to accomplish what it has. The teachings of Christ take time to come to earth." All that is said here grows out of a tragic misconception of time. It is the strangely irrational notion that there is something in the very flow of time that will inevitably cure all ills. Actually time is neutral. It can be used either destructively or constructively. I am coming to feel that the people of ill will have used time much more effectively than the people of good will. We will have to repent in this generation not merely for the vitriolic words and actions of the bad people, but for the appalling silence of the good people. We must come to see that human progress never rolls in on wheels of inevitability. It comes through the tireless efforts and persistent work of men willing to be co-workers with God, and without this hard work time itself becomes an ally of the forces of social stagnation.

We must use time creatively, and forever realize that the time is always ripe to do right. Now is the time to make real the promise of democracy, and transform our pending national elegy into a creative psalm of brotherhood. Now is the time to lift our national policy from the quicksand of racial injustice to the solid rock of human dignity.

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You spoke of our activity in Birmingham as extreme. At first I was rather disappointed that fellow clergymen would see my nonviolent efforts as those of the extremist. I started thinking about the fact that I stand in the middle of two opposing forces in the Negro community. One is a force of complacency made up of Negroes who, as a result of long years of oppression, have been so completely drained of self-respect and a sense of "somebodiness" that they have adjusted to segregation, and of a few Negroes in the middle class who, because of a degree of academic and economic security, and because at points they profit by segregation, have unconsciously become insensitive to the problems of the masses. The other force is one of bitterness and hatred and comes perilously close to advocating violence. It is expressed in the various black nationalist groups that are springing up over the nation, the largest and best known being Elijah Muhammad's Muslim movement. This movement is nourished by the contemporary frustration over the continued existence of racial discrimination. It is made up of people who have lost faith in America, who have absolutely repudiated Christianity, and who have concluded that the white man is an incurable "devil." I have tried to stand between these two forces saying that we need not follow the "do-nothingism" of the complacent or the hatred and despair of the black nationalist. There is the more excellent way of love and nonviolent protest. I'm grateful to God that, through the Negro church, the dimension of nonviolence entered our struggle. If this philosophy had not emerged I am convinced that by now many streets of the South would be flowing with floods of blood. And I am further convinced that if our white brothers dismiss us as "rabble rousers" and "outside agitators" -- those of us who are working through the channels of nonviolent direct action -- and refuse to support our nonviolent efforts, millions of Negroes, out of frustration and despair, will seek solace and security in black-nationalist ideologies, a development that will lead inevitably to a frightening racial nightmare.

Oppressed people cannot remain oppressed forever. The urge for freedom will eventually come. This is what has happened to the American Negro. Something within has reminded him of his birthright of freedom; something without has reminded him that he can gain it. Consciously and unconsciously, he has been swept in by what the Germans call the *Zeitgeist*, and with his black brothers of Africa, and his brown and yellow brothers of Asia, South America, and the Caribbean, he is moving with a sense of cosmic urgency toward the promised land of racial justice. Recognizing this vital urge that has engulfed the Negro community, one should readily understand public demonstrations. The Negro has many pent-up resentments and latent frustrations. He has to get them out. So let him march sometime; let him have his prayer pilgrimages to the city hall; understand why he must have sit-ins and freedom rides. If his repressed emotions do not come out in these nonviolent ways, they will come out in ominous expressions of violence. This is not a threat; it is a fact of history. So I have not said to my people, "Get rid of your discontent." But I have tried to say that this normal and healthy discontent can be channeled through the creative outlet of nonviolent direct action. Now this approach is being dismissed as extremist. I must admit that I was initially disappointed in being so categorized.

But as I continued to think about the matter I gradually gained a bit of satisfaction from being considered an extremist. Was not Jesus an extremist in love? "Love your enemies, bless them that curse you, pray for them that despitefully use you." Was not Amos an extremist for justice -- "Let justice roll down like waters and righteousness like a mighty stream." Was not Paul an extremist for the gospel of Jesus Christ -- "I bear in my body the marks of the Lord Jesus." Was not Martin Luther an extremist -- "Here I stand; I can do none other so help me God." Was not John Bunyan an extremist -- "I will stay in jail to the end of my days before I make a butchery of my conscience." Was not Abraham Lincoln an

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extremist -- "This nation cannot survive half slave and half free." Was not Thomas Jefferson an extremist -- "We hold these truths to be self-evident, that all men are created equal." So the question is not whether we will be extremist but what kind of extremist will we be. Will we be extremists for hate or will we be extremists for love? Will we be extremists for the preservation of injustice -- or will we be extremists for the cause of justice? In that dramatic scene on Calvary's hill three men were crucified. We must never forget that all three were crucified for the same crime -- the crime of extremism. Two were extremists for immorality, and thus fell below their environment. The other, Jesus Christ, was an extremist for love, truth, and goodness, and thereby rose above His environment. So, after all, maybe the South, the nation, and the world are in dire need of creative extremists.

I had hoped that the white moderate would see this. Maybe I was too optimistic. Maybe I expected too much. I guess I should have realized that few members of a race that has oppressed another race can understand or appreciate the deep groans and passionate yearnings of those that have been oppressed, and still fewer have the vision to see that injustice must be rooted out by strong, persistent, and determined action. I am thankful, however, that some of our white brothers have grasped the meaning of this social revolution and committed themselves to it. They are still all too small in quantity, but they are big in quality. Some like Ralph McGill, Lillian Smith, Harry Golden, and James Dabbs have written about our struggle in eloquent, prophetic, and understanding terms. Others have marched with us down nameless streets of the South. They have languished in filthy, roach-infested jails, suffering the abuse and brutality of angry policemen who see them as "dirty nigger lovers." They, unlike so many of their moderate brothers and sisters, have recognized the urgency of the moment and sensed the need for powerful "action" antidotes to combat the disease of segregation.

Let me rush on to mention my other disappointment. I have been so greatly disappointed with the white Church and its leadership. Of course there are some notable exceptions. I am not unmindful of the fact that each of you has taken some significant stands on this issue. I commend you, Rev. Stallings, for your Christian stand on this past Sunday, in welcoming Negroes to your worship service on a non-segregated basis. I commend the Catholic leaders of this state for integrating Spring Hill College several years ago.

But despite these notable exceptions I must honestly reiterate that I have been disappointed with the Church. I do not say that as one of those negative critics who can always find something wrong with the Church. I say it as a minister of the gospel, who loves the Church; who was nurtured in its bosom; who has been sustained by its spiritual blessings and who will remain true to it as long as the cord of life shall lengthen.

I had the strange feeling when I was suddenly catapulted into the leadership of the bus protest in Montgomery several years ago that we would have the support of the white Church. I felt that the white ministers, priests, and rabbis of the South would be some of our strongest allies. Instead, some have been outright opponents, refusing to understand the freedom movement and misrepresenting its leaders; all too many others have been more cautious than courageous and have remained silent behind the anesthetizing security of the stained glass windows.

In spite of my shattered dreams of the past, I came to Birmingham with the hope that the white religious leadership of this community would see the justice of our cause and with deep moral concern, serve as the channel through which our just grievances could get to the power structure. I had hoped that each of

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you would understand. But again I have been disappointed.

I have heard numerous religious leaders of the South call upon their worshippers to comply with a desegregation decision because it is the law, but I have longed to hear white ministers say follow this decree because integration is morally right and the Negro is your brother. In the midst of blatant injustices inflicted upon the Negro, I have watched white churches stand on the sideline and merely mouth pious irrelevancies and sanctimonious trivialities. In the midst of a mighty struggle to rid our nation of racial and economic injustice, I have heard so many ministers say, "Those are social issues with which the gospel has no real concern," and I have watched so many churches commit themselves to a completely other-worldly religion which made a strange distinction between body and soul, the sacred and the secular.

So here we are moving toward the exit of the twentieth century with a religious community largely adjusted to the status quo, standing as a tail-light behind other community agencies rather than a headlight leading men to higher levels of justice.

I have travelled the length and breadth of Alabama, Mississippi and all the other southern states. On sweltering summer days and crisp autumn mornings I have looked at her beautiful churches with their spires pointing heavenward. I have beheld the impressive outlay of her massive religious education buildings. Over and over again I have found myself asking: "Who worships here? Who is their God? Where were their voices when the lips of Governor Barnett dripped with words of interposition and nullification? Where were they when Governor Wallace gave the clarion call for defiance and hatred? Where were their voices of support when tired, bruised, and weary Negro men and women decided to rise from the dark dungeons of complacency to the bright hills of creative protest?"

Yes, these questions are still in my mind. In deep disappointment, I have wept over the laxity of the church. But be assured that my tears have been tears of love. There can be no deep disappointment where there is not deep love. Yes, I love the Church; I love her sacred walls. How could I do otherwise? I am in the rather unique position of being the son, the grandson, and the great-grandson of preachers. Yes, I see the Church as the body of Christ. But, oh! How we have blemished and scarred that body through social neglect and fear of being nonconformist.

There was a time when the Church was very powerful. It was during that period when the early Christians rejoiced when they were deemed worthy to suffer for what they believed. In those days the Church was not merely a thermometer that recorded the ideas and principles of popular opinion; it was a thermostat that transformed the mores of society. Wherever the early Christians entered a town the power structure got disturbed and immediately sought to convict them for being "disturbers of the peace" and "outside agitators." But they went on with the conviction that they were "a colony of heaven" and had to obey God rather than man. They were small in number but big in commitment. They were too God-intoxicated to be "astronomically intimidated." They brought an end to such ancient evils as infanticide and gladiatorial contest.

Things are different now. The contemporary Church is so often a weak, ineffectual voice with an uncertain sound. It is so often the arch-supporter of the status quo. Far from being disturbed by the presence of the Church, the power structure of the average community is consoled by the Church's silent

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and often vocal sanction of things as they are.

But the judgment of God is upon the Church as never before. If the Church of today does not recapture the sacrificial spirit of the early Church, it will lose its authentic ring, forfeit the loyalty of millions, and be dismissed as an irrelevant social club with no meaning for the twentieth century. I am meeting young people every day whose disappointment with the Church has risen to outright disgust.

Maybe again I have been too optimistic. Is organized religion too inextricably bound to the status quo to save our nation and the world? Maybe I must turn my faith to the inner spiritual Church, the church within the Church, as the true ecclesia and the hope of the world. But again I am thankful to God that some noble souls from the ranks of organized religion have broken loose from the paralyzing chains of conformity and joined us as active partners in the struggle for freedom. They have left their secure congregations and walked the streets of Albany, Georgia, with us. They have gone through the highways of the South on torturous rides for freedom. Yes, they have gone to jail with us. Some have been kicked out of their churches and lost the support of their bishops and fellow ministers. But they have gone with the faith that right defeated is stronger than evil triumphant. These men have been the leaven in the lump of the race. Their witness has been the spiritual salt that has preserved the true meaning of the Gospel in these troubled times. They have carved a tunnel of hope through the dark mountain of disappointment.

I hope the Church as a whole will meet the challenge of this decisive hour. But even if the Church does not come to the aid of justice, I have no despair about the future. I have no fear about the outcome of our struggle in Birmingham, even if our motives are presently misunderstood. We will reach the goal of freedom in Birmingham and all over the nation, because the goal of America is freedom. Abused and scorned though we may be, our destiny is tied up with the destiny of America. Before the pilgrims landed at Plymouth, we were here. Before the pen of Jefferson etched across the pages of history the majestic words of the Declaration of Independence, we were here. For more than two centuries our foreparents labored in this country without wages; they made cotton "king"; and they built the homes of their masters in the midst of brutal injustice and shameful humiliation -- and yet out of a bottomless vitality they continued to thrive and develop. If the inexpressible cruelties of slavery could not stop us, the opposition we now face will surely fail. We will win our freedom because the sacred heritage of our nation and the eternal will of God are embodied in our echoing demands.

I must close now. But before closing I am impelled to mention one other point in your statement that troubled me profoundly. You warmly commend the Birmingham police force for keeping "order" and "preventing violence." I don't believe you would have so warmly commended the police force if you had seen its angry violent dogs literally biting six unarmed, nonviolent Negroes. I don't believe you would so quickly commend the policemen if you would observe their ugly and inhuman treatment of Negroes here in the city jail; if you would watch them push and curse old Negro women and young Negro girls; if you would see them slap and kick old Negro men and young Negro boys; if you will observe them, as they did on two occasions, refuse to give us food because we wanted to sing our grace together. I'm sorry that I can't join you in your praise for the police department.

It is true that they have been rather disciplined in their public handling of the demonstrators. In this sense they have been rather publicly "nonviolent." But for what purpose? To preserve the evil system of segregation. Over the last few years I have consistently preached that nonviolence demands the means

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we use must be as pure as the ends we seek. So I have tried to make it clear that it is wrong to use immoral means to attain moral ends. But now I must affirm that it is just as wrong or even more so to use moral means to preserve immoral ends. Maybe Mr. Connor and his policemen have been rather publicly nonviolent, as Chief Pritchett was in Albany, Georgia, but they have used the moral means of nonviolence to maintain the immoral end of flagrant injustice. T. S. Eliot has said that there is no greater treason than to do the right deed for the wrong reason.

I wish you had commended the Negro sit-inners and demonstrators of Birmingham for their sublime courage, their willingness to suffer, and their amazing discipline in the midst of the most inhuman provocation. One day the South will recognize its real heroes. They will be the James Merediths, courageously and with a majestic sense of purpose, facing jeering and hostile mobs and the agonizing loneliness that characterizes the life of the pioneer. They will be old, oppressed, battered Negro women, symbolized in a seventy-two year old woman of Montgomery, Alabama, who rose up with a sense of dignity and with her people decided not to ride the segregated buses, and responded to one who inquired about her tiredness with ungrammatical profundity: "My feets is tired, but my soul is rested." They will be the young high school and college students, young ministers of the gospel and a host of their elders courageously and nonviolently sitting-in at lunch counters and willingly going to jail for conscience sake. One day the South will know that when these disinherited children of God sat down at lunch counters they were in reality standing up for the best in the American dream and the most sacred values in our Judaeo-Christian heritage, and thus carrying our whole nation back to great wells of democracy which were dug deep by the founding fathers in the formulation of the Constitution and the Declaration of Independence.

Never before have I written a letter this long (or should I say a book?). I'm afraid it is much too long to take your precious time. I can assure you that it would have been much shorter if I had been writing from a comfortable desk, but what else is there to do when you are alone for days in the dull monotony of a narrow jail cell other than write long letters, think strange thoughts, and pray long prayers?

If I have said anything in this letter that is an overstatement of the truth and is indicative of an unreasonable impatience, I beg you to forgive me. If I have said anything in this letter that is an understatement of the truth and is indicative of my having a patience that makes me patient with anything less than brotherhood, I beg God to forgive me.

I hope this letter finds you strong in the faith. I also hope that circumstances will soon make it possible for me to meet each of you, not as an integrationist or a civil rights leader, but as a fellow clergyman and a Christian brother. Let us all hope that the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty.

Yours for the cause of
Peace and Brotherhood,

Martin Luther King, Jr.

For Review and Discussion:

1. Would you be involved with a non-violent protest like on of civil disobedience? Why or why not and for what causes?
2. Would you be involved with a violent protest? Martin Luther King, Jr., famously said “the ends we use must be as pure as the ends we seek,” but another civil rights leader, Malcolm X, embraced the view (for at least a portion of his life) that violence might become necessary to force change. What are your thoughts on this?
3. Have you ever been involved in a protest? If so, for what and why? If not, what *would* you be willing to protest?

4 A Defense of Affirmative Action

Noah Levin¹

Certain groups are overrepresented in both faculty and student positions in academic institutions as a whole. The faculty, staff, and students at any institution rarely, if ever, have the same proportions that would be expected or desired to properly represent the population that the institution is supposed to serve. In other words, the faculty lacks the same diversity the students have, and often the students lack the same diversity the institution should expect. For example, Jewish males (of which I am a part) appear in faculty positions at a much higher rate than they do in the regular population (and win Nobel prizes at a much higher rate, too). I won't get entirely into the reasons for why this might be the case, and when a minority group is over-represented in a positive situation (like employment, not incarceration), it is not usually of concern. Despite what some people might want to think, I am not in my current academic position due to some worldwide conspiracy group planting Jews in community colleges teaching throngs of people how to think for themselves. I cannot, however, deny that I was lucky enough to be born in a position, place, and to parents that allowed me the luxury of arriving at this position (with much college debt still to be paid). There are those born with much, much less than I had (and also those born with much, much more), and it was no choice of their own that resulted in a life that did not afford them the same educational and social opportunities I had. As a result, they might not have the scores, education, background, or knowledge of how the system works to get into the college or university of their choice, or perhaps even any college at all. Their potential, hunger, and interest for success, however, could certainly be enough to excel at many schools. But because of something outside of their control, they were not up to the "standards" the schools were looking for and would not be given that chance. When we assess the situation, it turns out there is a very strong correlation between these types of students and race (but there are also correlations between income level, school districts, family history, etc.). To put it more bluntly and directly: because of their race, many capable students are denied admission and not allowed a chance to succeed at a particular school that should serve them. But should these students be given a chance? And, if so, how could a system that ensures they get a fair chance work?

I maintain that it is appropriate to implement affirmative action protocols when certain conditions and restrictions are met. A fair system can even mean that the students who benefit from these policies can fail at a higher rate than their counterparts, but this doesn't lessen the moral obligation to provide them with a chance to succeed. While I will focus this analysis on academics and education, this situation can be true in any number of areas, like college and university faculty, or in employment, as infamously occurred in the Alabama State Troopers in the 1960's where black troopers were systematically denied promotions through a flawed advancement system.

Underlying my defense of affirmative action is the desire for a system that is fair and just. It is morally unacceptable to have systems that fail to provide disadvantaged students a fair chance at opportunities where majority individuals are thereby given an advantage simply because of their

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majority status. Fairness with regard to punishment can provide a helpful analogy in appreciating what a just system of student admission into colleges and universities can look like. It is equally unjust to give people lighter punishments than they deserve as it is to give them harsher punishments. The whole idea of a punishment is that it is fitting and what is *deserved*. In both cases (of light and harsh punishments), people get something other than what they deserve, and we might react similarly to such situations. When a rapist gets off with no prison time and a battered prostitute gets 25 years for defending herself against her abuser, we can, and should, act equally disgusted if both punishments are unjust *because* they are unjust. Fairness demands that people get what they *deserve*, and, in the situations that affirmative action is meant to correct, people are being treated unfairly and receiving a drawback (or a benefit for those that stand to gain from having no corrective policies) for something that is no fault of their own and thus do not *deserve*.

Fairness is an extremely complicated concept as multiple elements must always be considered alongside each other and somehow made commensurable (that is, we can find a way of comparing the two – like how we *can* compare apples and oranges if we judge them based on sweetness). A policy that skews fairness in favor of one candidate almost invariably results in another candidate being treated unfairly. It is certain that many candidates that get rejected can claim legitimately they were treated unfairly, so we must seek a balance that errs on the side of fairness for the greater good. This is an explicitly consequentialist approach, but I know no other way of resolving the issues. If we wanted to focus on other concepts, like those of desert or a Kantian notion of respect, then we are left with the same problem we began with: how will we properly compare the types of desert (the noun of “deserve,” the word used in “just deserts” which means people get what they deserve) in the analysis and how do we properly respect an individual holistically and compare their respect to others? A system that maximizes fairness is the best we can do. *And affirmative action is merely ensuring that a fair system, all things considered, is implemented when choosing between applicants with diverse backgrounds.*

There is a famous image of three children of varying heights trying to watch a baseball game over a wooden fence. One is much taller than the fence, one can barely look over it, and one is too short to see over it. They all want to watch the game and we are in a position to help them achieve this, so the question is, how do we help? One response is that we ought to treat them all **equally**. This would mean giving them each the same boost, so we give each of them a single box to stand on. The taller one gets a better view, the middle-sized one gets a better view, and the shortest one still can’t see over the fence. This clearly isn’t what we wanted, as we want to try to obtain a fair result where each of them can see the game in the same way. In other words, we want **equitable** treatment. So what’s the next picture in this story? The tallest child gets nothing, the middle child gets one box, and the smallest child gets two boxes, making all of their heads the same height, getting the same experience of the game. Is this what we want? Or should there be a requirement that you be “tall enough” to be able to enjoy a baseball game?

Should we just tell the shortest child to “grow taller”? Or ask the taller one to “kneel down”? It is, after all, not their faults that they are the heights they are, and I don’t want to hold this against them. There is one more option, however: remove the fence or replace it with a chain-link fence. This would be ideal, where each person is given fair access to watch the game without any real or perceived barriers unique to them because of their background. In this case, the systemic barrier is removed, inequity is addressed, and all participants are treated equally. This is the goalpost: if the world worked in this way, there would be no need for affirmative action. But there are barriers set up that prevent people from achieving things simply because of who they are. We are in a position to fix this inequity in many situations, and we ought to do so.

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The systemic inequalities that can result in the need for affirmative action policies are captured by two Latin phrases used in both legal and philosophical discussions: *de dicto* and *de facto*. It is important to remember that in both of these circumstances discrimination occurs. *De dicto* means “from the word” and captures situations where discrimination is written into the law or policies. For example, laws of segregation (that persisted in many countries, particularly the United States and South Africa) are *de dicto* because they explicitly state that certain individuals are not allowed access to certain things. *De facto* means “in fact” and captures situations where, regardless the reason and in the absence of *de dicto* discrimination, discrimination is, in fact, occurring. Wage discrimination, especially based on gender, that is prevalent in virtually every country does not enjoy any *de dicto* discrimination, but nonetheless is discrimination as a *de facto* occurrence.

The history of affirmative action, especially in the United States, is relevant in appreciating my arguments. ***Regents of the University of California v. Bakke***, 438 U.S. 265 (1978) was the first major test of affirmative action where Allan P Bakke sued for admission to the UC Davis medical school on the belief he was unfairly rejected due to his status as an over 30-year-old white male while less-qualified minority candidates were admitted under a quota system. A quota system ensures that there is a certain number of minority applicants admitted for certain numbers of majority, meaning white, candidates (in this case, at least 16 minority candidates had to be admitted for every 100 majority candidates). A quota system, the Supreme Court ruled, was unconstitutional since it did not treat applicants as individuals but as mere members of a racial group. Thus, they ruled that Bakke ought to be admitted and that affirmative action policies could not be based on quotas, but race could still be considered when making admissions decisions. The general attitude of the Bakke case was upheld in two later cases involving the University of Michigan in 2003, ***Grutter v. Bollinger***, 539 U.S. 306 and ***Gratz v. Bollinger***, 539 U.S. 244, the combination of which said that admissions standards *can* give preference to underrepresented minorities provided they do not result in a quota or guaranteed admission since diversity can be in the best interest of the goals of the University. The Supreme Court did make clear, however, that policies can only remain in place while there appears to be a systemic problem of unjustified discrimination against minorities.

My argument rests on the idea that there remains unjust discrimination that we ought to correct. When there is not a proper representation of a minority class in a particular place of education or employment and there is no obvious reason why this isn't the case (as opposed to the lack of NBA players under 5-feet tall, which is entirely understandable), then there is likely a problem that we ought to be concerned about correcting and an affirmative action policy might be the appropriate method to rectify the situation.

A Bona Fide Occupational Qualification (BFOQ) is a powerful concept to aid in understanding when discrimination can be justified. BFOQs are used in employment law to appreciate which traits are genuinely needed in a position, and thereby indicate which traits a hiring agent may justifiably discriminate in favor of or against. For example, it is a BFOQ to have a background and requisite degrees or competence in Philosophy to teach Philosophy in college (the same goes for other subjects). Being able to compete on the basketball court is a BFOQ to playing in the NBA; being tall *is not*. To be denied a chance at playing professional basketball solely for being short would be unjustified. While being tall generally grants a significant advantage, it is not necessary to play, as the incomparable 5'3" Muggsy Bogues proved. BFOQs are meant to pick out which things an individual *must* have in order to be minimally competent to perform as desired.

The affirmative action policies I am advocating for are only those where candidates meet justifiable BFOQs. It is to no one's benefit to have a system where people are set up to fail, but once a

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candidate meets a minimum standard, it would seem the only reason to deny them a spot is because there is someone else that is *more* qualified. The “*more* qualified” condition can be due to objective or subjective valuations, but it is important to note that candidates that meet the BFOQs are not *unqualified*, they are just not the strongest candidates. Therefore, as long as the candidates being admitted can meet minimal criteria, there is nothing to be said against them being qualified for the position. However, this raises another concern: are the criteria being used to determine BFOQs fair? The way to find the answer is the same as the way I am using to defend affirmative action: are candidates that could be successful experiencing *de facto* discrimination due to unfair practices? If the answer is “yes”, then the criteria ought to change to be more inclusive.

But what is to be said against my argument? Why should we *not* have policies of affirmative action? There are four solid reasons opposing it:

- 1) Affirmative action policies are no longer needed as there are no longer *de dicto* policies that keep minorities down;
- 2) Affirmative action will taint the successes of any individuals that have benefitted from it;
- 3) Affirmative action policies will disincentivize minorities from attempting to better their overall positions, both at the group and individual level;
- 4) Affirmative action policies are “reverse discrimination” where stronger performing majority candidates will not be chosen over minority ones that perform worse, which runs contrary to the idea that the best candidates should merit earning the spot.

I agree that all of these are concerns, but that only (4) is a real problem. For (1), while it is true that there do not appear to be rampant *de dicto* discriminatory policies, the idea that we ought not concern ourselves with other types of discrimination is simply wrong: there still exists concerning *de facto* discrimination in many areas, and we are under a moral obligation to rectify it if the problem is a result of no fault of those individuals being discriminated against *and* we are in a position to do something about it. Since both of these appear to be true, we ought to seek affirmative action policies. (2) can, and will, certainly happen. But is this enough to remove the policy? Mere perception of the beneficiaries of affirmative action doesn’t seem to be enough to remove the policies, as those that benefit from them still deserve to benefit from them, regardless of how they will be perceived, which is the fault of others, not themselves. Additionally, they might not be in a position of success without the policies, undermining this reasoning as well. It is hard to believe (3) since the whole point of affirmative action is to help minorities succeed and assumes they want to succeed. Why would anyone seek anything if they didn’t want success? Similar to my response to (2), even if this were true, it doesn’t seem to be enough of a reason to avoid affirmative action policies. (4) is simply the result of implementing affirmative action policies. This will happen. But when the purpose of affirmative action is greater societal fairness and the good of society, the individuals given an advantage by affirmative action may actually be the ones that merit the position the most. Choosing someone over someone else due to an affirmative action policy is not the same as condemning the looked-over majority candidate to failure; it is telling them they must look for success somewhere else. For minority candidates, without affirmative action policies, there might not be anywhere else to look. Doors will always be opened for majority candidates to come and go; affirmative action simply wants to make sure that the door won’t be locked for those that have to open it themselves.

So, how should these policies be implemented? I am uncertain. There are many ways they can be applied, from giving people more points for minority status in a system that ranks candidates using

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points, to using the “hated” quota system in which a minimum number of minority candidates must be chosen (which could include choosing unqualified candidates, something that might be problematic, not to mention the fact quotas have been deemed unconstitutional). When the goal is overall fairness and ensuring that minority candidates achieve the same level of consideration afforded their majority counterparts all things considered, then the most effective policies at achieving that ought to be implemented. I hope that someday we will not need policies enforcing this type of fairness and that we all may shed our innate biases against others, but this day may never come, so the need for affirmative action policies may never disappear.

For Review and Discussion:

1. Does having affirmative action policies make decision procedures more just? Why or why not?
2. When might affirmative action policies be good to use?
3. The Supreme Court has stated that affirmative action policies that work as quotas (where a certain number of minority candidates must be chosen) are unconstitutional. It has also been established that we have unconscious biases that we cannot control and influence our decisions, like how everyone (regardless of height) appears to prefer taller people over shorter people. Should quotas be allowed if they are meant to protect us from our inherent biases? Why or why not?

5 The Moral Issues of Immigration

B.M. Wooldridge¹

Suppose I have a neighbour, call him Bob. Bob and his family moved into the house across the street from mine a couple of months ago. During this time, I have not interacted with Bob or his family all that much. I have a general idea as to who he is and what he does for a living, and overall my impression of him and his family is quite positive. Suppose further that one-day Bob knocks on my door and says that he and his family would like to stay at my house for a while, say for six months. He says that he admires my home, that it looks so much better than his and that, overall, he thinks that if he and his family were to spend some time in my home, that they can enjoy life much better in my home than what they could in their home.

I take it as intuitively plausible that I would be justified in refusing to allow Bob and his family to stay at my house. I would be justified in refusing Bob and his family entry to my house for at least two reasons: security concerns, and property rights. While I might look at Bob favourably, there is a chance that he and his family could threaten my safety, and refusing him entry to my home on these grounds seems justifiable. Moreover, I also have property rights. I own my home, and if I do not want Bob and his family on my property, I can justifiably refuse them entry. In the same way that I am justified in refusing Bob and his family entry to my home, so too, I will argue, is a state morally justified in refusing entry to immigrants. To better understand this argument, let us consider these two reasons further, beginning first with security concerns.

The first reason that I would be justified in refusing Bob and his family entry to my home would be for security purposes. While my impression of Bob and his family might be positive, there are many things that I do not know about Bob. For example, does he have a past criminal record? Has he been abusive towards his family in the past? Does he and his family subscribe to values and principles which are fundamentally against the values and principles that my family subscribes to? At a minimum, before allowing Bob and his family to enter and stay at my house, I would be justified in looking into Bob and his family to find answers to the questions just raised, for I have a duty to my family to ensure that I am not putting them at risk to be harmed. So too, in the case of immigration. States have a right to look into potential immigrants to determine whether they might pose a security risk to the state, as the state has a duty towards its members to ensure that they are protected. This duty can be explicated through the idea of a social contract. A state and its members have entered into an informal arrangement whereby the members of the state sacrifice some of their interests and rights to the state. In return, the state promises to act for the best interests of its members, which includes protecting them against foreign threats. Immigrants seeking entry to a state might pose security risks by, for example, having a past criminal record, engaging in behaviour that could disrupt the public order of the community that they seek to join, having ties to terrorist organizations, or subscribing to values and principles that go against the fundamental values and principles that the state embodies. In either case, this puts the safety of the entire state at risk, and in order to protect its members from potential harm, a state is justified in vetting

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immigrants to ensure that they do not pose a threat to the state and, if necessary, refuse to grant them entry to the state for security purposes.

I should be careful here not to overstate my case. I am not saying that immigrants *will* pose a security threat to a state, but only that immigrants *can* pose a security threat to a state. Joseph Carens, for example, rightly points out that of the total number of immigrants who apply for entry to a state, very few are actually security threats, and invoking the idea of security to exclude immigrants can be, and indeed has been, interpreted in an unfairly broad manner to include those immigrants who pose no threat to the nation.² And in many cases, immigrants can enhance the culture of the state. As David Miller puts the point, “immigration can often add spice to a previously dull national culture.”³

I acknowledge that immigrants often do not pose a security threat to the state, and that their admittance can often have a positive impact on the state they seek to join. However, the fact that very few people are actual security threats to the nation should not lead us to abandon the notion of security as a plausible ground for denying an immigrant entry to a state. First, even if few immigrants are real security threats, we cannot tell who is and who is not a threat before actually vetting the individual. Terrorists, for example, do not carry cards saying that they are a terrorist. As such, stopping an immigrant before she enters a state is necessary to determine whether she is a security threat. Second, having security as a criterion of exclusion serves an important practical function: it serves as a deterrent for those who are real security threats. If we were to drop the criterion of security simply because so few people are actual threats, this would serve as an incentive for those who are real threats to immigrate, since they would have a better chance of admittance. However, by keeping the security criterion, we further deter them from immigrating and threatening the safety of our nation.

More importantly, however, the criterion of security has a fundamental importance for the state. It is a fundamental component of political statehood to be able to control its own borders and restrict access if it deems potential immigrants as threats to the nation. Even if a state is mistaken about who is and who is not a real security threat, the state has this right because it is a closed, politically self-determining entity. The very fact that immigrants can pose a threat to the state is enough to justify the state preventing them from entering. In the same way that I would be justified in preventing Bob and his family from entering my home so that I can find out more about him and his family to ensure that they do not threaten the safety of my family, so too should a state be able to prevent immigrants from entering so as to properly vet the immigrants and ensure that they do not pose a threat to the state.

In addition to security concerns, I would also be justified in refusing Bob and his family entry to my home because of the property rights that I have as an owner of my home. The fact that I own my home grants me certain rights over others that I otherwise would not hold. Jeremy Waldron, for example, argues that the rules of property “are organized around the idea that various contested resources are assigned to the decisional authority of particular individuals ... The person ... has control over the object: it is for her to decide what should be done with it ...”⁴ The state’s property can be understood as the territorial boundaries that make up the state. The idea that the territorial boundaries of a state compose the property of that state is essential for understanding statehood itself. As Michael Blake notes, a state cannot exist but for the existence of three things: “a government capable of exerting its coercive control; *a particular part of the world’s surface over which that control is exerted*; and a

² Joseph Carens, *The Ethics of Immigration*, (Oxford: Oxford University Press, 2013), 175-6.

³ David Miller, *Strangers in our Midst: The Political Philosophy of Immigration*, (Cambridge, MA: Harvard University Press, 2016), 64.

⁴ Jeremy, Waldron, "Property and Ownership", *The Stanford Encyclopedia of Philosophy* (Winter 2016 Edition), Edward N. Zalta (ed.), forthcoming URL = <<https://plato.stanford.edu/archives/win2016/entries/property/>>.

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particular group of people over whom that control is exercised (my emphasis).”⁵ Thus, in order for a state to exist, it must have territorial boundaries that separate it from other states. Similarly, the land on which a home is built has boundaries which demarcate it from other homes. If, in the case of homes, we conclude that the land one’s home is built on encompasses one’s property, then we are similarly justified in concluding that the land over which a state governs is also the property of the state. And if owning a home grants an individual the right to refuse entry to someone, then owning a specific part of the world’s surface ought also to grant the state the right to refuse entry to an immigrant.

The idea of property rights also brings to light an important feature of statehood: self-determination. In the individual context, self-determination is the process by which one controls their life. Self-determination, for example, grants one the freedom to determine who they associate with, what activities they engage in, and so on. Applied to the state, self-determination can be generally understood as the process by which a state exercises control over its territorial boundaries and determines its existence as a state. The central idea here is that a state is justified in determining which policies it chooses to adopt, and how it carries out those policies within its territorial boundaries. This idea of self-determination, however, is importantly grounded in the idea of property rights. The territorial boundaries of a state separate it from other states and comprises the property of the state which separates the state from other states.

Before moving on, let me conclude by emphasizing what a closed borders position entails and, importantly, emphasize what it does *not* entail. In arguing that a state is justified in closing its borders to immigrants, I am arguing that if a state deems a potential immigrant to be a security threat, then the state is justified in refusing to admit that migrant. Moreover, the state’s property (i.e. its territorial boundaries) grants it rights to exclude in the same way a homeowner has the right to exclude a stranger entry onto her property. Importantly, however, in arguing for the claim that a state is justified in refusing entry to migrants, I am *not* committed to the claim that a state cannot or should not admit immigrants. That is, in saying that a state is justified in closing its borders, I am not saying that a state should completely close its borders. A state may choose to admit immigrants onto its territory. Before doing this, however, it is fully justified in looking into these immigrants and ensuring that they do not pose a threat to the security of the state. Understood in this way, a closed borders position is not as closed off as what some might think.

In response to my argument a critic might raise two points. First, my position is based on what some might think is an implausible analogy. While I have drawn similarities between statehood and owning a home, a critic might raise some important differences that problematizes my account. And second, a critic might argue that my position does not sufficiently account for the interests and rights of immigrants.

Let us begin with the first point, regarding my analogy between owning a home and statehood. While I have drawn some similarities between owning a home and statehood, there are some important differences. For example, one might argue that in the case of owning my home, I am justified in refusing entry to individuals of a specific ethnicity. Since it is my property, and I have ownership rights, there is nothing wrong with refusing entry to individuals I do not want. So too, might a critic argue, with the case of the state. If I am justified in refusing entry to individuals of a certain ethnicity, then it would seem that a state would also be justified in refusing entry to individuals of a specific ethnicity, which would result in morally unjust and blameworthy practices.

In response to this objection, I maintain that the reasons one has for refusing entry to a visitor, in

⁵ Michael Blake, “Immigration, Jurisdiction, and Exclusion”, *Philosophy and Public Affairs*, 41, 2 (2013): 109.

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the case of homes, and immigrants, in the case of migration, must be morally justifiable reasons. Refusing entry based on prejudicial and/or racist principles is not morally justifiable, regardless of one's property rights. So, what this means is that if one refuses entry based on racist or prejudicial reasons, one can still be held morally blameworthy. Having property rights does not override having basic moral respect for the rights of others.

Let us now move on to consider the rights of immigrants. Do immigrants have a fundamental interest in migrating, and might this generate a 'right to immigrate' which can override the state's interests in closing its borders? One way to argue for this claim is to argue that our commitment to one thing, A, has implications that should lead us to commit to something else, B. In other words, if we are committed to A, then logically we must also be committed to B. With respect to immigration, it is sometimes argued that the human right to immigrate is a logical extension of the right to move freely within states. Article 13 of the Universal Declaration of Human Rights states that "Everyone has the right to freedom of movement and residence within the borders of each state."⁶ People are free to move within states for a variety of different reasons, such as to pursue a job or to pursue a relationship with a romantic partner. Not only is one free to move within borders, but this is also important for individuals, as it enables them to have sufficient access to the range of opportunities that the state provides. Since internal freedom of movement is established as a legitimate human right, then so too should one have the right to move freely across borders.⁷

The success and strength of this argument depends on how one understands a human right. One approach would be to assert, as Christopher Wellman does, that a human right is a claim to protection against the standard threats to living a minimally decent life.⁸ In order to live a minimally decent life, one must have a sufficient degree or range of opportunities to satisfy one's basic human interests.⁹ If we understand human rights in this way, then the claim that one should have a right to immigrate is very much dependent on whether one's human rights are being respected in one's home country. If an immigrant has a range of opportunities to pursue her basic interests in her home country, then her basic human rights are not being harmed in her home country. And if her human rights are not being harmed in her home country, then there is no fundamental interest to immigrate that could ground a right to immigrate. As such, she would not have a 'right' to immigrate, but rather only a very strong interest in doing so.

What about cases where human rights are not be recognized and respected? Consider, for example, a refugee crisis, where individuals are forced to flee their country for fear of persecution. In cases like this, the basic interests of human beings are not being fulfilled, and so human rights are not being recognized or respected, and as such, refugees might be thought to have a human right to immigrate. While I am sympathetic to the plight of refugees, and while their very strong interest in migrating might rise to the level of a human right, it does not follow that this right is absolute. A human right to immigrate would grant us the right to move to any country, *not any particular country*. If an immigrant, and this includes refugees, is refused entry to a country, and has other countries to which she

⁶ "Universal Declaration of Human Rights," Article 13, adopted December 10, 1948 by the United Nations General Assembly, available at <http://www.un.org/en/universal-declaration-human-rights/>.

⁷ Joseph Carens presents a version of this argument in *The Ethics of Immigration*.

⁸ Christopher H. Wellman, "Freedom of Movement and the Rights to Enter and Exit," In *Migration in Political Theory: The Ethics of Movement and Membership*. Eds. Sarah Fine & Lea Ypi, (Oxford: Oxford University Press, 2016), 88.

⁹ David Miller, "Is there a Human Right to Immigrate?" In *Migration in Political Theory: The Ethics of Movement and Membership*. Ed. Sarah Fine & Lea Ypi, (Oxford: Oxford University Press, 2016); Wellman, "Freedom of Movement and the Rights to Enter and Exit".

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can immigrate, then we cannot say that her human right to immigrate is being violated. So long as there is at least one state that is willing to take an immigrant in, then a state refusing entry to that immigrant is not violating the immigrant's rights. And, in the cases of refugees, a state should do all that it can to help these refugees find a safe haven, whether in their own country or in that of another. However, any right that an immigrant has to immigrate is not strong enough to outweigh the state's interest in protecting its borders.

For Review and Discussion:

1. How does an 'open borders' position on immigration differ from a 'closed borders' position on immigration?
2. Does a state have a 'special obligation' to its own citizens? If so, why?
3. Is there a human right to immigrate? Provide an argument either for or against a human right to immigrate.

6 The Ethics of our Digital Selves

Noah Levin¹

The more we move ourselves online, the more complicated things get. People often long for the “simpler” days of old, and in the case of social media and “always-on” connections to the digital world, we are, indeed, becoming increasingly more complex. We can extend and diversify aspects of ourselves in ways that people a century ago could never have envisioned, but we also still retain all the options they had. Derek Parfit has provided convincing arguments over the years that there is some truth in the old adage, “I put a little bit of myself in that.” To paraphrase some his arguments (mostly from his 1984 work, *Reasons and Persons*), he maintains that our identities in the strict and traditional sense (that we are the “same” person from one day to the next) is not as important as it appears at first. What really matters is that the important parts of ourselves (however we understand such things) continue on. Identity is the easy way to understand and track this (who shares your hopes and dreams more than your own self?), but *identity* is not what matters. People do, in a very real and valuable sense, extend their identities into whatever object, person, or idea they create or mix with. Part of them becomes an element of those things, and part of those things become a part of that person. In the past, people perhaps simply put themselves in things like pies (only metaphorically, I hope), a book, a house, a painting, their children, etc. All of these options are still available to us, but so is Twitter, Facebook, YouTube, Snapchat, texts, Instagram, and anything we can #hashtag. These are not merely tools we use or ways we can express ourselves, but can be genuine extensions of ourselves. They don’t have to be, but if one were deny that there was any reason for the suicide of a cyberbullied teenager due to the endless taunting and personal violations they experienced online, then we fail to appreciate the intimate connections our digital selves have to our real selves.

I want to argue that we should accept that our digital selves are becoming an increasingly important part of our real selves and that we ought to modify our understandings, actions, and policies to account for this shift. The boundaries between what has generally been called “real life” (often abbreviated RL when discussed online) and our “digital selves” is getting fuzzier every day for many people, particularly for younger people that are growing up at a time when social media is ubiquitous (everywhere and in all aspects of our lives). We should not reject this fact of existence for many (nor, do I think, embrace it) but we should accept it and understand that the implications of doing this are not drastic nor unique, but merely require us to consider our digital lives alongside every other aspect of ourselves. In other words, all we have to do is understand the digital extensions of ourselves in the same ways we have traditionally understood the complexities of our existences and lives. This relationship requires special consideration because our digital selves work in ways that can be very intimately tied to our real selves.

I would like to offer a description or definition of what constitutes our digital selves, but it’s hard to capture it succinctly or accurately, and no matter how much I might include, I would inevitably miss aspects that some people find important. The general idea is rather simple: there are available to us many

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methods through electronic devices that allow us to communicate with others and share elements of our personal lives. These electronic disseminations, at the very least, are made up items we present to the outside world. For example, sharing photos on any one of the numerous sites that allows such a thing constitutes this. Having conversations, liking, commenting on posts, writing in a blog, posting videos, etc., all fall under these activities. Making a meme, forwarding a meme, participating in an online event (like multiplayer gaming events) all also contribute to this. Creating and playing a character or becoming an active part of an online community all influence, and ideally enhance, our lives. There is no limit to how we interact online, and with increases in virtual reality, they will only become more intimate and involved.

I would like to examine the common law concept of spousal privilege as a way to better understand the intimate nature of our digital selves. Spousal privilege means that spouses have special legal obligations and protections to each other. While there is a complicated history behind it, its origins, and its implications, it is important right now for how it is applied: the legal fiction (a legal assumption that something is true even though in reality it is not, like how corporations are considered people) utilized when applying spousal privileges is the view that the married couple is a *single person*. This is important because, for example, you cannot be called to testify against yourself. If your spouse is a part of yourself, then your spouse cannot be called to testify against you. This legal fiction, despite its entry into the law through the sexist viewpoint that a wife became, in a sense, the “property” of the husband and was no longer a separate legal entity, is based on the idea that two separate people can come together in a “union” whereby the prior individuals are no longer the distinct, separate persons they once were. They are clearly not one person (a divorce is not a literal separation of a person into two pieces), but there is some extension of one spouse into the other in a very real way. It’s not a conceptual game or merely a fiction. It is not unique to marriages, but the concept of spousal privilege gives a solid and clear legal mechanism that underlies the idea at the heart of my arguments: we can extend ourselves into things outside of ourselves in real and meaningful ways, which carry with them the implication that we can be impacted in a (literally) personal way when those extensions of ourselves are benefitted or harmed. Likewise, others can also extend themselves into us. The internet and all of its tools allows us to share and extend ourselves in increasingly intimate and expansive ways.

I speak of “digital selves” and “real selves” as if they are different. For some, they might actually be, as in cases where individuals create entirely separate persons for themselves to be used online or have no online presence at all. But here’s the interesting part: some people that live a lot of their lives online do so because they feel their digital representation is a more accurate portrayal of their “genuine” self. In Ernest Cline’s *Ready Player One* (book, 2011; movie directed by Steven Spielberg, 2018) most people in the year 2044 spend their time in the Oasis, a virtual world that has taken over most interactions that would normally occur in the real world, like schooling, sports, games, and customer service. The avatars (digital characters) that everyone uses are personally chosen to properly represent how they view themselves or want others to view them. While a handful of people use avatars that closely resemble their real-world selves, most choose ones that are what they want to be (such as an idealized version of themselves without any perceived flaws) or how they truly feel about themselves (like a giant orc). For a number of characters, their digital versions gradually overtake their real selves and physical bodies become burdensome biological machines that simply have to be dealt with from time to time. Current technology isn’t there yet, but we should easily be able to understand how this can happen, and this is important: it shows that our appreciation of our digital elements is evolving to include a robust incorporation of our digital elements. Indeed, most of our lives might be lived in virtual environments in the near future, where “virtual reality” simply becomes “reality.”

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But there is still reasoned resistance to this idea. The relationship with the digital elements of ourselves can be varied, and this might be a significant factor in a predisposition to disregard the impact of the digital world on real selves. It is hard for us to get into someone else's head and truly understand their innermost feelings and motivations, and the more disconnected we are from the elements that make them up, the harder it is. While I can hear the words and understand what's being said when, for example, a reality star says, "they totally screwed up my eyebrows and it like, totally, ruined my night," it's difficult for me to empathize since I (1) don't really care about having perfect eyebrows and (2) my eyebrows are always perfect (I passed up an eyebrow modeling gig to pursue my career in Philosophy). All kidding aside, I can understand and believe the impact something like this has on that reality star, even though I don't empathize with the problem in the same way I would with someone's sadness at the loss of a beloved pet (but others might not be able to empathize with this loss in the ways I can). The difficulty with the digital elements of our lives is that people with no connection to the digital world interact regularly and closely with those who exist mostly inside of it, so while they will connect in many ways, they might not be able to fully understand how impactful the digital world (or the lack of it) is on each other's lives. I don't think that people value things any differently; I think there is a difference in the degree to which people will value certain things (and expect others to value them similarly). For example, a toddler can break down when they lose their favorite toy, while an adult might simply say, "It's just a stupid toy, it doesn't matter." Similarly, someone might say, "Just ignore those Instagram trolls," an action much easier said than done for those that live a good chunk of their lives on the social media platform.

What's to be said against changing our conception of the individual to better incorporate our digital aspects? I actually cannot find any reason other than ignorance in a literal sense. The simple idea that some people don't know or understand how integral digital elements have become in some people's lives is not enough to ignore the role they play for many people. In the same way it's more of a crime to kill someone's pet than a stray cat and particularly cruel to burn a child's favorite blanket than a random sheet, we can appreciate that different people value different things differently. It's nothing new or novel, but the digital world allows us to do so in so many extensive ways we need to be more conscious of if we are to be properly just and compassionate people.

Finally, what does this changing conception of ourselves mean for policies? In short, since it means that harms to digital selves can, and should, be understood to constitute harms to our real selves, and policies should change to reflect this. Things that we do not permit in real life should also not be permitted online. There was a famous incidence in 1993 often referred to as "A Rape in Cyberspace" after the title of the article penned by the victim. The rape happened in one of the earliest multi-user games, LambdaMOO, that was mostly a complicated chat room where users could interact and create their own rules. One user was able to "take over" another's avatar and made her perform many unwanted sexual actions on others. The real-life person felt violated in an intimate fashion, which shocked her, as she had never realized how integral her digital self had become to her real self. Some laughed it off as a ridiculous (literally) unreal occurrence. I would hope we have evolved to see that this was more than just simulating sex acts with stuffed animals and a *real* harm was committed. Violations like this will only become more intimate and common, and we are under a moral obligation to appreciate this. Most importantly, there should no longer be any difficulties in understanding "cyberbullying" simply as "bullying" and "social media harassment" simply as "harassment." To qualify these types of harms is to ignore their real force.

There are also the positive aspects of moving ourselves more online. We are no longer restricted to our geographic locations when looking for friendship, love, or simply acceptance. Our neighbors

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expand from those that are just a few steps away to those that are just a few clicks away. If living online were all bad, no one would do it. It's because of its benefits and enrichment that we are constantly extending ourselves online. It is important that we appreciate all of the complexities technology adds to our lives if we are to live in a future where they properly enhance, instead of degrade, our existences.

For Review and Discussion:

1. What is your relationship to the digital aspects of yourself? Do you live mostly online? Do you avoid social media? Why do you approach it the way you do?
2. What experiences do you have with online abuse, like trolling, harassment, or bullying? How does this compare to those things in real life?
3. Is there generally a difference in how people behave online when compared to real life? Does this matter in a moral sense?

UNIT TWO: TORTURE, DEATH, AND THE “GREATER GOOD”

We do ethics so that we can understand how to live a good life and do good things and how to avoid living a bad life and doing bad things. Many important questions about living, however, ask us to also consider death. This Unit brings together a few related issues that are the opposite of living well: torture, poverty, euthanasia, capital punishment, and abortion. These are not cheery topics to consider, but they are some of the more important, and polarizing, moral questions that confront society today. At the heart of most of these questions lies two important assumptions: pain and death are bad. But what does this say about living? And what type of life do we care about living? Through examining the issues in this Unit, we'll come to a better understanding of what is valuable about living (and dying).

Chapter 7, *The Ethics of Torture* by Martine Berenpas, discusses the motivations for, but also the serious problems with, torture. Chapter 8, *What Moral Obligations do we have (or not have) to Impoverished Peoples?* by B.M. Wooldridge, discusses the difficult problem of balancing our own autonomy and rights to the fruits of our labor with what we ought to do for those that need our help. Chapter 9, *Euthanasia: Pro and Con* by Nathan Nobis, discusses the situations where death might be preferable to life and the possible concerns of allowing people to pursue medical options to end their lives (and get help doing it). Chapter 10, *An Argument Against Capital Punishment*, discusses the reasons for executing criminals and the potential problems for policies implementing it. Chapters 11, *Common Arguments about Abortion* by Nathan Nobis and Kristina Grob, lays out many of the more popular arguments that are presented for and against and abortion and points out many of the problems that plague them. Chapter 12, *The Better (Philosophical) Arguments about Abortion* also by Nathan Nobis and Kristina Grob, goes through the more nuanced philosophically-inspired arguments about abortion and illustrates that the most rational conclusion to draw is that most abortions are morally permissible and ought to be legal.

7 The Ethics of Torture

Martine Berenpas¹

What is torture?

In 2002 the media began to carry stories that U.S. military officers were engaging in torturing a large number of prisoners at the Guantánamo Bay Naval Base. At first, the American government denied that torture methods were being used, but soon they had to admit that some torture was used as “an enhanced interrogation technique” to obtain information in the war on terrorism (Fletcher et al., 2008:4). In 2004, The Justice Department advised the White House that torture “may be justified” for interrogations conducted in the war on terrorism.

Torture is defined in part as the deliberate infliction of extreme suffering. Torture is prohibited by the *United Convention against Torture (Torture Convention)* and is a universal human right that is grounded in the *habeas corpus* right; the “right to have the body”. The *Torture Convention* is derived from the prohibition on torture as stated in the *Universal Declaration of Human Rights*. During war time, the *jus in bello* (“justice in war”) or the *International Humanitarian Law* is in place to “regulate how wars are fought, without prejudice to the reasons of how and why they had begun” (Luban, 2014). The *1996 War Crimes Act* particularly prohibits willful killing, torture and inhumane treatment at all times.

The various national and international conventions and laws against torture make a distinction between torture and inhumane treatment. Some forms of mental suffering for example are not considered as torture because it does not cause severe physical suffering.

All of the practices of torture presuppose that the torturer has control over the victim’s body. Torture as such is the *intentional* infliction of extreme physical suffering on a non-consenting and defenseless person (Stanford Encyclopedia of Philosophy). The definition should exclude acts that are considered as acts of self-defense; torture is, contrary to acts of self-defense, aimed at undermining the victim’s autonomy.

Generally speaking, torture is the intentional infliction of extreme physical pain either for personal pleasure, interrogational, punitive or terroristic purposes (Stanford University of Philosophy). These motives are not mutually exclusive insofar as acts of torture might be motivated by several of these purposes. For example, torturing a criminal might have a punitive purpose as well as a terroristic purpose to deter future acts of crime.

Intentionally inflicting physical pain on a non-consenting and defenseless person is a moral evil that particularly undermines our liberal (in the sense of liberty) values. Yet even actions that are inherently morally wrong might be morally justified in extreme circumstances. What if we can save 1000 of lives when we torture a terrorist who can tell us how to dismantle a bomb?

Torture is an interesting philosophical topic, not only because it is grounded in some account of

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human rights, but more because the justification of torture frequently relies on some version of the “ticking time bomb” scenario. This philosophical experiment is used to justify torture as an exception to forestall a future catastrophe.

In this chapter I will present some perspectives on torture from philosophers such as Aristotle, Hegel and Bentham. These perspectives show us that philosophers are concerned with the questions of if and when we can justify the use of torture. There are those such as Beccaria, who argued that torture should not be used because it is against the principle that someone should not be punished until he or she is proven guilty in court of law. Aristotle raises the question whether torture leads to “true knowledge”. The only philosopher who argues that torture is justified in extreme cases is Jeremy Bentham. We will relate Bentham’s argument to the ticking time bomb scenario, because justifying torture often relies on some form of consequentialism.

The philosophy of torture

Throughout history, torture has often been used to obtain information from a person. An important question is whether torture is even an adequate method to acquire useful information. Already in Aristotle’s *Rhetoric*, we find a philosophical evaluation on the different positions that persons take in regard to evidence acquired through torture:

“Torture is a kind of evidence, which appears trustworthy, because a sort of compulsion is attached to it. Nor is it difficult to see what may be said concerning it, and by what arguments if it in our favor, we can exaggerate its importance by asserting that it is the only true kind of evidence; but if it is against us and in favour of our opponent, we can destroy its value by telling the truth about all kinds of torture generally; for those under compulsion are as likely to give false evidence as true, some being ready to endure everything rather than tell the truth, which others are equally ready to make false charges against others, in the hope of being sooner released from torture.” (Aristotle, 2014:163).

Although Aristotle affirms that torture involves extreme physical pain inflicted to a non-consenting and defenseless person, he does not argue that torture is morally wrong. He only argues that the truthfulness of evidence obtained through torture is open for debate.

One of the first philosophers who argued that torture was a judicial vice, is Cesare Beccaria (1738-1794). Beccaria argued that torture was a violation of the principle that no one should be punished until proven guilty in court of law. Furthermore, Beccaria thought that torture was an ineffective punitive method that prevented the criminal from learning from his or her mistakes. Torture is not based on the principle of justice, but motivated by vengeance. Judicial punishment should never be based on emotions or sentiments, but should solely be based on the prevention of crime:

“The purpose of punishment, then, is nothing other than to dissuade the criminal from doing fresh harm. Punishments and the method of inflicting them should be chosen that, mindful of the proportion between crime and punishment, will make the most effective and lasting impression on men’s minds and inflict the least torment on the body of the criminal” (Beccaria, 1964:53).

Torture is particularly morally revolting because it is aimed at a non-consenting, defenseless person. Torture practices presuppose that the torturer has control over the victim’s body and degrades the victim to a mere object. The controlling relation and the power that the torturer has on the victim, is in the philosophy of Hegel explained as a struggle between rights and recognition.

Hegel used law extensively both as an illustration of the dialectical process of history as well as the necessary step in the unfolding of the ethical life (*Sittlichkeit*). From a Hegelian perspective, torture

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is grounded in the struggle of recognition and must be seen as a wrong in which the other is no longer or not yet regarded as counting as an end in itself. Hegel argues in particular that if the state uses torture as a judicial method, it fails to recognize the criminal as an end in himself and hinders the criminal's ability to achieve full self-consciousness within his community (Hegel, 1983:118; Woodson Hogan, 2013).

Most philosophers argue that torture is a morally questionable action that destroys human freedom, prevents the criminal from becoming a better person and treats humans as means and not as ends. The idea that a human should never be treated as a mere end is formulated by Immanuel Kant in the *Groundwork of the Metaphysic of Morals*. Kant identified the supreme principle, the categorical imperative, in which rational agency provides its own means. In other words: the categorical imperative is a moral law that is derived from pure reason and is universally valid. Based on the categorical imperative that one should act only according to the maxim of which one can make a universal law of the rule. The categorical imperative thus argues that we should not lie, because we don't want "You should lie" to be a universal moral law. Kant identified a second formulation of the categorical imperative for humanity, "Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end" (Kant, 1949:433).

Kant would argue the inherent immorality of torture, regardless of the circumstances or motives. Torture is always wrong, because it contradicts the second formulation of humanity and violates the categorical imperative. We will all agree that the use of torture should not be a universal moral law.

In philosophical terms, we call this approach to morality *deontological ethics*; in which the action in itself is assessed as wrong or right, regardless of the consequences of it. There are also some philosophers who argue that an action should be assessed on whether the action produces the right kinds of overall consequences. Those who argue that torture is morally wrong but is justified when it is used to prevent even greater crime, all adhere to some account of consequentialism (Stanford Encyclopedia for Philosophy).

One of the most well-known accounts of consequentialism is Jeremy Bentham's Utilitarianism. Bentham's basic idea is that we should maximize utility, which is often defined in terms of universal well-being. Based on this line of reasoning, Bentham's raises the question whether torturing a criminal is justified when it prevents the killing hundreds of innocent people:

"For the purpose of rescuing from torture these hundreds innocents, should any scruple be made of applying equal or superior torture, to extract the requisite information from the mouth of one criminal, who having it in his power to make known the place where at this time the enormity was practicing or about to be practiced, should refuse do so?" (Bentham, 1804:6).

Bentham's argument is very close to what nowadays is known as the "ticking time bomb" scenario. Most persons who argue that torture is justified in extreme circumstances rely on some version of the "ticking time bomb" scenario and argue that torture is sometimes justified when it is used for interrogational purposes.

The "ticking time bomb" thought experiment

Thought experiments are frequently used in philosophy as a method to justify our intuitive thinking. A common feature of these thought experiments is that they are imaginary and involve some degree of generalization (Williamson, 2018).

One of the most used thought experiment in the torture debate is the "ticking time bomb"

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scenario. This experiment asks us to put ourselves in the position of an experienced law officer facing a situation in which a terrorist group states that it has hidden a nuclear bomb in the city center of New York. The authorities have arrested the leader of the group who says that he knows where the bomb is located. The terrorist however refuses to reveal the bomb's location. As he is detained in the interrogation room, the clock is ticking. The question that this thought experiment addresses is whether we should use torture to obtain the information from the terrorist that can prevent the catastrophe.

The ticking time bomb argues that torture is inherently wrong, but that it might be justified in extreme circumstances. Furthermore, the "ticking time bomb" seems to suggest that torture might be justified for interrogational purposes to prevent a future catastrophe. Furthermore, the ticking time bomb suggests that torture is the only way of preventing the catastrophe. The terrorist in this experiment is already guilty – already a criminal – so why should we take his human rights into account if he is willing to kill so many innocent people?

The "ticking time bomb" is so mesmerizing because it plays with our moral intuition that we should at all time prevent innocent people from being killed. The scenario is framed to see the terrorist as a bad guy and, as such, we are more prone to dismiss his human rights and to justify the use of torture to save innocent lives. The problem with the "ticking time bomb" scenario is that torture in real-life cases are justified based on some version of this experiment. Our reality is, however, more complex and ambiguous than a philosophical thought experiment.

First of all, it is a false dichotomy to claim that we either torture the terrorist and save lives or not torture the terrorist and lose lives. In a real "ticking time bomb" situation there are certainly more options like evacuating the city or trying to locate and dismantle the bomb. Furthermore, in most real-life scenarios we most of the time only have a strong suspicion that the suspected is involved in the terrorist attack. We might have the suspicion that he or she is the mastermind behind the attack, but in real-life cases we are not one-hundred percent sure. Even in attacks that already happened, such as the 1995 Oklahoma bombing, we are still faced with unexplained details and are left with the question whether we have arrested all the accomplices involved in organizing and executing a crime. And even if we know that the suspect is the mastermind behind the crime, it might not lead to the information that we need. The point here is that in real-life cases we run the risk that we are torturing a suspect who does not have the information that we need, or does not give the information we need or does not give us it early enough to prevent the crime. One of the cases similar to the "ticking time bomb" scenario was the 2002 kidnapping in Germany of Jakob von Metzler in which the suspect revealed the location of the kidnapped boy because the police threatened to torture him; unfortunately, however, the boy had already been killed.

Even when we are sure that the suspect has the information, we are still faced with ethical challenges. When we argue that torture is allowed in extreme circumstances, we also need to think about what kind of torture techniques are permissible to extract the information from the suspect. Should we only engage in "torture lite" such as standing against the wall for a prolonged period, sleep deprivation and continuous sensory stimulation or should we use physical torture such as waterboarding, slapping or branding? And who should administer torture? Should we train somebody who can inflict just the right amount of physical or mental pain that will break the suspect?

Consequentialism argues that we should assess the good that results from the moral act against the bad. However, the problem in the "ticking time bomb" scenario is that the attack did not yet happen. It is only a threat; we don't know how many people will die nor do we know for sure that the bomb will go off (it might be fake, or not working properly). How should we justify the use of torture against the consequences that are so difficult to determine?

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David Luban aptly points to the fact that the “ticking time bomb” scenario is often used to justify torture in extreme cases, without having to engage in a thorough debate on torture, “Talking about them [ticking time bomb scenarios] is a distraction from discussing the actual practice of torture with no ticking bombs in the background” (Luban, 2014:75).

The “ticking time bomb” scenario in its generalized and idealized form is not helping us to address the issues we should address when we want to justify torture in extreme cases. Ticking time bomb versions in real-life are far more complicated and are not as clear-cut as the idealized version of it. Even the German case, in which the mere threat of torture did lead to the victim, no lives were saved. The mere fact is that torture always violates the human rights and dignity of the suspect. Yet, violating the suspect’s rights does not always save lives nor does it always lead to the prevention of a catastrophe.

Using the “ticking time bomb” scenario to justify torture in extreme circumstances is an ethically questionable argument in which we are faced with a lot of uncertainties and challenges. Questions and challenges that, when taken seriously, are not in favor of justifying torture, but highlight why we should refrain from torture at all times.

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For Review and Discussion:

1. Do you think that the *Torture Convention* is a natural law that should be abided at all times? What are

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the problems and challenges of universal declarations such as the *Torture Convention*?

2. Philosophical experiments are frequently used in philosophical debates. When are these experiments useful and when are they not?
3. In the scenario of the ticking time bomb, some scholars are reluctant to concede that the officer is morally entitled to torture the terrorist. How do these scholars justify their position?

8 What Moral Obligations do we have (or not have) to Impoverished Peoples?

B.M. Wooldridge¹

Suppose one day, on your way in to work or school, you discover a shallow pond, and in this pond, a small child is drowning and fighting to stay alive. You have just recently bought a new pair of shoes, shoes that you have been saving up money for. If you decide to save the small child drowning in the pond, you will get these new shoes muddy, and likely destroy them. You are thus faced with a choice: do you save the child and damage your brand-new shoes, or do you continue on your way, thereby preserving your new shoes, but letting an innocent child drown?

This famous thought experiment, known as the ‘Drowning Child’ example and created by philosopher Peter Singer in his article “Famine, Affluence, and Morality,”² has raised serious questions about our moral obligations to the world’s poor. It is estimated that, as of 2018, around half of the world’s population (roughly 3 billion people) struggle to meet their basic needs, while ten percent of the world’s population (roughly seven hundred million people) live in extreme poverty, defined as living on less than \$1.90 a day.³ An even more alarming statistic is that, as of 2018, “the 26 richest billionaires own as many assets as the 3.8 billion people who make up the poorest half of the planet’s population.”⁴ So, not only are there millions of people suffering from poverty, but there is a tremendous gap in the wealth of individuals.

Clearly, these rough estimates paint a particularly bleak picture, perhaps bleaker than when Singer first published his article in 1972. The impetus behind Singer’s drowning child example is to draw our attention to the plight of the world’s poor, and to show that if we think it would be morally egregious to ignore the drowning child, it is also morally egregious to ignore the world’s poor and do nothing to help them. Singer bases his argument on two central premises. First, suffering and death from lack of food, shelter, and medical care is bad. Second, if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, then we ought morally to do it.⁵ In other words, if we can prevent something bad from happening without causing anything else bad to happen, or without making a significant sacrifice, then we ought to do it.

According to Singer, saving the drowning child involves little sacrifice on our part; muddying our new shoes is, in the grand scheme of things, not a tremendous sacrifice. In the same way, it involves little effort on our part to donate some of our money and/or time to help those suffering from poverty. So, in the same way that we should save the drowning child, so too should we help those suffering from

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² Peter Singer, “Famine, Affluence, and Morality”, *Philosophy and Public Affairs*, Vol 1, No 3, (Spring 1972): 229-243.

³ Stats drawn from <https://www.worldbank.org/en/news/press-release/2018/10/17/nearly-half-the-world-lives-on-less-than-550-a-day>

⁴ Stats drawn from <https://www.theguardian.com/business/2019/jan/21/world-26-richest-people-own-as-much-as-poorest-50-per-cent-oxfam-report>

⁵ Singer, “Famine, Affluence, and Morality,” 231.

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poverty. Indeed, according to Singer, we “ought to give as much as possible, that is, at least up to the point at which by giving more one would begin to cause serious suffering for oneself and one’s dependents – perhaps even beyond this point to the point of marginal utility, at which by giving more one would cause oneself and one’s dependents as much suffering as one would prevent.”⁶

While I agree with Singer that we ought to help those suffering from poverty, I disagree with his conclusion that we should give as much as possible, even up to the point where we would make ourselves suffer. In what follows, I will argue that we have a moral obligation to give our fair share to poverty relief efforts. Before proceeding to make this argument, however, let me first offer a couple of criticisms of Singer’s argument.

The first problem with Singer’s argument is that he relies on an implausible thought experiment to support his position. It is fairly obvious that anyone who sees a child drowning in a pond, and who can easily save this child at minimal cost to oneself, would save the child. A failure to do so would be morally reprehensible. Yet, this thought experiment does not accurately depict the plight of the world’s poor. It is not just one individual that needs saving. Many individuals, up to the millions, need saving. While it might not involve a great sacrifice to save the drowning child, donating money and time to saving the world’s poor is much more onerous, and places extreme demands on an individual. This is especially so if we follow Singer’s advice and give to the point of marginal utility. A more accurate thought experiment might include an individual walking along a beach, and in the ocean are millions of people who need saving. Would we jump in then and save the millions?

A related problem with Singer’s thought experiment is the disconnect between saving a drowning child and helping someone in poverty who is in another nation. When we jump into a pond and save a child, we can actually experience what our actions produce. We can confirm that a child has been saved. When we donate to an aid agency, however, we do not know where our money goes. And, more importantly, it is unlikely that our donation will actually directly ‘save’ a child. While our donation will certainly make a difference in helping those suffering from poverty, we will not be directly saving anyone, at least not in the same way we would be by rescuing a drowning child from a pond.

Finally, Singer’s claim that we should donate up to the point where by donating more we would make ourselves worse off, is simply impractical and does not appreciate the interests of individuals. As individuals we have interests and desires, things that we want to do with our lives. This might involve, for example, going to university to achieve gainful employment later in life. If we are asked to give to the point where we would make ourselves suffer, as Singer suggests, this mitigates the value of these interests. There is nothing morally problematic about pursuing ends that will make one better off in the future. And while it is unfortunate that millions of people suffer from poverty throughout the world, this should not require us to abandon our interests and commitments to help those who are in need, regardless of how morally noble this cause is.

At this point, we might pause to consider our obligations to those who suffer from poverty, but who are geographically closer to us. It might be argued, for example, that we have a moral obligation to help those suffering from poverty who are in the same location as you. If one resides in a province in Canada (Ontario, for example), one has an obligation to help those suffering from poverty in Ontario. We can narrow this further by arguing that we have an obligation to help those who suffer from poverty who reside in our town or city. This would mitigate the impact of distance. While I might still be far away from someone suffering from poverty in my own town or city, it is much closer than, say, someone suffering from poverty who resides in Africa. However, while this might mitigate the

⁶ Ibid 234.

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importance of distance, it still does not change the fact that even in a place like Ontario, thousands to millions of people suffer from poverty, and donating to help these individuals could be just as onerous as donating to relief efforts to eradicate poverty in other nations. Rather than placing extreme demands on individuals, we would be better off in only donating our fair share to poverty relief efforts.

A fair share argument stipulates that every individual in a community would be required to give their fair share towards alleviating the problem. Giving one's fair share can take a couple of different forms. It might involve, for example, donating money to poverty relief efforts. Suppose, for example, that in order to alleviate global poverty, a total of 500 billion dollars is necessary. There are roughly 7 billion people on earth. Based on these numbers, if everyone were to give roughly \$75 to global relief efforts, this would reach the 500-billion-dollar requirement. This means that, everyone would be required to give \$75 to relief efforts, and no more.

Of course, alleviating world poverty is not as simple as donating money. Other ways of contributing might involve donating one's time to help those suffering from poverty by, for example, volunteering one's time at an aid agency. If one does not give any money to poverty relief efforts, but spends some time helping organizations that work to alleviate poverty, then one could conceivably be said to contribute their fair share towards poverty relief efforts. Other actions might include protesting organizations, governments, and/or policies that contribute to the plight of the world's poor. Indeed, doing so might be even more effective in alleviating poverty, as many of the world's poor are poor because of unjust actions and/or policies undertaken by multinational corporations, and working to fight against these actions and/or policies can be considered as one contributing their fair share towards poverty relief efforts.

A fair share argument has a couple of advantages compared to Singer's argument. First, it emphasizes the role of the collective, rather than the individual. That is, a fair share argument emphasizes the role that other individuals have in acting to alleviate global poverty. Rather than placing extreme demands on individuals, a fair share argument recognizes that everyone has a part to play in relieving global poverty, and this requires everyone to chip in and do their fair share. The responsibility is diffused among many different individuals, rather than placing extreme demands on any one individual or groups of individuals.

Consider, for example, a thought experiment I considered earlier. Suppose you are walking along the beach and, in the ocean, you see millions of people who need saving. Based on Singer's argument, it would seem that the individual would be required to jump in and save as many people as they could. However, under the fair share argument, we would be required to save our fair share of people, in unison with other beach goers. We, the beach goers, could act collectively and save our fair share, while other groups of individuals try to save their fair share. If we want to do more, we can, but this is not obligatory. Rather than making us feel guilty about not doing more, once we recognize that we have done our fair share, we can return to pursuing our interests and projects that make our lives meaningful.

This leads into the second advantage of the fair share view. A fair share argument allows one to devote time and resources to pursuing their own interests. Since one is only required to give their fair share, individuals will have both time and resources to commit to pursuing things that are important to them. Unlike Singer's argument, which will require us to keep giving until the point where we would be worse off if we gave any more, a fair share approach recognizes the importance of individual's interests.

In response to this fair share argument, a critic might raise the following point. While it is theoretically sound to argue that everyone should contribute their fair share towards poverty relief efforts, the practicality of this approach is problematic. In some cases, individuals do not have the resources to contribute their fair share, and in others, individuals who do have the resources to contribute

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simply do not contribute. In cases like these, it might be argued that we should do more than our fair share. This does not mean we need to give until the point of marginal utility, like Singer argues, but it might require us to go above and beyond our fair share.

In response to this critique, I should be clear in reiterating that contributing one's fair share towards poverty relief efforts encompasses more than just monetary donations. So, if an individual does not have the monetary resources to contribute their fair share, they can make up for this in other ways, like volunteering their time or protesting unjust institutions and policies. In those cases where an individual does have enough, but simply chooses not to donate, this can be offset by the supererogatory (good to do, but not morally required; in other words, going beyond your moral duties) contributions of others. That is, there will almost inevitably be those individuals who contribute more than their fair share, which can go some way towards making up for the failed contributions of others.

Importantly, if we require others to contribute more than their fair share, this defeats the very idea behind the fair share requirement. The fair share argument emphasizes that poverty is a problem best resolved, or mitigated, through the collective actions of others. And this can best be accomplished, I argue, through a fair share requirement, where each individual contributes a portion of their money and/or time to helping those suffering from poverty. If everyone does this, we can more effectively achieve poverty relief. But if we require individuals to go beyond their fair share, then this might motivate individuals to not contribute in the first place. If, for example, we are required to donate our fair share, why would we if we knew beforehand that if we do not contribute our fair share, some other individual or group of individuals would make up for it by doing more than their fair share? Such an approach would destroy the foundation of a fair share agreement. The sooner we recognize that poverty can best be resolved through the collective actions of others, the sooner we can work together towards ending poverty throughout the world.

For Review and Discussion:

1. Do we have a stronger obligation to those suffering from poverty who are geographically closer to us, as opposed to those suffering from poverty in another nation? Why or Why not?
2. Is the drowning child example a good thought experiment to use in discussing our moral obligations to the poor? What are some strengths and weaknesses of this thought experiment?
3. What is the difference between absolute poverty and relative poverty? Do we have more of an obligation to help those suffering from absolute poverty? Why or Why not?

9 Euthanasia, or Mercy Killing

Nathan Nobis¹

1. Introduction

Sadly, there are people in very bad medical conditions who want to die. They are in pain, they are suffering, and they no longer find their quality of life to be at an acceptable level anymore. Given all that, they want their lives to end: they want to be out of their misery. Some of these people are kept alive by machines or other medical treatments. If these machines were turned off or the medical interventions stopped, these people would die.

Can it be *morally permissible*, or *not wrong*, to turn off these machines or stop treatment and so let someone die, in circumstances like these? Many people think it can be. They believe that, morally, we do not have to do *everything* we can to keep someone alive, no matter their quality of life or what they want. Indeed, sometimes keeping someone alive, when they could be allowed to die, would be wrong: we really should just let them die.

Here I develop an argument for this view, that what's usually called "passive euthanasia" can be morally permissible. More interestingly though, I explain how the reasons in favor of passive euthanasia suggest and support thinking that in some circumstances "active euthanasia" is justified, so it can be OK to *actively kill* some patients, for example, by giving them an overdose of drugs that will painlessly end their lives. So, I argue that if you think it can sometimes be OK and appropriate to let some patients die, then you should also think it can sometimes be OK and appropriate to actively kill some patients.

2. Definitions

Let's begin with some definitions to better understand the issues.

First, our topic is *euthanasia*, which is sometimes called "mercy killing." The word *euthanasia* relates to the idea of a "good death." People typically seek euthanasia to avoid a *very bad death* full of agony, pain, and suffering and all that results from that: for example, people wracked with horrific pain might not be able to meaningfully experience their final days or weeks with loved ones, due to the constant agony: when you are in terrible pain, it's hard to talk, and listen, and share.

The most common type of euthanasia involves someone euthanizing someone else. Another type involves someone performing euthanasia on themselves, or euthanizing themselves: this is a type of suicide.

Euthanasia is usually classified as three types: *voluntary*, *non-voluntary* and *involuntary*:

- **Voluntary euthanasia** involves a person who wants their life to end and communicates this desire: the person wants to die and says so.

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- **Non-voluntary euthanasia** involves an individual who *neither* wants to die *nor* wants to live. Typical cases of non-voluntary euthanasia involve patients who have been unconscious for a long time, in a coma or permanent vegetative state, and we have good reason to believe that consciousness will never return. Sometimes we know what such patients *would have wanted for themselves* in situations like these, but usually we don't.
- **Involuntary "euthanasia"** involves someone who wants to stay alive and expresses this desire to stay alive. It is very important to be clear that if this person is killed this is *not* euthanasia, or "a good death": in all or nearly all cases, this is *murder* or *wrongful killing*.

These three types of euthanasia can further be classified as "passive" and "active":

- **"Passive"** euthanasia involves "allowing" someone to die; it involves "letting" someone die; the person who lets the person die is not the *cause* of the death, the medical condition is.
- **"Active"** euthanasia involves "doing something"; it involves *killing*; it involves being the *cause* of the death.

We will soon see that these common ways of distinguishing active and passive euthanasia aren't entirely clear.

Here we will only discuss arguments about *voluntary* euthanasia, but readers can thoughtfully extend that discussion to the unique circumstances of *non-voluntary* euthanasia. Since *involuntary* euthanasia, passive or active, is generally wrong, it won't be discussed further.

3. An Argument for Passive Euthanasia

Can it be morally permissible to let someone die, or perform voluntary passive euthanasia? The options are 'yes' and 'no.'

'No' suggests that we must always do everything we can to keep someone alive, even if they are miserable, want to die, and say so. To many, that's just cruel. If a dog or cat were in a similar condition, we would do the merciful and humane thing and put them out of their misery: this is perhaps the one way that animals are often treated better than humans.

The judgment that 'yes, it can be OK to let someone die' can be supported by both consequentialist (or utilitarian) and *Kant-inspired* moral reasoning. What Kant himself argued about these issues might be different from what's argued here: Kant sometimes applied his own moral principles to practical issues in unconvincing ways.

For the consequentialist, the person being out of their misery is a better consequence for them, and overall, than their staying alive: killing them decreases the net unhappiness, pain, and badness in the world. For the Kantian, letting them die respects their autonomy (or personal self-governance): we should respect people's decisions about profound issues in their own lives. Given their reasonable desires, respecting their wishes treats them as "end in themselves," but forcing them to live in their unwanted condition treats them as a "mere means" toward *our own* ends, not their own.

'Yes' can also be supported by spelling out conditions in which it can be OK to let someone die. We begin with an 'if' and develop a moral principle:

If...

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- someone is dying, *and*
- is in horrible pain and suffering, *and*
- that pain and suffering cannot be relieved, *and*
- that person wants to die and clearly says so, *and*
- informed, thoughtful and caring people agree that the person would be better off no longer living...,
then it can be permissible to let that person die.

To many people, a principle like this seems plausible. And it justifies passive euthanasia in many circumstances.

The details of a principle like this, however, take us to harder questions about euthanasia, harder than those that arise in most circumstances: for examples, what if someone wants to die *now* but isn't currently in horrible pain and suffering, or is expecting to die, but many years later after a very slow decline? Should *anyone else* have "say" over your own life or judge whether some pain and suffering is "horrible enough" *for you* to reasonably wish to die? If so, who? What if someone *isn't* dying and doesn't even have a bad medical condition but just finds their life not worth living and so wants to die (and so, say, plans to starve themselves to death or do other things that will result in their death)? These harder questions, and others, would need to be addressed for a complete defense of this or similar principles and any arguments based on them.

In sum, a basic case for passive euthanasia can be supported by utilitarian, Kantian and common-sense moral thinking. Let's consider two objections before moving on to the case for active euthanasia.

3.1. First, some claim that pain can always be controlled, and patients always kept comfortable, so there is never a need to let anyone die (or, of course, actively kill them).

In reply, medical professionals try their best to control pain and make patients comfortable and they often are effective. But the insistence that pain can *always* be made bearable for everyone is, unfortunately, not true: some patients' pains cannot be controlled to their own satisfaction.

3.2. Second, some argue that "miracles" are always possible, so there's always a chance that someone gets better and even survives, and so we shouldn't let patients die.

These hopes are understandable, but there are conditions that nobody has ever recovered from, and so the chances are very slim. And we don't usually make important decisions based on very unlikely chances: for example, you *could* be in an unlikely car accident where a seatbelt *harms* you, rather than *helps* you: nevertheless, wearing a seatbelt is the smart choice.

Also, no type of euthanasia, passive or active, would *prevent* a miracle, especially a genuine miracle involving divine intervention: turning off the machines could be the occasion for a *miraculous* recovery, and an overdose of painkillers could be *miraculously* transformed into life-saving medications. People hoping for a miracle shouldn't forget what miracles really could be.

4. An Argument for Active Euthanasia

The basic argument for active euthanasia, that is, for *intentionally killing people who, due to their medical conditions, wish to be killed and say so* is fairly simple.

We begin by reflecting on the basic reasons why passive euthanasia can be OK: it gets people out their misery and respects what they want for their own lives. "Letting people die" is a *means* toward those ends or goals. However, *these* goals can be pursued more *directly* and *immediately* by actively

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killing patients who wish to die. Letting people die often takes a long time, and that time will often be filled with pain and suffering, which the patient wants to avoid. Killing people, *when they want to be killed*, achieves the goals that they want, that is, to be out of their misery, more quickly and with less pain. And that is what they want, so they get what they want, quicker.

So, the basic assumptions that *less unwanted pain and suffering is typically better than more* and *people's desires about profound matters affecting their own lives and deaths usually should be fulfilled sooner than later*, and the fact that killing someone is often a more effective means towards those ends, justifies active euthanasia, at least in some circumstances.

5. Objections: Potentially Relevant Differences Between Active and Passive Euthanasia

There are many objections to this type of reasoning, all intended to explain why active euthanasia is wrong but passive euthanasia can be permissible. Let's consider some of the most common.

5.1. First, some claim that it's always wrong to intentionally kill someone, so passive euthanasia can be OK but active euthanasia is wrong.

In reply, while we should agree that it's, at least, *nearly always* wrong to intentionally kill someone, we should observe that most people *want* to live and *do not* currently have lives full of pain, suffering, and misery. So, the rule against killing is good in general, but we can argue that there are justifiable exceptions to this rule and that euthanasia is one of them.

5.2. Second, some argue that allowing active euthanasia puts us on a "slippery slope" to murdering patients, and people in general, who are not in challenging medical circumstances or do not want to die. That's wrong, so we shouldn't allow euthanasia, which might lead to that.

In reply, we can rightly wonder why that would happen, since arguments for euthanasia are very specific on the conditions where it might be permissible. They are especially clear that if someone *wants* to live, they should not be euthanized.

Slippery slope "arguments" often assert "Do *this* and something else bad *might* happen, so don't do *this*!" The keyword is 'might.' Here we have no good reason to think this bad thing *would* happen or that it *must* happen or that nothing can be done to likely prevent it. We can, would and do implement safeguards to prevent or lessen any bad results that are *unlikely* but *might* happen from any acceptance of euthanasia, just as we do with many other things that *might* lead to bad results if misused or abused.

5.3. Third, some argue there is always an important (moral) difference between "allowing" something to happen and "doing" something, and so passive euthanasia is OK but active is not.

We might wonder if there is a clear distinction here. Consider this example:

You see that someone is about to unknowingly walk and fall into a deep pit in the ground. You could easily warn them of the pit, but you keep quiet and they fall in and are seriously injured. You tell yourself that if you had pushed them into the pit, you'd be blameworthy, but since you have "done nothing" you are completely blameless.

Many would find this judgment unbelievable: you did *do* something: what you *did* was stay silent and *not* warn them of the pit. "Inaction" is itself an action: *doing nothing is doing something*. Furthermore, what you *did* (in "doing nothing") was wrong. It would often be *worse* for you to push the person into the pit yourself (or maybe not?), but your letting them fall in was wrong: *you* partially caused their

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injury: had you acted differently, they wouldn't have gotten hurt.

Examples like these suggest that there are not clear moral or conceptual differences between *doing something* and *allowing something to happen*. The objection above mistakenly assumes there are.

5.4. There's an important (moral) difference between killing and letting die, and so passive euthanasia is OK but active is not.

This final objection is similar to the previous. James Rachels famously responds with an example like this:

An evil aunt will inherit lots of money if her five-year-old nephew dies. She plans to drown him in the bathtub and make it look like an accident. She *will* get away with it. He just started his bath and she's on her way to the bathroom to drown him. She opens the bathroom door and is *delighted* to see that he has slipped in the bathtub and is drowning. She watches, ready to push him under if he steadies himself and is able to save his own life. But, as her luck would have it, he doesn't and so he drowns. She never touches him throughout the ordeal and inherits the cash, never telling a soul what happened.

What an awful story. What an awful aunt. Her motives were awful and what she did was wrong. If she explained that she didn't "do anything," that she didn't do anything wrong, that, at best, she *merely* "let someone die" – it's not like she *killed* anyone! – she is profoundly mistaken: letting someone die can be just as bad (or *nearly* as bad) as killing someone. We might even say that *a way* to kill someone is to let them die.

The objection here depends on a clear moral distinction between killing and letting die. There is no such distinction.

5.5. Mistakes are possible, so we shouldn't allow euthanasia.

A final objection is not to the ethics of euthanasia per se, but whether, as a social or legal policy, it should be allowed: it's possible that we could think an action is, or can be, morally permissible, but that for various reasons, as society we shouldn't allow it.

The concern is that where active euthanasia is allowed, some people who should not be killed *could* be killed. This is true: this is a possibility. It's also true that where passive euthanasia is allowed, some people could be let die who should be kept alive. The argument is that since mistakes and wrongdoing regarding euthanasia are always possible, we should not allow it as a society. (This is consistent with thinking that euthanasia is sometimes morally permissible).

In reply, we cannot ignore the opposing truth that if euthanasia is *not* allowed, that would result in mistakes and wrongdoing also: people would be *wrongly* kept alive, and *wrongly* forced to endure more suffering than they can bear and their deepest desires for their own lives disrespected.

These possible mistakes, unlike the possible mistakes in allowing euthanasia, however, *cannot* be corrected or addressed by any safeguards or precautions, if euthanasia is *not* allowed. The wisest strategy then is to allow euthanasia, with limits and safeguards, and work to ensure that any mistakes and wrongdoing are minimized, and hopefully prevented completely.

6. Conclusions

There are, of course, more objections to these arguments, and other important arguments and concerns to discuss, and factual information to review, to have genuinely responsible views about these matters: this

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essay is just a start.

These issues of this essay are important and not just for people currently facing difficulties where euthanasia might be part of the response. These issues are important to all of us since we have no idea what will happen to us, and our loved ones, years down the road, tomorrow, or even later today: an accident or illness might befall us that forces us to ask and answer hard questions about whether our lives are still worth living. While we hope these questions aren't forced on us, we should ask them now and work on answering them now, together and as individuals. Part of a good death is that it is an end of a good life, and an opportunity to begin a *better* life is always now.

Reference

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For Further Reading

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For Review and Discussion:

1. What are the reasons someone might their life to end? Are those reasons strong enough to support their ending their life? Why or why not?
2. We regularly euthanize non-human animals, but euthanizing people is limited to certain countries (most notably The Netherlands). Is there a major difference between non-human animals and people that justifies our different use of euthanasia? Why or why not?
3. What is the strongest argument opposed to allowing active euthanasia? Is this argument stronger than the arguments in favor of active euthanasia? Why or why not?

10 An Argument Against Capital Punishment

Noah Levin¹

Horrendous crimes are committed and will continue to be committed. Even before clear legal systems existed, people wanted to see perpetrators properly punished for the crimes they committed, and the more heinous the crime, the worse the punishment. Rape, murder, torture, and molestation will always be at the top of the list of crimes that are intolerable, as they are all gross violation of another's autonomy. I could describe a crime that would make anyone's blood boil and ignite a rage for vengeance on the criminal that had the coldness to carry out such a depraved act. I will spare the reader such a story, but you can imagine the types of crimes I am referring to. Once we catch a person that would do such a thing, the next issue we are faced with is clear: What do we do with this person? How do we punish them? Historically, execution, also known as capital punishment, has been used widely for many crimes. Today, it is reserved for the worst of the worst crimes and criminals in countries where it is used. However, many countries (notably, all of Europe except for Belarus) have either outlawed the punishment or chosen not to implement it. We thus ought to consider whether, in today's world, we should ever execute criminals.

While some crimes and criminals might *deserve* to be executed for their crimes, it is not a penalty that we should continue to implement, especially in the United States of America. There are four reasons for this: 1) the justice system is flawed, and with the finality of death, we should avoid punishments that cannot be properly compensated for; 2) on top of variations in prosecutors in seeking the death penalty, there are worrisome geographic and racial variations in the implementation of capital punishment that mean it is not applied fairly; 3) it is sought and carried out infrequently; and, 4) the United States is one of the few "Western" countries to still have it, and abolishing it would put the USA in-step with its closest allies and provide an important expression of moral fortitude.

My arguments will hinge on one major claim: a life behind bars would appear to be an equally just punishment when compared to the death penalty. While one has actual life, there is no freedom to go with it. The value of living might be completely removed if one is behind bars forever, making this punishment on equal footing to death. The Spanish phrase for life imprisonment is the poetic *cadena perpetua*, which literally translates to "perpetual chain," a reminder that the focus of such punishment isn't on living, but being imprisoned. In both prison and death freedom is removed, and never living free again is a fate that is akin to death, as any semblance of a quality life can only be a farce. On top of this, should there be good reason to do so, we can always lessen the term of the punishment and release the prisoner. Additionally, as the Dread Pirate Roberts told Westley in *The Princess Bride*, "Good night, Westley. Good work. Sleep well. I'll most likely kill you in the morning," there would remain the possibility of execution in the future if justice demands it (notwithstanding potential legal problems with altering a punishment); but we can't bring someone back to life (yet) if we execute them and regret it. This doesn't illustrate that execution is wrong, but shows a technical way that life imprisonment can be advantageous. In any event, it is unclear to me that execution is the *only* appropriate punishment for the

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crimes that it is a potential punishment for.

I have not mentioned anything about costs. My reasoning is simple: it is unclear whether life in prison or the death penalty is more costly overall, as the likelihood of a shorter time spent in prison is offset by the increased costs of housing the prisoner and the longer court processes (such as multiple appeals) required for capital punishment. Of the many studies that have occurred and the analyses of the studies, there is no clear answer to the question of which one costs more, as costs per trial vary greatly based upon the details of the trial, and where it is carried out, as well as the overall costs of housing or executing an individual prisoner in a specific prison. Even if there were an answer, it is beside the point: if the death penalty is the *only just* punishment, then we ought to implement it since it would be appropriate to do so. It is very costly to put a car thief into prison, and a lot cheaper to implement the religious punishment of removing a hand. But it is often deemed inappropriate to do the latter, as mutilation is a permanent disfigurement that is particularly cruel. A few years of lost freedom (and maybe a monetary fine) are now deemed to be much more just.

Why should we execute people and for what crimes? There are three main reasons that hold philosophical value: justice, deterrence, and the impossibility of rehabilitation. The first, and most important, reason is that the criminal *deserves* to die. The act they have committed is so depraved and caused such harm, execution is the only way we can fairly punish the offender. If we kill people for awful crimes, then the threat of punishment also can function as a deterrent. If you might be killed for doing something awful, perhaps you'll refrain from doing it. Lastly, what should we do with those people that are so depraved they are beyond rehabilitation? Some people will just continue to do bad things, and will not, by their own admission, stop. Experts can interview them and concur. They are lost, there is no hope, and they may even see death as just and preferable. Certainly these people should be executed. On top of all of this, it gives the families of victims justice and satisfies our primal hunger for revenge.

To turn back to my primary reasons for advocating for the abolition of the death penalty in the United States, my first claim is that given the finality of the punishment and the potential of executing innocent individuals, we ought to avoid it. Let's assume this occurs, and an innocent person was executed. Let's also assume that execution is appropriate for certain crimes. Would executing one innocent person be worth executing all of the actually guilty individuals that would come to have the punishment of execution? After all, we allow emergency vehicles to violate all sorts of traffic laws, resulting in the occasionally fatal, and likely avoidable, accident. We believe this cost is worth it because it means that more people, on the whole, are saved. Is execution so appropriate and so important that there are *no* suitable alternatives or that the only alternatives are actually, all-things-considered, significantly *less* just?

To alleviate this concern, someone might be quick to point out that no person has been executed and later been found to be innocent since the United States restarted capital punishment in 1977. As of this writing, 161 people have been exonerated before execution (out of approximately 7,800) making the wrongful sentencing rate at least 2% (for updated information on this and all of the statistics mentioned in this work, visit <http://deathpenaltyinfo.org>). Of course, there is little reason to find out if someone was actually innocent after they have died, so those sentenced to death that die before, or as a result of, execution are unlikely to be exonerated, should they actually be innocent. All crimes carry the chance of wrongful convictions, but most of the punishments can, at least in theory, be compensated for, assuming that the value of money can be comparable to the value of time. There is no compensation for a dead person that the person will directly benefit from. As such, the risk of executing an innocent person is too great, especially when life in prison would appear to be a fitting alternative.

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There is extreme variation on the implementation of the death penalty across racial and geographic lines and its application is very dependent on the prosecutor. Where the death penalty is allowed, if you are a black male that killed a white female during a robbery, the odds of receiving the death penalty over a white male that tortured a black female before death are significant, and both are much greater than a white woman that tortured then killed a black man (I don't know the exact number since no one has crunched the numbers on all of these, but consider that less than 2% of all death row inmates are women despite committing roughly 10% of eligible homicides and that black males are 97% more likely to get the death penalty when they kill a white person over a black person). The race of the perpetrator and the victim both influence whether the death penalty is sought and applied. Justice is supposed to be blind, and even if everyone who got the death penalty deserved it, the application of it is unfair. This should be concerning.

The death penalty is sought in less than 1% of eligible cases. This statistic speaks for itself: capital punishment is rarely sought as a punishment even in cases where it can be used. Capital punishment will work as a deterrent if it actually deters, but since it is rarely used, it would be reasonable for criminals to believe they would not be executed if they commit capital crimes, and thus unlikely to work as a deterrent. For the threat of capital punishment to clearly work as a deterrent, it should be implemented a lot more frequently than it is. As there is no consensus in the research on whether it is effective as a deterrent, relying upon this reason to support maintaining the death penalty is problematic.

Finally, abolishing the death penalty in the United States would send a very important symbolic and humanitarian message: we stand with the rest of the NATO countries and majority of the world (and move away from being the country with the third most executions behind China and Saudi Arabia) in deciding not to systematically execute people in the name of justice. European countries did not disavow the death penalty because it was inappropriate, but rather many did so because of all the practical concerns I have laid out. If it is unfair in how it is used, then it shows the legal system disrespects its own desire for impartiality. It undermines the integrity of the legal and justice system itself.

Yet, there is still something to be said for keeping the death penalty in light of all of my reasons for abolishing it.² Despite my claims that life in prison is just as bad as execution, many people disagree with this. Importantly, many *criminals* that face these punishments might disagree with it. The threat of execution could motivate criminals to cooperate and accept guilt more frequently, sparing us both the costs of seeking conviction and avoiding the possibility that they are found innocent (this is assuming that they really are guilty). Beyond this, people spending life in prison might not have anything *other than* their lives to lose, so keeping capital punishment gives them one final thing to fear and thereby prevent them from continuing to do awful things behind bars. Lastly, there might not be any value to the positive expression of our moral fortitude that abolishing the death penalty might bring with it. In fact, keeping it might be *more* expressive by saying that we will *never* tolerate extremely depraved acts.

I concede that each of these arguments provides a good reason to keep the death penalty on the table. Indeed, the fact it is rarely used is irrelevant for each of these arguments: it's on the table as a possible punishment, and that's what matters. However, the finality of the death penalty doesn't necessarily have to be the goalpost. We do not chain people to walls until they die in prison: inmates in prison for life are afforded some amount of pleasure and freedom behind walls, at the very least, in hopes of reform and an existence that contributes positively to society. We are also not heartless and can recognize the humanity in even the most hardened criminals. Thus, there can be (and are) varying

² I would like to thank Douglas E. Hill for bringing these responses to my attention.

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degrees of freedom one may be privileged to while imprisoned, and the threat of continued loss of freedoms could be used as motivating factors in lieu of execution. To the last objection, that we do not need to show anything to our Western allies or make any statements on punishment (and that having the death penalty might even be the statement we should be making), I'd like to point out that execution is the only punishment we have that intentionally inflicts direct physical harm on a criminal. We no longer lash people, use medieval torture devices, or otherwise use methods with the intention of inflicting physical harm. While we restrain and restrict, the purpose of all other types of punishments and incarcerations are not to physically harm. If physical harm comes, it is an unintended consequence. Abolishing the death penalty, the last bastion of physical violence as a punishment, illustrates that we have moved beyond intentionally inflicting physical harm as a form of punishment.

On March 12, 2019, the governor of California, Gavin Newsom, issued a moratorium on executions during his governorship. This means that while he is governor, no one will be executed and everyone on death row will be treated as if they are in prison for life. Future governors can restart executions, however. This move was met with some anger, with the loudest shouting two things: (1) voters have constantly reiterated the desire for the death penalty and the governor disregarding this is overreaching on his part, and (2) that certain people deserve to die as a result of their crimes, and the justice system has confirmed this. The former argument is one about the political structure of the state and where powers lie, and while I can be sympathetic to this viewpoint, the facts are that the governor has the power to take the actions he did, an ability he has in order to maintain a proper system of checks and balances. Whether the system is *actually* balanced is a separate issue and not one I need to tackle right now. The second reason had people advocating for the killing of other human beings. It struck me as odd that the cause they are getting riled up about is one that involves such an act of violence. It feels as if we have lost our humanity if we scream and fight so that we may kill another person in the name of the law, because there is no other action that could possibly bring justice. It might be the only way to get revenge, but the law should not be used for revenge. I do believe that some crimes are worthy of such a sentence, but it is not something worth fighting for, especially when the alternative of life in prison is a sufficient proxy. I fully sympathize with the families of victims and in no way want to ignore the awfulness of the crimes these people committed, but fighting for someone else to die in the name of justice does not promote the values we ought to promote as a modern society.

To summarize, while some crimes are heinous enough that the offender can be deserving of capital punishment, implementing execution is riddled with too many problems and complications to be morally appropriate in today's world. It should thus be abolished because the alternative of life in prison is an acceptable replacement.

For Review and Discussion:

1. Do you think there are certain crimes where execution is appropriate? If so, which ones and why? If not, why not?
2. Assume that execution is the appropriate punishment for some crimes. Should it be used? Why or why not?
3. Is execution a "cruel" or "unusual" punishment? Why or why not?

11 Common Arguments about Abortion

Nathan Nobis and Kristina Grob¹

1 Introduction

Abortion is often in the news. In the course of writing this essay in early 2019, Kentucky, Mississippi, Ohio, Georgia, Alabama and Missouri passed legislation to outlaw and criminalize abortions starting at six to eight weeks in pregnancy, with more states following. Federal law, however, generally permits abortions, so it is unclear what the legal outcome here will be.

Abortion is a political issue – with different political parties *tending* to have different perspectives on the issue – because abortion is a *moral* or *ethical* issue. (These two words mean the same thing).

Some believe that abortions are typically *morally permissible*, or *not wrong*, and so believe that abortions should be legal. If doing something isn't wrong, it shouldn't be illegal: criminalizing actions that aren't wrong is a form of *injustice*.

Other believe that abortion is morally wrong, that it's *often* wrong, maybe *nearly always* or even *always*.

Some people argue that even though they believe abortion is wrong, it should remain legal: after all, if *every* morally wrong action was illegal, we would all be in jail! Seriously though, there are many actions that are morally wrong, even really hurtful, that the government shouldn't try to prevent or punish. (You can supply the potential examples to make the point). They might also think that, for a variety of other reasons, their personal moral views on the issues shouldn't be made into law for all.

Others argue that abortions are wrong and should be illegal. What *types* of wrongdoing should be illegal? This question isn't easy to answer: it's abstract and general. One answer is that *seriously, extremely wrong actions should be illegal*. This might seem plausible, since many illegal actions *are* seriously wrong, but since there are other very wrong actions that shouldn't be illegal, this answer isn't perfect.

2 Defining “Abortion”

Abortion might personally affect you or someone you know: you or a partner, spouse, relative or friend may have had an abortion, have considered abortion, or will have an abortion. But what is an abortion?

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There are a number of common definitions, some of which are better and others which are worse:

Definition 1: An abortion is the *murder* of an unborn *baby* or *child*.

Definition 2: An abortion is the intentional *termination* of a fetus to end a pregnancy.

Definition 3: An abortion is the intentional *killing* of a fetus to end a pregnancy.

Definition 3 is best. We'll explain why after we show the problems with the first two definitions.

2.1 “Murdering Babies”

Definition 1 is common with certain groups of people, but even people who think abortion is wrong should reject it.

“Murder” *means* “wrongful killing,” and so this definition implies that abortion is wrong *by definition*, which it isn't. This definition means that to know that abortion is wrong, we'd just need to reflect on the meaning of the word, and not give any reasons to think this. Murder *is* wrong by definition, but to know that any particular killing is murder, we need arguments. (Compare someone who calls the death penalty *murder*: we know it's killing, but is it *wrongful* killing? We can't just appeal to the definition of “murder”: we need arguments that this is wrongful killing). This definition also means that someone who claims that abortion is *not* wrong says that “Wrongful killing is *not* wrong,” which makes no sense. We can even call this a “question-begging” definition, since it *assumes* that abortion is wrong, which can't be *assumed*. So this definition is problematic, *even if* abortion is wrong.

Definition 1 also describes fetuses as “babies” or “children.” While people are usually free to use whatever words how they want, people *can* say things that are false: calling something something doesn't mean it's really that thing. And the beginnings of something are usually not that thing: a pile of lumber and supplies is not a house; fabric, buttons and thread are not a shirt, and an embryo or early fetus is not a baby or child. So it's false and misleading to call embryos and early fetuses “babies” or “children.”

Defining abortion in terms of “babies” seems to again result in a “question-begging” definition that *assumes* that abortion is wrong, since it is widely and correctly believed that it's wrong to kill babies. We understand, however, that it's wrong to kill babies because we think about *born* babies who are *conscious* and *feeling* and have other baby-like characteristics: *these* are the babies we have in mind when we think about the wrongness of killing babies, *not* early fetuses. Describing early fetuses as “babies” characterizes them either as something they are not or, at least, assumes things that need to be argued for, which is misleading, both factually (in terms of what fetuses are like) and morally (insofar as it's assumed that the rules about how babies should be treated *clearly* and *straightforwardly* apply to, say, embryos).

Part of the problem with this definition is that terms like “babies” and “children” encourage strong emotional responses. Babies and children are associated with value-laden terms such as *innocence*, *vulnerability*, *preciousness*, *cuteness*, and more. When we refer to unborn human beings as *fetuses*, some

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people become defensive because they see the word “fetus” as cold and sterile. But “fetus” is merely a helpful, and accurate, name for a stage of development, as is “baby,” “child,” “adolescent,” and “adult.” Distinguishing different stages of human development doesn’t commit anyone to a position on abortion, but it does help us understand what an abortion *is*.

In sum, defining abortion in terms of “murdering babies” is a bad definition: it misleads and assumes things it shouldn’t. Even those who think that abortion is wrong should not accept it.

2.2 “Termination”

The second definition describes abortion as an *intentional* action. This is good since a pregnant woman does not “have an abortion” if her pregnancy ends because of, say, a car accident. And “spontaneous abortions” or miscarriages are not intentional actions that can be judged morally: they just happen.

Definitions, however, are supposed to be informative, and the vague word “termination” doesn’t inform. If someone had literally no idea what an abortion was, it would be fair for them to ask what’s *exactly* involved in a “termination” of a pregnancy. A discussion between persons A and B – who knows nothing about abortion – might go like this:

“There is a pregnant woman (or girl) who does not want to have a baby, a *living* baby, obviously. And so we are going to do *something* to something insider her – that is developing into that living baby – so she does not have that baby. The action we are going to do is the ‘termination.’”

“*That something inside her, developing into that living baby, it is living?*”

“Yes. It started from a living egg and sperm cell.”

“So you are making something living *not living*, right? That sounds like *killing* something, right?”

Person B’s reasoning seems correct: abortions *do* involve killing. The word “termination” obscures that fact and so makes for an unclear definition. This doesn’t make the definition *wrong*; to “terminate” something means *to end it in some way*, and abortion ends the development of a fetus. But it doesn’t say *how* abortion ends that development and so is not ideal.

Why might someone accept this definition? Probably because they are reasoning this way:

Killing is wrong. So if abortion is killing, then it’s wrong. But I don’t believe that abortion is wrong, or I am unsure that abortion is wrong, so I don’t want to call it a ‘killing,’ since that means it’s wrong.

The problem here is the first step. *Not all killing is wrong*. Lots of killing is perfectly fine and raises no moral issues at all: killing mold, killing bacteria, killing plants, killing fleas, killing random cells and tissues (even ones that are human, say cheek cells or skin cells), and more. We don’t even need to observe that it’s *sometimes* not wrong to kill adult human beings to make the point that not all killing is

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wrong.

This means that it's *not* problematic to define abortion in terms of "killing." The important questions then are, "Is abortion *wrongful* killing, or killing that's not wrong?" and "When, if ever, might it be wrongful killing and when, if ever, might it be permissible killing? And *why*?"

2.3 "Killing"

A final definition understands abortion in terms of *an intentional killing of a fetus to end a pregnancy*. This definition is *accurate, informative* since it tells us *how* the fetus would be "terminated", and *morally-neutral*: it doesn't assume that the killing involved in abortions is not wrong *or* that it's wrong. This is a good definition.²

3 Why Most Abortions Occur

The Guttmacher "Fact Sheet"³ provides an overview of the research on why abortions occur and other relevant information:

- The reasons patients gave for having an abortion underscored their understanding of the responsibilities of parenthood and family life. The three most common reasons—each cited by three-fourths of patients—were concern for or responsibility to other individuals; the inability to afford raising a child; and the belief that having a baby would interfere with work, school or the ability to care for dependents. Half said they did not want to be a single parent or were having problems with their husband or partner.
- Fifty-one percent of abortion patients were using a contraceptive method in the month they became pregnant, most commonly condoms (24%) or a hormonal method (13%).
- Fifty-nine percent of abortions were obtained by patients who had had at least one birth.
- Some 75% of abortion patients in were poor or low-income. Twenty-six percent of patients had incomes of 100–199% of the federal poverty level, and 49% had incomes of less than 100% of the federal poverty level (\$15,730 for a family of two).

This information suggests, at least, that if women were economically better off, had better access to affordable child-care and other forms of support, and had ready access to more reliable forms of contraception, there would likely be fewer abortions.

4 Bad Arguments: "Question-Begging" Arguments & "Everyday" Arguments

We'll now discuss some commonly given arguments about abortion that, unfortunately, are rather poor.

² Later, however, we will see another definition of abortion as *the intentional withholding of what a fetus needs to live, to end a pregnancy*.

³ <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>

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4.1 “Question-begging” Arguments

Many common arguments about abortion are what’s called “question-begging,” which means the reason given for the conclusion *assumes* that conclusion. This means that you wouldn’t accept the reason as a good reason to believe the conclusion *unless* you already believed that conclusion! This is circular reasoning, and arguments like this are always bad.

4.1.1 “Against” Abortion:

Many common arguments against abortion are question begging. Here are some:

Abortion – *killing fetuses to end pregnancies* – is wrong because:

- (1) abortion is *murder*;
- (2) abortion is killing babies or children;
- (3) adoption is a *better* option than abortion;
- (4) pregnant women just *must* keep the pregnancy and give birth;
- (5) abortion should not be used as ‘birth control’;
- (6) women who have abortions are *irresponsible*;
- (7) a *good person* wouldn’t have an abortion;
- (8) women who have abortions feel guilty.

These premises all *assume* that abortion is wrong. To explain:

- (1) assumes that killing fetuses is wrong, since “murder” *means* wrongful killing;
- (2) assumes that fetuses are *like babies and children* and so are similarly wrong to kill;
- (3) assumes that abortion is a worse or bad option, since it assumes it is wrong;
- (4) assumes that women *must not* have abortions since it assumes they are wrong;
- (5) assumes that abortion is wrong: but if it is *not wrong*, while it might not be an ideal form of “birth control” it could permissibly be used for that purpose;
- (6) assumes that women who have abortions are doing what they are not supposed to do, doing wrong, and so are “irresponsible”;
- (7) assumes that abortion is wrong and so good people, who avoid wrongdoing, wouldn’t have one;
- (8) assumes that abortion is wrong and so assumes that *some* women feel guilty *because* they have done something wrong: however, people can *feel* guilty even if they haven’t done anything wrong, so guilt feelings aren’t perfect evidence of wrongdoing (just as *not* feeling guilty doesn’t mean you did something that was OK).

People would believe these claims *only if* they already believed abortion is wrong, so these claims should not sway anyone who wants to think critically about the issues.

4.1.2 “For” Abortion:

People who think abortion should be allowed also sometimes give question-begging arguments. Here are

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a few:

Abortion is *not* wrong because:

- (1) abortion is a *personal choice*; couples *should be able to* make that choice;
- (2) women have a (*moral*) *right* to have abortions;
- (3) women have the right to do what they want with their bodies;
- (4) well, if you don't *like* abortions, *then don't have one!*
- (5) those who oppose abortions just want to control women.

These premises likewise *assume* their conclusions. To explain:

- (1) the idea of a “personal choice” seems to be a choice that's *not wrong* to make: e.g., we wouldn't call a choice to be an ax-murderer a “personal choice” because that's wrong, whereas what color socks to wear is a “personal choice.” So claims like this *seem* to just *assume* that abortion is not wrong or that it should be legal;
- (2) *sometimes* when people say that they have a moral right to do something, they are merely saying that *it's not wrong for them to do it*. So this claim amounts to saying that abortion is not wrong because it's not wrong, which is question-begging. (If it's explained *why* women have this right, the argument might cease to be question-begging, however);
- (3) there are limits to rights, and *sometimes* we don't have the right to do what's wrong. If abortion were wrong, then *perhaps* women wouldn't have the right to have them, and this claim just *assumes* abortions are not wrong;
- (4) consider an analogous slogan, “Don't like arson? *Then don't burn down any buildings!*” This is absurd, because arson is wrong, and we don't offer slogans like this about actions that are wrong. “Don't like strawberries? *Then don't eat them!*” makes sense since not eating strawberries is not wrong. The slogan here assumes that abortion is not wrong;
- (5) since *some* wrongdoing *should* be “controlled,” those who offer this reason *might* merely *assume* that abortion is *not* a type of wrongdoing that should be illegal. They are also focusing on other people's motives, which is often unwise: people who allegedly wish to “control” women *might* respond or suspect that abortion advocates are motivated by the desire to “engage in immorality without consequences!” (*Is that true?* No, pro-choice advocates argue.) Accusations about motives are fruitless: it's better to engage the basic questions of whether abortion is wrong or not and *why*, like we are doing here, instead of speculating about motives.

Question-begging arguments are common, on many issues – not just abortion, and they should be rejected, by everyone, always.

4.2 “Everyday” Arguments

Now we will discuss some other common arguments, that you might often hear or read about, that are also poor but often *not* because they are question-begging. We'll begin with some arguments against abortion.

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4.2.1 “Against” Abortion

4.2.1.1 “Abortion ends a life.”

People often ask, “When does *life* begin?” Some people wonder if fetuses are “alive,” or when they become “life.” Some argue abortion is wrong because “life begins at conception,” whereas those who support abortion sometimes respond that “fetuses aren’t even alive!” There are a lot of debates here, and to get past them, we need to ask what is meant by *alive*, *living* or *a life*.

This is often considered a “deep” question, but it’s not. Consider this: are eggs (in women) alive? Are sperm cells alive? Yes to both, and so when a sperm fertilizes an egg, what results is a *biologically living* thing. Above, we defined abortion as a type of killing and, of course, you can only kill living things. So, yes, fetuses are alive, *biologically alive*, from conception: they are engaged in the types of life processes reviewed on page 1 of any biology textbook.

Some people think that fetuses being alive *shows* that abortion is wrong, and so they enthusiastically argue that fetuses are biologically alive. Some who think that abortion is not wrong try to argue that fetuses are not even alive. These responses suggest concern with an argument like this:

- (1) Fetuses are biologically alive.
- (2) *All things that are biologically alive are wrong to kill.*
- (3) Therefore, fetuses are wrong to kill.

The second premise, however, is obviously false: uncontroversial examples show it. Mold, bacteria, mosquitos and plants are biologically alive, but they aren’t wrong to kill. So, just as acknowledging that abortion involves *killing* doesn’t mean that abortion is wrong, recognizing that *biological life* begins at conception doesn’t mean that abortion is wrong either.

Now, perhaps people *really* mean something like “morally significant life” or “life with rights,” but that’s not people what say: if that’s what they mean, they should say that.

4.2.1.2 “Abortion kills babies and children.”

Classifying fetuses as babies or children obscures any potentially relevant moral differences between, say, a 6-week old fetus and a 6-day old baby or 6-year old child. This claim *assumes* that fetuses – at any stage of development – and babies are the same sort of entity. This claim involves loaded emotional language, is inaccurate and is question-begging, as we discussed above in the section on definitions: this saying doesn’t contribute to a good argument.

4.2.1.3 “Abortion is murder.”

Murder is a term for a specific kind of killing. As a moral term, it refers to especially wrongful killing. As a legal term, it refers to intentional killing that is both unlawful and malicious. Since abortion is legal in the US, most abortions cannot be *legally* classified as murder because they are not illegal or unlawful. Moreover, abortions don’t seem to be done with malicious intent. When people claim that abortion *is*

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murder, what they seem to mean is either that abortion *should be re-classified as murder* or that *abortion is wrong*, or both. Either way, *arguments* are needed to support that, not question-begging slogans.

4.2.1.4 “Abortion kills innocent beings.”

Fetuses are often described as “innocent,” meaning that they have done nothing wrong to *deserve* being killed. Since killing anyone innocent is wrong, this suggests that abortion is wrong. “Innocence,” however, *seems* to be a concept that only applies to beings that *can* do wrong and choose not to. Since fetuses can’t *do* anything – they especially cannot *do* anything wrong that would make them “guilty” – the concept of *innocence* does not seem to apply to them. So saying that banning abortion would “protect the innocent” is inaccurate since abortion doesn’t kill “innocent” beings: the concept of innocence just doesn’t apply.

4.2.1.5 “The Bible says abortion is wrong.”

People often appeal to religion to justify their moral views. Some say that God thinks abortion is wrong, but it’s a fair question how they might *know* this, especially since others claim to *know* that God doesn’t think that. In reply, it is sometimes said that the Bible says abortion is wrong (and that’s how we know what God thinks).

But the Bible doesn’t say that abortion is wrong: it doesn’t discuss abortion at all. There is a commandment against *killing*, but, as our discussion above makes clear, this requires interpretation about *what* and *who* is wrong to kill: presumably the Bible doesn’t mean that killing mold or bacteria or plants is wrong. And there are verses (Exodus 21:22-24) that, on some translations, suggest that fetuses lack the value of born persons, since penalties for damage to each differ. This coincides with common Jewish views on the issue, that the needs and rights of the mother outweigh any the fetus might have.

However any verses are best interpreted, they still don’t *show* that abortion is wrong. This is because the Bible is not *always* a reliable guide to morality, since there are troubling verses that seem to *require* killing people for trivial “crimes,” *allow* enslaving people (and beating them), *require* obeying *all* government officials and more. And Jesus commanded loving your neighbor as yourself, loving your enemies and taking care of orphans, immigrants and refugees, and offered many other moral guidelines that many people regard as false.⁴ Simple moral arguments from the Bible assume that that *if the Bible says an action is wrong, then it really is wrong* (and *if the Bible says something’s not wrong, it’s not wrong*), and both premises don’t seem to be literally true.

This all suggests that people sometimes appeal to the Bible in selective and self-serving ways: they come to the Bible with their previously-held moral assumptions and seek to find something in the Bible

⁴ Appeals to the Bible and other sources (and people) considered to be an *authority*, leads to this dilemma: *either there are good reasons to accept that what that authority claims or not*. If *not*, then we should not accept what the authority says. If there are good reasons, then those reasons – which we all can discuss and debate – would be why we should accept what it says, *not* because the “authority” says so. These insights are applied to morally problematic verses of the Bible, since we have good reasons to reject the moral guidance suggested by those verses. For discussion of these issues, which are related to the “Euthyphro dilemma” that Socrates addressed, see Spencer Case’s “Because God Says So: On Divine Command Theory,” at <https://1000wordphilosophy.com/2014/03/31/because-god-says-so/>

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to justify them.

There is an interesting Biblical connection here worth mentioning though. Some argue that if women who want abortions are prevented from having them, that *forces* them to remain pregnant and give birth and that this is like *forcing* women to be like the “Good Samaritan” who went out of his way, at expense to himself, to help a stranger in great need (Luke 10:25-37). (The analogy is imperfect, as analogies always are).

The problem is in no other area of life is anyone *forced* to be a Good Samaritan like a pregnant woman would: e.g., you can’t be *forced* to donate an organ to anyone in need (even to your child or parent); you can’t even be forced to donate your organs after you are dead! Nobody other than pregnant women would be *forced* by the government – under threat of imprisonment or worse – to use their body to help sustain someone else’s life. It is unfair to require women to be Good Samaritans but allow the rest of us to be like the “priest” and “Levite” in the story who helped nobody.

Nevertheless, it’s important to remember that laws should not be based on any particular religions. If you are not, say, a Hindu, or a Buddhist, or a Rastafarian, you *probably* don’t want laws based solely on one of those religion’s values. Laws should be religiously-neutral; on that we all should agree.

4.2.1.6 “Abortion stops a beating heart.”

This claim, if given as an argument, assumes that *stopping a beating heart is wrong*. The assumption, however, is just obviously untrue: e.g., during open heart surgery, surgeons temporarily stop the patient’s heart so that repair can be made to the still heart: they would permanently stop that heart if they replace it with an artificial heart. If there were somehow an independently beating heart, attached to nobody, that heart wouldn’t be wrong to stop. Whether a heart is wrong to stop or not depends on who is around that heart and their value or rights, not anything about that heart by itself. Finally, embryos and early fetuses *do not even have hearts*, as critics of recent “heartbeat” bills have observed! (The heart fully develops much later in pregnancy.)

If, however, this widely expressed concern about a heartbeat isn’t meant to be taken literally, but is merely a metaphor or an emotional appeal, we submit that these are inappropriate for serious issues like this one.

4.2.1.7 “How would you like it if . . .?”

Some ask, “How would you like it if your mother had had an abortion?” Others tell stories of how their mother almost had an abortion and how they are grateful she didn’t. Questions and stories like these sometimes persuade, but they shouldn’t. Consider some other questions:

- (1) *How would you like it if your mother had been a nun, or celibate, all her life?*
- (2) *How would you like it if your mother had moved away from the city where she met your father, and they never met?*
- (3) *How would you like it if your father had decided early in life to have a vasectomy?*

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All sorts of actions would have prevented each of our existences – if your parents had acted differently in many ways, *you* wouldn't be here to entertain the question: at best, *someone else* would be⁵ – but these actions aren't wrong.

Some might reply that if you had been murdered as a baby, you wouldn't be here to discuss it. True, but that baby was conscious, had feelings, and had a perspective on the world that ended in being murdered: an early fetus is not like that. We can empathetically imagine what it might have been like for that murdered child; we can't do that with a never-been-conscious fetus, since there's no perspective to imagine.

In sum, these are some common arguments given against abortion. They aren't good. Everyone can do better.

4.2.2 Common Arguments “For” Abortion

Many common arguments “for” abortion are also weak. This is often because they simply don't engage the concerns of people who oppose abortion. Consider these often-heard claims:

4.2.2.1 “Women have a right to do whatever they want with their bodies . . .”

Autonomy, your ability to make decisions about matters that profoundly affect your own life, is very important: it's a core concern in medical ethics. But autonomy has limits: your autonomy doesn't, say, justify *murdering an innocent person*, which is what some *claim* abortion is. The slogan that “women can do what they want . . .” does not engage that claim or any arguments given in its favor, so it's inadequate.

4.2.2.2 “People who oppose abortion are just trying to control women.”

They *might* be trying to do this. But they *might* be trying to ban abortion because they believe that *abortion is wrong and should be illegal*. Speculations about motives don't engage or critique any arguments they might give to think that. (If you doubt that thinking critically about arguments and evidence here would do any good, do they have any *better ideas* that might do *more* good?).

4.2.2.3 “Men shouldn't make decisions about matters affecting women.”

Insofar as women profoundly disagree on these issues, some women *must* be making bad decisions about matters affecting women: all women can't be correct on the issues. And *some* men can understand that some arguments (endorsed sometimes by both women and men) are bad arguments and give good arguments on the issues. Someone's sex or gender has little to no bearing on whether they can make good arguments about matters that affect them or anyone else. Furthermore, the existence of transgender men who have given birth further undermines the thought that one sex or gender is apt to have more correct views here.

⁵ For discussion of this question of what could have been different about the past such that you never existed, see Chad Vance's “Origin Essentialism: What Could Have Been Different about You?” at *1000-Word Philosophy: An Introductory Anthology* at <https://1000wordphilosophy.com/2014/04/28/origin-essentialism/>

4.2.2.4 “Women and girls will die if abortion isn’t allowed.”

This is true. However, this fact is apt to not be persuasive to some people who think that abortion is wrong: they will respond, “If someone dies *because they are doing something wrong like having an abortion*, that’s ‘on them,’ *not* those who are trying to prevent that wrong.” Observing that women will die if abortions are outlawed doesn’t engage any arguments that abortion is wrong or give much a reason to think that abortion is *not* wrong. Again, this type of engagement is necessary for progress on these issues.

In sum, while we agree that people who think that abortion is generally not morally wrong and should be legal are *correct*, they sometimes don’t offer very good reasons to think this, just like the opponents of abortion. An analysis of the more nuanced reasons in favor of abortion provided by philosophers will yield proper support for this viewpoint.

For Review and Discussion:

1. Do the reasons that people get abortions matter for its moral permissibility? Why or why not?
2. Describe the common arguments *against* abortion and assess them. Are they good or bad arguments? Do they make assumptions or claims that are problematic? Do the reasons provided actually provide evidence and reasons to oppose abortion?
3. Describe the common arguments *for* abortion and assess them. Are they good or bad arguments? Do they make assumptions or claims that are problematic? Do the reasons provided actually give evidence and reasons to support abortion?

12 Better (Philosophical) Arguments about Abortion

Nathan Nobis and Kristina Grob¹

1 Introduction

We argue that abortion should not be illegal because *most* abortions are not morally wrong (and so they are not *seriously* or *extremely* wrong). So, states are making bad moral and legal moves, to say the least, in trying to criminalize abortions, at least when they are done early in pregnancy, as they usually are.

2 Arguments Against Abortion

We will begin with arguments for the conclusion that *abortion is generally wrong*, perhaps *nearly always wrong*. These can be seen as reasons to believe fetuses have the “right to life” or are otherwise seriously wrong to kill.

2.1 Fetuses are human

First, there is the claim that fetuses are “human” and so abortion is wrong. People sometimes debate whether fetuses are *human*, but fetuses found in (human) women clearly are *biologically human*: they aren’t cats or dogs! And so we have this argument, with a clearly true first premise:

- (1) Fetuses are biologically human.
- (2) *All things that are biologically human are wrong to kill.*
- (3) Therefore, fetuses are wrong to kill.

The second premise, however, is false, as easy *counterexamples* show. Consider a blob of random living *biologically human* cells or tissues in a petri dish. It wouldn’t be wrong at all to wash those cells or tissues down the drain, killing them; scratching yourself or shaving might kill some biologically human skin cells, but that’s not wrong; a tumor might be biologically human, but not wrong to kill. So *just because* something is biologically human, that doesn’t at all mean it’s wrong to kill that thing.

A different meaning of “human” will be discussed below: people who insist that (biologically human) fetuses aren’t “human” might mean “person” or *human person*.

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2.2 Fetuses are “human beings”

Some respond to this argument by observing that fetuses aren’t just random biologically human cells, but are organized in ways that makes them *beings* or *organisms*. (A kidney is *part* of a “being,” but the “being” is the whole organism). That suggests this argument:

- (1) Fetuses are *human beings or organisms*.
- (2) *All* human beings or organisms are wrong to kill.
- (3) Therefore, fetuses are wrong to kill, so abortion is wrong.

The first premise is true. About the second premise, clearly *many* human beings or organisms are wrong to kill. Why is this though? What *makes* us wrong to kill?

It is generally argued that this is *because* we, these human beings, are conscious and feeling: we are aware of the world, have feelings and our perspectives can go better or worse *for us* – we can be *harmed* – and that’s what makes killing us wrong. (It may also be *not wrong* to let us die, and perhaps even kill, if we come to be completely and permanently lacking any consciousness, however, say from major brain damage or a coma, since we can’t be harmed by death anymore.²) So, on this explanation, human beings are wrong to kill, *when* they are wrong to kill, not *because they are human beings* (a circular explanation), but *because* we have these psychological or mental (or emotional) characteristics: this explains why we have rights in a simple, common-sense way.

The challenge then is explaining why fetuses *that have never been conscious or had any feeling or awareness* would be wrong to kill. How can the second premise above, general to *all* human organisms, be supported, especially when applied to early fetuses?

One attempt is argue that early fetuses are wrong to kill because there is continuous development from fetuses to us, and since *we* are wrong to kill *now*, fetuses are also wrong to kill, since we’ve been the “same being” all along. But this can’t be good reasoning, since we have many physical, cognitive, emotional and moral characteristics now that we lacked as fetuses (and as children). So even if we are the “same being” over time, even if we were once early fetuses, that doesn’t show that fetuses have the moral rights that babies, children and adults have: we, our bodies and our rights sometimes change.

A second attempt proposes that rights are *essential* to human organisms: they have them whenever they exist. This perspective sees having rights, or the characteristic(s) that *makes* someone have rights, as *essential* to human bodies: “having rights” is an *essential property* of human beings or organisms: so whenever there’s a living human organism, there’s someone with rights, even if that organism totally lacks consciousness, like an early fetus. (In contrast, our proposal about what *makes* us have rights understands rights as “accidental” to our bodies, since our bodies haven’t always “contained” a conscious being.) Such a view supports the premise above; maybe it just *is* that premise above.

But why believe it? Why believe that rights are *essential* to human organisms? Some argue this because

² See the essay “Euthanasia, or Mercy Killing” by Nathan Nobis (Chapter 9) in this volume. For a shorter version of that essay, see Euthanasia, or Mercy Killing by Nathan Nobis at *1000-Word Philosophy: An Introductory Anthology*.

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of what “kind” of beings we are, which is often presumed to be “rational beings.” The reasoning is, first, that rights come from being a rational being. And, second, that all human organisms, including fetuses, are the “kind” of being that is a “rational being,” so every being of the “kind” *rational being* has rights.

This explanation is, at least, abstract. It might seem to involve thinking that rights somehow “trickle down” from later rationality to our embryonic origins, and so what we have *later* we also have *earlier*, because we are the *same being* or same “kind” of being. But this idea is, in general, doubtful: we are now *responsible* beings, in part because we are rational beings, but fetuses aren’t responsible for anything: we are now able to engage in moral reasoning since we are rational beings, but fetuses don’t have the “rights” that uniquely depend on moral reasoning abilities. Even if fetuses and us are the same “kind” of beings, that often doesn’t tell us much about what rights fetuses would have, if any. And we might even reasonably think that, despite our being the *same* kind of beings as fetuses, we are also importantly *different kinds* of beings.

In sum, the abstract view that all human organisms have rights *essentially* needs to be plausibly explained and defended. We need to understand how it really works. We need to be shown why it’s a better explanation, all things considered, than a consciousness and feelings-based theory of rights that explains why we, and babies, have rights, why racism, sexism and other forms of wrongful discrimination are wrong, *and*, importantly, how we might *lose* rights in irreversible coma cases (if people always retained the right to life in these circumstances, presumably it would be wrong to let anyone die), and more.

2.3 Fetuses are persons

Finally, we get to what some see as the core issue here, namely whether fetuses are *persons*, and an argument like this:

- (1) Fetuses are persons, perhaps from conception.
- (2) Persons have the right to life and are wrong to kill.
- (3) Therefore, abortion is wrong, as it involves killing persons.

The second premise *seems* very plausible, but there are some important complications about it that will be discussed later. So let’s focus on the idea of personhood and whether fetuses are persons. What is it to be a *person*? One answer that everyone can agree on is that *persons are beings with rights and value*. That’s a fine answer, but it takes us back to the initial question: OK, who or what has the rights and value of persons? What *makes* someone or something a person?

Answers here are often merely asserted, but these answers need to be tested: definitions can be judged in terms of whether they fit how a word is used. We might begin by thinking about what *makes* us persons. Consider this:

We are persons now. Either we will always be persons or we will cease being persons. If we will *cease* to be persons, what can end our personhood? If we will *always* be persons, how could that be?

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Both options yield insight into personhood. Many people think that their personhood ends at death or if they were to go into a permanent coma: their body is (biologically) alive but the *person* is gone: that is why other people are sad (we hope!). And if we continue to exist after the death of our bodies, as some religions maintain, what continues to exist? The *person*, perhaps even without a body! Both responses suggest that personhood is defined by a rough and vague set of psychological or mental, rational and emotional characteristics: consciousness, knowledge, memories, and ways of communicating, all psychologically unified by a unique personality.

A second activity supports this understanding:

Make a list of things that are definitely *not persons*. Make a list of individuals who definitely *are persons*. Make a list of imaginary or fictional *personified* beings which, if existed, would be persons: these beings that fit or display the concept of person, even if they don't exist. What explains the patterns of the lists?

Rocks, carrots, cups and dead gnats are clearly not persons. *We* are persons. Science fiction gives us ideas of *personified* beings: to give something the traits of a person is to indicate what the traits of persons are. Even though the non-human characters from Star Wars don't exist, they fit the concept of person: we can befriend them, work with them, and so on, and we could only do that with persons. A common idea of God is that of an immaterial *person* who has exceptional power, knowledge, and goodness: you couldn't pray to a rock and hope that rock would respond: you could only pray to a person. Are conscious and feeling animals, like chimpanzees, dolphins, cats, dogs, chickens, pigs, and cows more relevantly like us, as persons, or are they more like rocks and cabbages, non-persons? Conscious and feeling animals seem to be closer to persons than not. So, this classificatory activity further supports a psychological understanding of personhood: persons are, at root, conscious, aware and feeling beings.

Concerning abortion, early fetuses would *not* be persons on this account: they are not yet conscious or aware since their brains and nervous systems are either non-existent or insufficiently developed. Consciousness emerges in fetuses much later in pregnancy, likely after the first trimester. This is after when most abortions occur. Most abortions, then, do not involve killing a *person*, since the fetus has not developed the characteristics for personhood. We will briefly discuss later abortions, that potentially affect fetuses who are persons, below.

It is perhaps worthwhile to notice though that *if* someone believed that fetuses are persons and thought this makes abortion wrong, it's unclear why a pregnancy resulting from rape or incest would be a morally justified abortion. Some people who oppose abortion argue that, since you are a person, it would be wrong to kill you now *even if* you were conceived because of a rape, and so it's wrong to kill any fetus who is a person, even if they exist because of a rape: whether someone is a person or not doesn't depend on their origins: it would make no sense to think that, for two otherwise identical fetuses, one is a person but the other isn't, because that one was conceived by rape. Therefore, those who accept a "personhood argument" against abortion, yet think that abortions in cases of rape are acceptable, seem to have an inconsistent view.

2.4 Fetuses are potential persons

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If fetuses aren't persons, they are at least potential persons, meaning they could and would become persons. This is true. This, however, doesn't mean that they currently have the rights of persons because, in general, *potential things of a kind don't have the rights of actual things of that kind*: potential doctors, lawyers, judges, presidents, voters, veterans, adults, parents, spouses, graduates, moral reasoners and more don't have the rights of actual individuals of those kinds.

Some respond to that that potential gives the right to at least *try* to become something. But that trying sometimes involves the cooperation of others: if your friend is a potential medical student, but only if you tutor her for many hours a day, are you obligated to tutor her? If my child is a potential NASCAR champion, am I am obligated to buy her a racecar to practice? 'No' to both and so it is unclear that a pregnant woman would be obligated to provide what's necessary to bring about a fetus's potential.

2.5 Abortion prevents fetuses from experiencing their valuable futures

The argument against abortion that is likely most-discussed *by philosophers* comes from Don Marquis.³ He argues that it is wrong to kill "normal" adults and children because it deprives us from experiencing their (expected to be) valuable futures. He argues that since fetuses also have valuable futures also ("futures like ours" he calls them), they are also wrong to kill. His argument has much to recommend it, but there are reasons to doubt it as well.

First, fetuses don't seem to have futures *like our futures*, since – as they are pre-conscious - they are entirely psychologically disconnected from any future experiences: there is no (even broken) chain of experiences from the fetus to that future person's experiences. Babies are, at least, aware of the current moment, which leads to the next moment; children and adults think about and plan for their futures, but fetuses cannot do these things, being completely mindless and unconscious. This fact might even mean that the early fetus doesn't *literally* have a future: if *your* future couldn't include *you* being a merely physical, non-conscious object (e.g., you couldn't be a corpse: if there's a corpse, *you* are gone), then perhaps non-conscious physical objects, like a fetus, couldn't *be* a future person.⁴ If this is correct, early fetuses don't even have futures, much less futures like ours.

A third objection is more abstract. It begins with the observation that *there are single objects with parts with space between them*. Indeed almost *everything* is like that, if you could look close enough, not just *single* dinette sets: there is some space between the parts of normal physical objects. From this, it follows that there seem to be single objects such as *an-egg-and-the-sperm-that-would-fertilize-it*. And these would also seem to have a future of value, given how Marquis describes this concept. (It should be made clear that sperm and eggs *alone* do not have futures of value: this is not the objection). But contraception, even by *abstinence*, prevents that thing's future of value from materializing, and so seems to be wrong on Marquis's argument. Since contraception isn't wrong, it seems that preventing something from experiencing its valuable future isn't always wrong and so Marquis's argument appears to be unsound.

³ Marquis, Don. "Why abortion is immoral." *The Journal of Philosophy* 86.4 (1989): 183-202.

⁴ For discussion of this question of what you *could* and *could not* become, see Chad Vance's "Origin Essentialism: What Could Have Been Different about You?" at *1000-Word Philosophy: An Introductory Anthology* at <https://1000wordphilosophy.com/2014/04/28/origin-essentialism/>

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In sum, these are some of the most influential arguments against abortion. Our discussion was brief, but these arguments do not appear to be successful: they do not show that abortion is wrong, much less make it *clear and obvious* that abortion is wrong.

3 Arguments that abortion is often not wrong

Finally, we turn to arguments that abortion is generally not wrong.

3.1 No good arguments that it is wrong

A first argument depends on the discussion so far. If you are familiar with the most important arguments given to believe that abortion is wrong, and believe *with good reason* that they are unsound, then that gives a reason to think that abortion is not wrong. In general, *a good reason to think that an action is permissible is that there is no good reason to think it's wrong*. How this general strategy is applied to this issue depends on your evaluation of the arguments discussed above, and any other arguments against abortion that you think are worth critically evaluating.

3.2 Early fetuses aren't conscious & feeling: personhood and harm

The next positive argument in defense of abortion depends on the scientific facts about *early* fetuses that we have emphasized over and over: they are not conscious, are not aware of anything, cannot feel anything, and so on: they are and *have been* entirely mindless so far. The proposal is that beings like this are very different from beings like us and babies and children, who are conscious: despite being the same *kind* of beings, we are also different *kinds* of beings.

These observations motivate these principles:

If a being *is and has always been completely unconscious*, it's definitely not a *person*. And if something is definitely not a person, then it's not wrong to kill it.

This proposal is supported by, among other sources, the idea that if someone permanently ceases to be a person, it can be OK to bring about their death, perhaps even by killing their body, since their being alive is doing them no good. This is related to this proposal:

If a being *is and has always been completely unconscious*, it really cannot be *harmed*, which requires some "turn for the worse" *for that being*. There is no "for that being," yet, so things can't get worse for it. So killing doesn't harm it.

Given the fundamental moral significance of consciousness and all that results from that, that *early* fetuses lack it is highly relevant to how they can be treated.

3.3 The right to life & the right to someone else's body

Finally, suppose much of the above is mistaken and that fetuses indeed are persons with the right to life.

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Some think that this clearly shows that abortion is wrong. Philosopher Judith Jarvis Thomson famously argued in 1971 that this isn't the case. She observes that people often have a naive understanding of what the right to life is a right to. She makes her case with a number of clever examples. First, the violinist:

You wake up in a hospital, “plugged in” to a famous violinist, who needs to use *your* kidneys to stay alive. You were kidnapped for this purpose. If you unplug, he will die. But it's only for nine months.

Does the violinist have a *right* to your kidneys? Do you violate his *right to life* if you unplug, and he dies? Most would say ‘no’, which suggests that *the right to life is not a right to anyone else's body, even if that body is necessary for your life to continue*. This suggests that fetuses, even if they were persons with the right to life, would not have a right to the pregnant woman's body. So until there is a way to remove fetuses and place them in other wombs, women have a right to abortion. This even suggests another definition:

Abortion is the intentional withholding of what a fetus needs to live, to end a pregnancy.

Some respond the violinist case is somewhat like a pregnancy that results from rape, since there's no consent involved, but that pregnancies that don't result from rape *do* give fetuses the right to the woman's body because, they argue, the woman has done something that she knows might result in someone existing who is dependent on her.

While Thompson had cases to address this type of concern – if someone falls in your house *because* you opened a window, they don't have the right to be there, even though you *did something* that contributed to their being there – we should notice that the response appears to be question-begging. Compare doing something that results in the existence of a new plant that is *dependent* on you: you wouldn't be obligated to provide for that plant. To assume that things are different with fetuses is, well, to assume what can't be merely assumed, especially if we don't already believe that early fetuses are persons with the right to life.

It should be made clear that even if the fetus doesn't have a *right* to the pregnant woman's body, there *could* be other rights or other obligations that could make abortion wrong nevertheless: e.g., if pregnancy were just 9 hours perhaps women would be *obligated* to be Good Samaritans towards them, even if fetuses didn't have a right to the woman's resources and assistance. What's important though is the right to life and personhood are not the “slam dunk” against abortion that people often think they are.

3.4 “What ifs”: Rape and later-term abortions

We are now in a good position to address some of the “what if” situations regarding abortions.

First, rape: if early abortions are generally not wrong, then abortions due to rape are *especially* not wrong. While people sometimes consider rape a special excuse that justifies abortion, if abortions generally aren't wrong, no special excuse is needed. (It is worthwhile to notice that those who think that all fetuses are persons and so argue that abortion is wrong *should* think abortion is wrong in cases of

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rape also, since a person is a person, irrespective of their origins).

Second, later-term abortions: these *might* affect conscious and feeling fetuses badly, but fortunately these abortions are rare and evidence suggest that they are done only for justifying medical reasons (Google for harrowing personal stories of women having later abortions, due to medical difficulties, including fetal abnormalities incompatible with life). But *if* any far later abortions are done for frivolous reasons, they *could* be morally wrong, since it's wrong to cause serious pain for no good reason.

Should laws be created to *ban* any potential later abortions done for trivial reasons? Again, not all wrongdoing should be illegal, but – most importantly – a ban on these *potential* abortions would surely have a negative impact on actual later abortions done for legitimate medical reasons. If the justifiability of any later abortions had to be proven in court, or people had to go through the criminal justice system to approve an emergency medical procedure, that would have very bad effects, given the speed, inefficiency and occasional incompetence of courts. Involving the police and the legal system in private medical decisions would also be very bad for all, especially vulnerable groups: people of color, immigrants, and poor people.

4 Conclusion

For important issues, we need well-developed reasons or arguments to decide what to believe and do about the issues. The purpose of this essay has been to provide some of that training so you can better develop an informed and well-reasoned moral perspective on abortion. Many people say they “feel” that abortion is wrong or they “feel” that it’s OK. But complex issues require fair and honest critical thinking, not just uniformed “feelings” or “opinions,” and we hope this paper has displayed this.

We have focused on disagreements about the issue, but we want to end on an agreement: everyone agrees there should be fewer abortions. Even people who think abortions are generally not wrong don’t think that having an abortion is just a great way to spend time and resources. So everyone *could* agree that we, as a society, should do more to reduce the “demand” for abortions. Some other countries don’t have as many abortions as the US does, and this is because of deliberate choices they have made to make their country more supportive of all of its citizens and make it easier for them to meet their economic, medical and familial needs. We too could be like Good Samaritans, which would be good not just for this issue, but many others, as well as who we are, as people, together.

For Review and Discussion:

1. Do the reasons that people get abortions matter for its moral permissibility? Why or why not?
2. Describe the arguments *against* abortion and assess them. Are they good or bad arguments? Do they make assumptions or claims that are problematic? Do the reasons provided actually provide evidence and reasons to oppose abortion?

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3. Describe the arguments *for* abortion and assess them. Are they good or bad arguments? Do they make assumptions or claims that are problematic? Do the reasons provided actually give evidence and reasons to support abortion?

UNIT THREE: PERSONS, AUTONOMY, THE ENVIRONMENT, AND RIGHTS

Unit Three discusses a variety of topics that might not appear related at first but really are: animals, justice, the environment, date rape, pornography, and political contracts. What they all share in common is the important problem of balancing our autonomy (our ability to choose and take actions for ourselves) with the autonomy and value of everything else that surrounds us: people, animals, the environment, and society as a whole. Each of these require us to understand and appreciate the impact our actions, as well as our very nature as creatures, have on everything around us.

Chapter 13, *Animal Rights* by Eduardo Salazar, discusses how we should approach moral issues regarding non-human animals. Chapter 14, *John Rawls and the “Veil of Ignorance”* by Ben Davies, discusses the important work of John Rawls and its implications for morality. Chapter 15, *Environmental Ethics* by Jonathan Spelman, discusses how we can value the environment in a morally appropriate fashion. Chapter 16, *Rape, Date Rape, and the “Affirmative Consent” Law in California*, discusses conceptual difficulties with “date rape” and concerns with the recent approach in California to combat sex crimes on campuses. Chapter 17, *The Ethics of Pornography* by Eduardo Salazar, discusses moral concerns with the generation and use of pornography. Chapter 18, *The Social Contract* by Thomas Hobbes, is a classic work in Philosophy by the great 17th century philosopher that discusses the political state as a moral entity that enters into an agreement with its citizens.

13 Animal Rights

Eduardo Salazar¹

Virtue and Difference in Animal Ethics

Philosophical questions concerning animals are so ubiquitous that they virtually go unnoticed. We take their presence and moral status for granted. However, our kinship with and bondage of animals situates us within a very peculiar and problematic relationship. Once recognized, moral questions concerning the treatment of animals present us with a deep dilemma: we view animals as extensions of our families and friends *because of how similar* they appear to us; and yet we also slaughter them for food, conduct painful experiments on them, and utilize them as simple material resources *because of how different* they appear. As a consequence, our thinking about animals results in contradictory views and practices. As we proceed in our discussion concerning animal ethics, it is important to keep in mind the following two questions: What is *animality*^{2,3} or animal nature? How should we understand and relate to animals? The significance of these questions is not to dictate answers, but to explore and reflect on the relation between humans, animals, and animality.

In general, philosophers tend to denigrate animality as inferior to human nature or disregard it altogether. However, some have reworked the notion of animality and posit that it plays a central role in defining human nature. For those rethinking animal nature, animality refers to dynamic characteristics that unite but also separate animal from human nature: the bodily, instinctual, biological, and determined, to name a few. To some degree, humans share these with animals, but humans express them in different ways. As such, the notion of animality makes us feel uncomfortable because it reveals how proximal humans teeter between natures. It makes us anxious because of the ambiguity, fluidity, and continuity that it presents in characterizing seemingly disparate life forms or species. Animality poses a challenge and threat to our traditional hardline distinctions between human versus animal. Considering the moral status of animals, then, forces us to address this contradiction, discomfort, anxiety, and threat. Philosophically, it forces us to clarify and justify the views we hold regarding animals. Ethically and pragmatically, it forces us to reconsider the nature of our relationship with them in terms of their moral value, status, and rights.

In what follows, I present a very brief historical account of animal ethics and argue why we should extend moral consideration to animals on the basis of re-envisioning the notion of *dominion* and developing an ethical sensibility to *difference* (of life forms). But we begin by first outlining some objections against extending moral consideration to animals. Responses to these objections will be interwoven throughout the discussion.

Objection to Extending Moral Consideration to Animals

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² Jacques Derrida. *The Animal That Therefore I am*. Translated by David Wills. New York: Fordham University Press, 2008.

³ The notion of animality has an ancient history, but here we will simply say that it refers to certain characteristics shared to some degree by humans and animals: the non-rational, bodily, instinctual, amoral, uncivil.

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We can begin with some common objections to extending moral consideration to animals:

- First, the “ontological chain of being” objection restricts moral consideration to animals because humans stand on top of the chain. Moreover, the superiority of human nature merits dominion and mastery of all things.
- Second, the “uniqueness” objection posits that only humans have reason, a soul, and live in a moral community. Animals lack the capacity to understand morality, and thus can never really express rights; they lack the capacity to ever reciprocate a moral duty or responsibility to others; and they anatomically and cognitively lack the means by which to voice their status or rights.
- Third, the “utilitarian” objection states that utilizing animals benefits the greatest amount of people and maximizes pleasure and happiness.

There are other objections, but these provide general grounding for our discussion. We will now look closer at some historical ideas and views that shaped contemporary animal ethics.

The Historical Non-Human Animal and Dominion

The Judeo-Christian religions, including Islam, offer us ambivalent positions towards animals. Certain passages suggest that humans have dominion over all creatures on the planet. Other passages suggest that we serve as stewards of the creatures on earth. The Buddhist and Indian traditions have a more liberal view on animals. Some practitioners of these eastern religions hold more straightforward welfare positions. For example, some Buddhist and Hindus abide by *ahimsa*, which translates from the Sanskrit as a principle of nonviolence. *Ahimsa* is extended to non-human animals as well. Although traditional religious views on animals play an important role in our modern disposition towards animals, a full discussion on religion and animal rights is beyond the scope of this project. Nevertheless, it will be acknowledged that the great traditions of the past leave the door open for animal advocacy, but for our purposes we will say that they hold a *welfarist* position. The welfarist view simply states we should consider animal welfare, but not to the detriment of human interests.

One significant element that develops from the discussion of animal ethics within the context of religion that is of philosophical interest is the notion of *dominion*. If god gave humans dominion over all the creatures on the planet and the planet itself, what does *dominion* exactly mean? We further ask, how can we best understand the notion of dominion that developed from religious texts, and situate it in our contemporary milieu? Can we simply assume that dominion categorically refers to human absolute power over all non-human species (to mistreat)? Why should we assume that dominion *as the power to rule over others* necessarily means domination and exploitation of the non-human? Can dominion, perhaps, reflect a more nuanced state of human agency and responsibility, at least in a modern context?⁴

We can conjecture that dominion *as the power to rule over others* as a human endowment serves to ascribe moral consideration primarily or solely to humans. It also helps justify the severed relationship between humans and nature, including non-human animals. Our assumed dominion and ownership over all of nature directs us to delimit moral considerations. It helps formulate a fundamental disposition of the endowed species: humans matter because they have agency and interests as unique life forms, and thus possess dominion and rights over others. However, some contemporary research on

⁴ Matthew Scully. *Dominion: the Power of Man, the Suffering of Animals, and the Call to Mercy*. New York: St. Martin's Press, 2002.

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ethics and dominion aims to reinterpret the human relationship with animals and nature and promotes the extension of moral consideration.⁵

The Ontological Chain of Being

In the western tradition, views on animals can be traced back to the ancient Greeks. Notable ancient Greeks who extended moral consideration to animals include Pythagoras and Plutarch. However, it was Aristotle's⁶ ideas that dominated most of western civilizations views on animals. He argued that humans are most aptly defined by their rational social nature. Humans fulfill their natural and optimal function by reasoning and reflecting with other humans. Non-human animals, in contrast, lack the capacity to reason, and therefore are of lesser moral value. For Aristotle, the fact that animals lacked reason disqualified them as being the type of creatures who could possess moral virtues, and thus not apt to share equal moral considerations. However, being a proto-biologist, Aristotle viewed humans and non-human animals as sharing similar natural interests and dispositions, and thus different in degrees. Nevertheless, the power of reason for Aristotle proved to be a sufficient condition for humans to have dominion over animals, and thus, arguably, opened the door for the exploitation of animals for the next two centuries, especially as he influenced canonical philosophers in their views on animals.

The 18th century Enlightenment philosopher Immanuel Kant developed an ethical system using categorical imperatives,⁷ which remains influential in moral philosophy. Succinctly stated, the imperatives hold that humans ought to always be treated as ends in themselves and never as means to ends. Kant argued that only those beings who have the capacity to deliberate on their actions meet the minimum criteria for moral consideration. For Kant, non-human animals lack *a good will* to deliberate on right (and wrong) actions, and thus humans do not have direct moral duties towards them. However, he also thought that we ought to refrain from animal cruelty because those individuals perpetrating such cruel acts would harm their own moral sensibility. Ethical considerations towards animals are indirect considerations. Thus, Kant is typically interpreted as holding a welfarist position concerning animal ethics.

Aristotle used the “ontological chain of being” arguments to arrive at his position. He situated plants, animals, and humans in a hierarchy where humans sit on top as masters, and animals, plants, and inanimate objects linger on lower levels of being, each descending into lesser forms of being. Kant pushed the power of human reason to the level of a self-governing power, which can be interpreted as drawing a further hierarchical divide between humans and animals. We still live under the veil of the Aristotelian and Kantian view on animals. There are notable deserters of the tradition, however.

British 18th century philosopher Jeremy Bentham found the ontological chain of being argument odious because it presented irrelevant facts regarding the moral consideration and status of animals. He commented that, “... the question is not, Can they reason? nor, Can they talk? but, Can they suffer?”⁸ Bentham disavows the idea that an ontological hierarchy of being warrants justification to have absolute and unabashed power over animals. His critique represents an early version of utilitarianism utilized to argue for animal welfare. For Bentham, moral consideration is founded on the basis and capacity to have

⁵ Andrew Linzey. *Why Animal Suffering Matters: Philosophy, Theology, and Practical Ethics*. New York: Oxford University Press, 2009.

⁶ Aristotle. *De Anima*. Translated by Mark Shiffman. Indiana: Focus Publishing, 2011.

⁷ Immanuel Kant. *Basic Writings of Kant*. Edited by Allen W. Wood. New York: The Modern Library, 2001.

⁸ Jeremy Bentham. *The Collected Works of Jeremy Bentham: An Introduction to the Principles of Morals and Legislation*. Edited by J.H. Burns and H.L.A. Hart. New York: Oxford University Press, 2005.

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interests as sentient beings. Thus, Bentham argued that animal capacity to suffer meets the minimum criteria for moral consideration. His work paved the way for animal welfare rights and served as intellectual fodder for future animal rights arguments.

Modern Animal Rights: Singer and Regan

The event that publicly announced animal rights as a legitimate issue within contemporary philosophy was Peter Singer's *Animal Liberation*⁹ text in 1975. Singer viewed himself as a utilitarian, like Bentham. However, Singer presents a direct moral theory concerning animal rights, in contrast to indirect positions, such as welfarist views. He argued for extending moral consideration to animals because, similar to humans, animals have certain significant interests. As such, we ought to view their interests alongside and equal to human interests, which results in humans having direct moral duties towards animals

Singer constructs his arguments based on the "principle of equal consideration of interests" shared by both animals and humans. Singer attempts to demonstrate that a certain property-P endowed to certain beings justifies their right to moral consideration. However, unlike his predecessors, for Singer that certain property-P required to attribute moral consideration, which historically referred to reason, language, consciousness, or a soul, instead refers to *having an interest*. Animals, like humans, have an interest in fulfilling their basic needs, but also in avoiding suffering, and thus we ought to extend moral consideration because they have positive and negative interests.

For Singer, the interest and capacity for sentient beings to suffer warrants moral consideration. Moreover, *suffering is not arbitrary*. In fact, Singer tells us, "The capacity for suffering and enjoyment is a pre-requisite for having interests at all." Thus, the capacity to suffer shared by both humans and animals are to be seen as equal interests (not to suffer) that bestows both equal moral consideration.

Singer further tells us that prejudice based primarily or solely on species type is a form of discrimination, *speciesism*. Speciesism is unacceptable for the same reasons that racism and sexism are morally unacceptable. They all violate the principle of equality. The principle of equality, Singer tells us, should not be based on factual equality, for example, whether men are factually more intelligent than women, or arbitrary properties, such as superiority of species. Rather, he tells us that, "Equality is a moral idea, not an assertion of fact" that ought to be grounded on having significant interests.

To further his case, Singer presents the "argument from marginal cases": because certain humans ("marginal cases") may lack reason or language, such as a comatose person or an infant, their lack of property-P in the form of reason would nullify moral consideration to such "marginal cases". Most would find this immoral. If the argument from marginal cases is sound, then speciesism becomes even more tenuous. Speciesism, then, like racism and sexism, should be disavowed. In weighing equal significant interests that results in the greatest pleasure or happiness, Singer concludes, our moral thinking requires us to extend moral consideration to animals. Singer's defense of animal liberation paved the groundwork for subsequent pro-animal rights arguments.

Tom Regan's 1983 book *The Case for Animal Rights* offers a non-utilitarian argument for extending moral consideration to animals. Regan uses the "principle of inherent value", the respect principle, and the *subject-of-a-life (SOAL)* criterion for his defense. A simplistic formulation of his argument is as follows:

⁹ Peter Singer. *Animal Liberation: A New Ethics for Our Treatment of Animals*. New York: The New York Review of Book, 1990.

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1. The inherent value and respect principles ground criteria for moral consideration and rights
2. If a being possesses traits of the subject-of-a-life criteria, then we ought to adhere to the inherent value and respect principles regarding their treatment
3. Certain non-human animals satisfy the subject-of-a-life criteria
4. Therefore, we ought to extend moral consideration and rights to non-human animals

For Regan, the subject-of-a-life criterion can be defined by the following: having beliefs, perception, memory, a sense of the future, sense of one's own welfare, an emotional life, interests, desires, and goals. If a being satisfies these conditions, then they have *inherent value*. Unlike Singer, who uses the criteria of property-P as having cumulative interests to warrant moral consideration, Regan argues that each subject-of-a-life is *an end in itself*. The inherent value of the subject-of-a-life does not depend on utility. If this is the case, then no one particular interest can trump or override the inherent value of beings who are the subject-of-a-life. This focus on the inherent value of individual animals makes Regan an animal rights abolitionist because the conclusion of his arguments challenges the notion that utilizing animals for food, lab experiments, or entertainment for human ends is morally acceptable, even if such use would benefit and/or bring happiness to the majority of people. Regan presents one of the most philosophically deep and compelling cases for bearing moral consideration to animals.

Virtue Ethics, Difference, and Dominion

Both Singer and Regan present us with defenses based on shared similarities between animals and humans. Their defenses give credence to the *moral status* of beings (as related to having interests or inherent value). However, one problem with the status approach is that it can lead to disavowing subtle life forms, such as interwoven ecosystems. The status approach becomes problematic given the difficulty in deciding who/what deserves moral consideration. As such, the virtue ethics approach provides an alternative because it concerns itself with the question: "How shall I engage with 'X'?", without necessarily assigning moral status to 'X' beforehand.

Based on Aristotle's¹⁰ writings, traditional virtue ethics is not so much concerned with universal and categorical rights or greatest beneficial consequences. Rather, it is concerned with acquiring virtuous traits that one develops and perfects with practice over time. This *habituation of virtue* is aimed at developing settled dispositions that allow one to arrive at a "golden mean" or appropriate actions between excess and deficiency. For example, suppose you find yourself in the midst of a bank robbery. What is the courageous thing to do? It would be foolhardy to view one's duty to encounter the numerous gunmen while unarmed and possibly perish. But it would be cowardice to shield behind a child or elderly person. The courageous thing to do is *what is appropriate at the right time, place, situation, and with the right people*.

One of the merits of virtue ethics is that it aims to nurture a "virtuous mind" disposition. Such a mind highlights the complex and strenuous nature of deciding which course of action to take given a variety of options in a situation. To take a seemingly innocuous example, suppose we are walking along a river path that has heaps of ant hills. Somewhere along the path we decide to pollute the river and destroy the ants simply because we can. According to the status approach, the acts are permissible because the river and ant hills are devoid of moral status and, thus, moral consideration. But could we have related to them in other ways? This hypothetical case addresses the subtle nature of attuning and

¹⁰ Aristotle. *Nicomachean Ethics*. 2nd Edition. Translated by Terence Irwin. Hackett Publishing Company, Inc., 2009.

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developing one's moral sensibility to each new situation with which one is presented. It is posited here that each new situation carries the possibility for developing and nurturing a habituation of the virtues.

The virtue of *benevolence* or, in contemporary parlance, being *socially conscious*, seems most adequate to address the nature of moral consideration. Such a virtue is characterized by *promoting the good, becoming serviceable to others, or the concern for social justice*. In the context of animal ethics, we are interested in the virtue of benevolence based not only on similarity or status, but on the *difference*¹¹ that each new encounter with life forms or species offers. We engage with non-human life forms in a very different manner than we engage with other humans, so the question arises of how to engage with such difference. The question pushes our moral horizon to reflect on the moral status of life forms or species who are different from what we know to be human, and who require a nuanced type of engagement with. It is in our daily engagement with such radical difference that we find a deeper meaning of morality. In fact, ecosystems, animals and vulnerable humans present us with a sense of difference that not only relates to moral consideration and benevolence, but to reconsidering our dominion over them. It is precisely because their difference offers us dominion over them that our moral consideration ought to be extended to them. Here we see moral consideration and benevolence conjoined by the notion of *difference*, as much as moral consideration and benevolence are united by the notion of *sameness*.

The virtue of benevolence, seen within contemporary social dynamics, helps us reinterpret the notion of dominion. Dominion, as human subjugation over others, undergoes a relational transformation. Dominion, no longer viewed as a despotic endowment, is now seen as an ethical call and question from the other¹², the animal, the different, the non-human. The process of moral transformation turns our early, narrow human-centered focus into a wider field of moral consideration open to diverse and different life forms. In this regard, humans could not only live with but flourish alongside non-human animals.

Conclusion

I have attempted to provide a very concise historical account of animal ethics, but in no way does this discussion account for the numerous positions or debates encompassing it. I started by surveying religious views and ancient and modern philosophical accounts on animal ethics. I then highlighted Singer's and Regan's contemporary sameness positions. Lastly, I presented a virtue ethics position based on the virtue of benevolence and the notion of difference. The historical moral sublimation of dominion was present throughout. The ultimate thrust of this discussion is for us to engage with (animal) radical difference and meet it with a virtuous mind that bestows our benevolence onto them. As such, our understanding of dominion over life transcends traditional limitations.

For Review and Discussion:

1. What are the traditional reasons for and against extending rights to animals? Are these good reasons?

¹¹ Matthew Calarco. *Thinking Through Animals: Identity, Difference, Indistinction*. Stanford: Stanford University Press, 2015

¹² Emmanuel Levinas. *Totality and Infinity: An Essay on Exteriority*. Translated by Alphonso Lingis. Pittsburgh: Dusquesne University Press, 1969.

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2. Why do you think we care for certain types of animals, but eat others?
3. Do you think *your* animals (animals you own or keep as pets) deserve moral consideration?

14 John Rawls and the “Veil of Ignorance”

Ben Davies¹

John Rawls’s Veil of Ignorance is probably one of the most influential philosophical ideas of the 20th century. The Veil of Ignorance is a way of working out the basic institutions and structures of a just society. According to Rawls,² working out what justice requires demands that we think as if we are building society from the ground up, in a way that everyone who is reasonable can accept. We therefore need to imagine ourselves in a situation *before* any particular society exists; Rawls calls this situation the Original Position. To be clear, Rawls does not think we can actually return to this original position, or even that it ever existed. It is a purely hypothetical idea: our job in thinking about justice is to imagine that we are designing a society from scratch. The idea is that social justice will be whatever reasonable people would agree to in such a situation. We can then start thinking about how to make our actual society look more like the ideal picture we have imagined.

Of course, if we were designing a society in the Original Position, people might try to ensure that it works in *their* favour. The process is thus vulnerable to biases, disagreements, and the potential for majority groups ganging up on minority groups. Rawls’s solution to this problem comes in two parts. Firstly, he makes some assumptions about the people designing their own society. People in the Original Position are assumed to be free and equal, and to have certain motivations: they want to do well for themselves, but they are prepared to adhere to reasonable terms of cooperation, so long as others do too. Rawls also simplifies his discussion by imagining that people in the Original Position do not have total freedom to design society as they see fit. Rather, they must choose from a menu of views taken from traditional Western philosophy on what justice involves.

The second part of the solution is the Veil of Ignorance. This involves a further leap of imagination. When we are thinking about justice, Rawls suggests that we imagine that we do not know many of the facts – both about ourselves and the society we currently live in – that typically influence our thinking in biased ways. By intentionally ignoring these facts, Rawls hoped that we would be able to avoid the biases that might otherwise come into a group decision. For instance, if I were helping to design a society, I might be tempted to try to make sure that society is set up to benefit philosophers, or men, or people who love science fiction novels. But if I don’t know any of those facts about myself, I can’t be tempted. The Veil is meant to ensure that people’s concern for their personal benefit could translate into a set of arrangements that were fair for everyone, assuming that they had to stick to those choices once the Veil of Ignorance ‘lifts’, and they are given full information again.

One set of facts hidden from you behind the Veil are what we might call ‘demographic’ facts. You do not know your gender, race, wealth, or facts about your personal strengths and weaknesses, such as their intelligence or physical prowess. Rawls thought these facts are morally arbitrary: individuals do not earn or deserve these features, but simply have them by luck. As such, they do not deserve any

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² John Rawls (1999) *A Theory of Justice: Revised Edition*, Cambridge, MA: Harvard University Press

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benefits or harms that come from them. By removing knowledge of the natural inequalities that give people unfair advantages, it becomes irrational to choose principles that discriminate against any particular group. The Veil also hides facts about society. You do not know anything other than general facts about human life, and in particular you do not how their society is organised. Finally, the Veil hides facts about your “view of the good”: your values, preferences about how your own life should go, and specific moral and political beliefs. Rawls was a political liberal. That meant, among other things, that he thought the state should be neutral between different views about value. So, Rawls isn’t afraid to make several significant assumptions about the people involved in making decisions behind the Veil. Some of his assumptions aim to turn the conflicts that arise between self-interested people into a fair decision procedure. As we’ll see, however, others might be more fairly criticised as unreasonably narrowing the possible outcomes that people can reach behind the Veil.

I will outline Rawls’s justification for the Veil of Ignorance, raise some potential challenges for the conclusions he thinks people will reach from behind it, and lastly consider three criticisms of the Veil of Ignorance as a theoretical device. While these criticisms differ in their substance, they are united by a common feature: their scepticism of the way the Veil *abstracts* from real life in order to reach conclusions about justice. I’ll conclude that these criticisms have merit; the Veil of Ignorance, considered by itself, does lead us to ignore the real world too much. However, I’ll suggest that, at least in their strongest versions, these criticisms miss an important benefit of the Veil: quite simply, the fact that our own personal concerns and values can bias our thinking about justice, and that we can make important progress by considering things from different points of view.

Section 2: The principles of justice

Imagine that you find yourself behind the Veil of Ignorance. You might want to make sure that your life will go well. If you had to design a good life for yourself, you’d go for the specific things you care about. But behind the Veil you don’t know those specifics; you only know things that generally make people’s lives go well. Rawls calls these ‘Primary Goods’. They include things like money and other resources; basic rights and freedoms; and finally, the “social bases of self-respect”: the things you need to feel like an equal member of society.

In Rawls’s view, a central challenge behind the Veil is the lack of probabilities available. If you knew that your society was 90% Catholic, you could set things up so that the rewards associated with being Catholic were much higher. That would be personally rational, since you are very likely to end up in the better off group. The Veil prevents this type of reasoning because it hides the information. In the complete absence of probabilities, Rawls thinks you should play it safe and *maximise the minimum* you could get (a policy he calls Maximin). Translated into a society, that means that we should ensure that the worst-off people in society do as well as possible.

Rawls suggests two principles will emerge from discussion behind the Veil:

First Principle: Each person has the same indefeasible claim to a fully adequate scheme of *equal basic liberties*, compatible with the same liberties for all;

Second Principle: Social and economic inequalities must be:

- a. Attached to offices and positions open to all under *fair equality of opportunity*;
- b. To the greatest benefit of the least-advantaged members of society (the *difference principle*).

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Rawls opts for equality of basic liberties in the First Principle because he thinks this is essential for seeing yourself as a *moral* equal in society. For other Primary Goods, though, equality is less important. By allowing some inequality, we could make life better for everyone. If we attach higher salaries to certain jobs, they may attract the hardest working people, producing greater economic benefits for everyone. The two parts of Rawls's second principle of justice set limits on when inequalities are allowed. Fair equality of opportunity says that positions which bring unequal payoffs must be open to people of equal talents and equal willingness to use them *on an equal basis*. If two people are just as capable of doing a job, and just as hardworking and willing to apply themselves, neither should have a greater chance of securing the position because they are wealthier, or because of their race or religion. Of course, we might wonder (and Rawls does not give a clear answer about this) when we are supposed to judge whether two people are equally hardworking and talented. The talents you choose to develop, and the amount of effort you put in, are heavily affected by education; so it might seem unfair to judge people if they have had very different educational experiences. Rawls's argument therefore seems to support ensuring broad equality of education, encouraging people to find and develop their talents to the fullest, even if this isn't a conclusion he explicitly draws.

Finally, the Difference Principle sets a further restriction on inequalities. Even if a particular inequality does not affect equality of opportunities, the Difference Principle tells us that it must be beneficial for the very worst off. For instance, it might be that by allowing inequalities, we motivate people to work harder, generating more Primary Goods overall. If these then benefit the worst off in society, making them better off than they would have been in a more equal distribution, the Difference Principle will allow that inequality.

Section 3: Criticisms

As with any influential philosopher, Rawls has been the subject of much criticism and disagreement. In this final section, we consider three objections to Rawls's reasoning around the Veil of Ignorance.

3.1 Ownership and rights

We have already noted that Rawls explicitly makes several assumptions that shape the nature of the discussion behind the Veil of Ignorance, and the outcomes that are likely to come out of it. However, one might challenge Rawls by disputing the fairness or intuitiveness of one or more of his assumptions.

Probably the most famous example of this comes from Robert Nozick.³ Recall that Rawls's principles establish rules to govern the institutions and principles that distribute goods. He thinks that if we work out what those institutions would look like in a perfectly just society, using the Veil of Ignorance, we can then start to move our current society in that direction. Nozick notes that in reality, most goods are already owned. Rawls's view establishes a pattern that looks fair; but Nozick argues that we also need to look at the history of how various goods came to be owned. In some cases, we find that the person who owns those goods worked for them. In other cases, the individual will have inherited those goods, but they will have come from an ancestor who worked for them. In both cases, we cannot simply redistribute these goods to fit our pattern, because people have rights.

In Nozick's view, once you have ownership *rights*, you can do pretty much what you want with it, so long as you do not violate anyone else's rights. The fact that taking money you earned would

³ Robert Nozick (1974) *Anarchy, State and Utopia* Blackwell Publishing (Oxford) pp.149-232

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benefit someone else cannot be the basis for government forcibly taking your money. One possible basis for this is the idea of 'self-ownership'. Nozick thinks we will all agree that it would be wrong to force you to work if you didn't want to. The reason for this is that your body is owned by you and nobody else. That principle extends, Nozick says, to what you *do* with your body: your labour. If you make something, or work for money, that thing is yours and nobody else's. Just as the state has no right to force you to do things with your body that you don't want to do, it also has no right to force you to do things with your other property, like giving it away to the less fortunate. That might be a nice thing to do, but it isn't something others can force you to do.

One problem with this argument, to which Rawls might appeal, is that my *ability* to work (and therefore gain property) depends on many other things: my education, my health that was guaranteed by a public health system, a stable society that affords me opportunities for employment, or for employing others. So it's not quite true that everything I produce comes from me alone.

3.2 Identity and 'Neutrality'

A second criticism also concerns the fact that, behind the Veil, various facts are hidden from you. Rather than worrying about the substantive conclusions Rawls reaches, as Nozick does, this criticism worries about the very coherence of reasoned discussion behind the Veil of Ignorance.

Rawls's Veil of Ignorance is an example of a theory of justice that has *universal* aspirations. Since one of the facts that is hidden by the veil is the nature of the society you live in, we may assume that the resulting principles are supposed to be applicable in all societies, though this is a view that Rawls attempted to reject in later work. In addition, people behind the Veil are supposed to come up with a view of how society should be structured while knowing almost nothing about themselves, and their lives.

One broad group who criticise these ideas are the so-called 'communitarian' philosophers, which includes Charles Taylor,⁴ Michael Walzer⁵ and Alasdair MacIntyre.⁶ While their views differ, they tend to agree that what justice requires cannot be decided *abstractly*, but must instead be informed by local considerations and culture. Communitarians also suggest that Rawls's conception of the individuals behind the Veil of Ignorance is problematic because they have so few defining features. Even if Rawls is right that people behind the Veil would agree on his two principles, communitarians think that the hypothetical agreement ignores much that is important.

Individuals behind the Veil are assumed to be largely self-interested, and to have a strong interest in retaining the ability to abandon their current social roles and pursuits and take up new ones. According to the communitarians, however, we are born with existing social connections to particular people, cultures and social roles. Whereas Rawls emphasises our active engagement in shaping our own lives, communitarians want to remind us that our lives are unavoidably shaped by existing attachments that we do not choose. For instance, if you are born into a particular religious community, you can of course still renounce that religion. But your life will still be shaped by the fact that you are a member, or former member, of that community. It is worth noting, though, that this accusation is somewhat unfair on Rawls. While it is true that individuals behind the Veil do not know about their defining features, Rawls does not think that real people are like this. His interest is in trying to formulate a *neutral* way to decide between competing groups.

⁴ Charles Taylor (1989) *Sources of the Self: The Making of the Modern Identity* Cambridge: CUP

⁵ Michael Walzer (1983) *Spheres of Justice* Oxford: Blackwell

⁶ Alasdair MacIntyre (1988) *Whose Justice? Which Rationality?* Notre Dame: University of Notre Dame Press.

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Certainly, it is a plausible worry that what justice requires may depend in part on the values of the society in question. As a liberal, Rawls is particularly worried about protecting individuals whose preferred lives go against the grain of the society in which they find themselves. Communitarians will object that the Veil of Ignorance goes beyond this protection, and rules out the possibility of different ideas of justice, informed by local values. Perhaps we should acknowledge that people behind the Veil of Ignorance would recognise the possibility that their society will turn out to be strongly attached to a particular set of values. A rational person behind the Veil might want to try to find a way to give a special place to such values, while protecting dissenters.

3.3 Ideal justice?

Our final challenge also concerns the real-world applicability of Rawls's principles. In brief, the claim from scholars of race and of gender is that Rawls's abstract Veil of Ignorance ends up ignoring much that is relevant to justice.

The central criticism we consider here concerns the motivation of Rawls's overall project. Rawls's aim is to outline a theory of 'ideal' justice, or what a perfectly just society would look like. This ignores, purposefully, the many injustices that have happened and continue to happen, including the fact that most societies continue to exhibit racism, sexism and other forms of discrimination.⁷ As critics argue, we then get at best an incomplete theory, which does not tell us how to *fix* existing injustice or, as it is sometimes called, 'non-ideal' justice (an issue that Rawls himself describes as a "pressing and urgent matter"). For instance, people disagree about the idea of 'reparations' for racial slavery that shaped the United States. Yet because this is an issue of non-ideal justice (how should we respond to the fact that the United States and many of its citizens failed to comply with the basic requirements of justice?), the idealisation of the Veil of Ignorance seems to give us no way to determine this important question.

This maps onto a more general question in political philosophy: if a theory of justice does not tell us how to act in our *actual* societies, does it have any value? While some⁸ argue that Rawls's work can be used to draw concrete conclusions about issues such as racial profiling and affirmative action, critics who reject this view may also argue that a theory of justice that is concerned only with the ideal ignores the most pressing issues of the day. In Rawls's case, we may wonder whether we can accommodate such concerns by making small changes to his assumptions, or whether more radical changes (or even abandonment of the theory) are required.

Conclusion

The three criticisms outlined above all take issue, in different ways, with Rawls's *idealisation* away from the real world. Much of the value of Rawls's work will depend on whether it is useful to construct ideal views of justice before, or at the same time as, thinking about the messier real world. Even a pessimistic conclusion on this issue, though, should recognise the following insight from Rawls: that what seems just or fair or right to any person is influenced not just by our background but by our own selfish interests. Even if the details face problems, Rawls's Veil of Ignorance shows us that it can be valuable to imagine things from opposing points of view. While the criticisms from communitarians, scholars of race, and feminist scholars demonstrate the importance of considering the concrete features of our societies and lives, the basic idea of abstracting away from potential biases is an important one.

⁷ Carol Pateman and Charles Mills (2007) *Contract and Domination* Cambridge: Polity Press

⁸ Tommie Shelby (2004) 'Race and Social Justice: Rawlsian Considerations' *Fordham Law Review* 72: pp.1697-1714.

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Nonetheless, this conclusion is consistent with recognising two mistakes in making use of the Veil of Ignorance. Firstly, recognising the importance of abstraction should not come at the cost of considering the real, concrete impact of policies we adopt, or of the social and historical context they are part of. Much political philosophy, at least in the USA and UK, can be criticised for neglecting these latter issues. Secondly, acknowledging the importance of the Veil of Ignorance does not mean that Rawls, and later philosophers, are right to have established an *order of priority*, where we first abstractly establish a view of ideal justice, and only then move on to non-ideal justice. It may be more productive to consider issues of justice from both the kind of abstracted view represented by the Veil of Ignorance, and from the more concrete view advocated by its critics.

For Review and Discussion:

1. The Difference Principle only allows inequalities if they benefit the worst off in society. Is this practical? Is it what people would agree to behind the Veil of Ignorance?
2. ‘The Veil of Ignorance hides information that makes us who we are. Behind the Veil, we are not individuals, and so any decision we reach is meaningless.’ Do you agree? Why/why not?
3. Since our talents and inclinations depend on what happens to us even before we are born, can we make sense of the idea of Rawls’s idea of ‘fair equality of opportunity’?

15 Environmental Ethics and Climate Change

Jonathan Spelman¹

1. Introduction

I grew up out in the country, and sometimes my brother and I would spend the afternoon catching grasshoppers. It was a bit of a challenge, and it was fun. Once we'd catch one, we'd simply let it go. No one got hurt. When I was ten or so, my family moved to the suburbs, and my brother and I spent more time playing with the kids who lived nearby. One day, while walking down the sidewalk with the neighbor boy, we spotted a grasshopper just sitting on the sidewalk. The next thing I knew, the neighbor boy walked right up to it and ... *Crunch!* ... stepped on it.

I was appalled by what the neighbor boy had done, but had he done anything wrong? He certainly hadn't done anything *legally* wrong, but maybe his crushing the grasshopper was *morally* wrong. And what about my brother and me? Although our catching grasshoppers wasn't *illegal*, maybe it was *immoral*, nonetheless.

Going forward, I'm going to focus my attention on these moral questions. (Accordingly, when I ask whether an act is "wrong," I am asking whether it is *morally* wrong.) Answering these questions requires us to do ethics. The central question of ethics (or moral philosophy) is something like: "How should we act?" Historically, ethicists have focused their attention on questions of *interpersonal ethics*, that is, questions about what we owe other people. But over the last century, ethicists have become increasingly convinced that figuring out how we should act also requires us to answer questions of *environmental ethics*, that is, questions about what we owe our environment. This includes people, but it also includes animals, plants, and ecosystems.

In this piece, I'll introduce you to the field of environmental ethics. To begin, I argue that it was wrong for the neighbor boy to crush the grasshopper. In the process, I identify a moral principle that I then go on to apply to the most significant environmental problem of our time, the problem of climate change. After briefly sketching that problem, I'll argue that in light of it, you and I are morally obligated to (i) *reduce* our greenhouse gas emissions, (ii) *offset* our remaining emissions, and (iii) *advocate* for climate-friendly policies and politicians. Why? Because failing to do these things is irresponsible.

2. Is it wrong to harm grasshoppers for no good reason?

Humans deserve moral consideration, which is to say that their interests deserve to be taken into account when we're deciding what to do. This explains why we *can't* crush humans. Playdough, however, doesn't deserve moral consideration. This explains why we *can* crush it. But what about grasshoppers? Do they deserve moral consideration? Can we crush them?

You might think that humans are the only things that deserve moral consideration. This view is called *anthropocentrism*. If anthropocentrism is correct, then since grasshoppers aren't human, they don't deserve moral consideration, and therefore it is perfectly permissible to harm or even kill them for no good reason. While this view is coherent, it's rather implausible. My neighbor's dog isn't human, but

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surely it would be wrong for me to kick it, and thereby harm it, for no good reason.

In response to this objection, you might admit that it would be wrong for me to kick my neighbor's dog for no good reason, not because my doing so involves harming *a dog*, but because my doing so *harms someone's property* or *harms something that someone cares about*. On this view, it is perfectly permissible to harm grasshoppers provided that no one owns them or cares about them. Again, although this view is coherent, it's still rather implausible. After all, it seems like it would be wrong for me to kick *any* dog for no good reason, even if that dog is unowned and unloved.

In response to this further objection, you might admit that it would be wrong for me to kick any dog for no good reason, even if it were unowned and unloved, not because it is wrong for me to harm dogs, but because it is wrong for me to do anything that makes me more likely to harm humans. But even if it's true that my kicking dogs would make me more likely to harm humans, this seems like the wrong explanation for why it is wrong for me to kick dogs. It is wrong for me to kick dogs because of what it does to the dogs, not because of what it does to me.

In light of these arguments, we should reject anthropocentrism. We should admit that humans are not the only things that deserve moral consideration, that at least some nonhuman animals deserve moral consideration. But which ones? According to one relatively popular view, all sentient beings (i.e., beings that have subjective experiences or are capable of experiencing pleasure and pain) deserve moral consideration. This view is called *sentientism*. Whereas anthropocentrists cannot explain why it is wrong to harm dogs for no good reason, sentientists can.

Let's say that we accept sentientism. Does that mean that it is wrong to harm grasshoppers for no good reason? Not necessarily. According to sentientists, grasshoppers deserve moral consideration only if they are sentient. But it's not clear that grasshoppers are sentient. While it's relatively clear that they are conscious (i.e., that they have subjective experiences), it's less clear that they are capable of experiencing pleasure and pain. So, if what makes a being deserving of moral consideration is that it is capable of experiencing pleasure and pain, it's not clear that grasshoppers deserve moral consideration.

This might lead us to believe that we simply cannot know whether it is wrong to harm grasshoppers for no good reason. But I don't think that's correct. The reason for this is that some actions are wrong simply for being unnecessarily risky. Imagine that your friend works in demolition and her and her team have been tasked with demolishing an old warehouse. While you are visiting her over your lunch break, she asks you if you would like to use the wrecking ball to destroy it. You love destroying things, so you get behind the controls. Just as you're about to strike the first blow, you see a dog run behind the warehouse. Although you think you saw it run away, you realize that it may have run into the building. Your lunch break is almost over, so you don't have time to let her and her team search the warehouse for the dog. If you're going to use the wrecking ball, it's now or never.

In this case, is it permissible for you to destroy the old warehouse before your friend and her team search the warehouse for the dog? Of course not. Why not? Because doing so is unnecessarily risky; it is irresponsible. Even if you would enjoy using the wrecking ball, that fact doesn't justify your performing an action that may kill a sentient being. We can say the same thing about the neighbor boy who crushed the grasshopper. Was it permissible for him to step on the grasshopper? No. Why not? Because it was unnecessarily risky; it was irresponsible. Even if he enjoys stepping on grasshoppers, that fact doesn't justify his performing an action that may kill a sentient being.

In this section, I have argued that humans are not the only things that deserve moral consideration. Many nonhuman animals do as well. Some environmental ethicists have gone so far as to argue that plants and even ecosystems also deserve moral consideration. I have not discussed those arguments here simply because you do not need to accept them in order to accept the conclusions that I

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argue for in Section 4. (In fact, you may not even need to accept my argument for sentientism to do that.) What you do need you to accept, however, is that unnecessarily risky acts are wrong. We cannot endanger others for the sake of minor benefits.

3. The problem of climate change

Climate change refers to any change in the normal weather conditions of a particular region of Earth or Earth as a whole. Although climate change is not necessarily a problem, *abrupt* climate change is a problem since we cannot adapt to it quickly enough.

While abrupt climate change is definitely a problem, it is not necessarily a *moral* problem. Abrupt, *anthropogenic* (i.e., human-caused) climate change, however, is a moral problem. To see this, consider the difference between a scenario in which a forest fire burns your neighbor's house down and a second scenario in which *you* burn your neighbor's house down. In the first scenario, when the forest fire burns your neighbor's house down, something bad has happened, but no one is morally responsible for that bad thing. No one has done anything morally wrong. In the second scenario, however, when you burn your neighbor's house down, not only has something bad happened, but someone is morally responsible for that bad thing, namely, you. You have done something morally wrong.

Is there abrupt, anthropogenic climate change? Yes, there is. When humans take fossil fuels (e.g., coal, oil, and natural gas) out of the ground and burn them to heat their homes, power their cars, and charge their electronics, they must emit greenhouse gases (GHGs), most notably carbon dioxide, into the atmosphere. These GHG particles absorb and emit radiant energy, which causes global warming (i.e., an increase in the Earth's average surface temperature) and other climate changes (e.g., altered precipitation patterns that increase the number of extreme weather events). Although some people deny this, it is relatively uncontroversial.

What is controversial, however, is the question of what you and I are morally required to do in response to about abrupt, anthropogenic climate change (hereafter, simply *climate change*). Environmental ethicists generally agree that you and I are morally obligated to do something in response to climate change, but they disagree about what that is. In the following section, I'll argue that you and I are morally obligated to do three things in response to climate change. First, we must *reduce* our GHG emissions. Second, we must *offset* our remaining GHG emissions (if we can afford to). And third, we must *advocate for* climate-friendly policies and politicians. Why? Because failing to do these things is irresponsible.

4. How should we respond to the problem of climate change?

Return to the scenario in which you burn your neighbor's house down. In that scenario, you clearly harm to your neighbor. Even if you don't physically harm her, you destroy her property. You force her to find a new place to live. Climate change has similar effects. Between increasing the severity of droughts and floods and by causing sea levels to rise, climate change is killing and will continue to kill humans and nonhuman animals. Others are being forced to abandon their homes and find new places to live. For many humans, this will be much more difficult than simply finding a new home to buy. It will require abandoning one's homeland and moving somewhere completely foreign. For nonhuman animals, it will be even more difficult. Some species, like polar bears, for example, may find it impossible to adapt and will go extinct.

Now, when you burn down your neighbor's house, you endanger your neighbor and force her to find a new place to live. This is clearly wrong. But when you contribute to climate change, do you endanger anyone? Do you force anyone to find a new place to live? It's not clear that you do. Notice that

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the harms of climate change are cumulative harms. Your contribution to the problem is relatively insignificant. This leads some to argue that when you contribute to climate change, you do not do anything morally wrong.²

While it may be true that your contribution to climate change is relatively insignificant, it is worth noting that how much you contribute to climate change varies significantly depending on where and how you live. Those living in Australia, Canada, and the United States, for example, emit much more carbon dioxide per capita than those living in India, Indonesia, and Brazil. This, on its own, may be a reason to think that you are doing something morally wrong since you are contributing more than your fair share to climate change. Regardless, I want to argue that even if your contribution to the problem of climate change is relatively insignificant, it is still wrong.

To see this, let's return to the hypothetical scenario we've been discussing, the scenario in which you burn your neighbor's house down. This time, however, let's assume that you don't actually burn your neighbor's house down. Instead, you create a trail of dry brush from a nearby forest to your neighbor's house. This, on its own, doesn't harm your neighbor in the least. It does, however, make it more likely that your neighbor's house will burn down. This is especially bad if there are frequent forest fires. But even if there aren't frequent forest fires, it's still morally wrong for you to endanger your neighbor and her home for no good reason. It's irresponsible.

When we contribute to climate change, we do something analogous. We don't necessarily force anyone to find a new place to live, but we do increase the likelihood that people across the globe will have to find new places to live. This is morally wrong, especially when our reasons for contributing to climate change aren't good ones. If, for example, you start your car engine before getting into your car so that it has time to warm up, you're doing something morally wrong. Why? Because you're increasing the likelihood that human and nonhuman animals across the globe will have to find new places to live, and you're doing it for no good reason. Sure, it's nice to warm up your car before getting into it, but that isn't a sufficiently good reason to justify your endangering both human and nonhuman animals.

Some reasons, however, are sufficiently good to justify your endangering both human and nonhuman animals. When it is very cold outside, for example, it is morally permissible to heat your home so that your pipes don't freeze. Or when your salary does not permit you to live close to your workplace, and you can't carpool or use public transportation to get there, it is morally permissible for you to drive to work. It's true that in driving you'll emit some carbon dioxide into the atmosphere. It's also true that this makes it slightly more likely that sentient beings will have to find new places to live, but you're not acting irresponsibly. Similarly, when you light a candle in your home, it increases the likelihood that your neighbor's house will burn down, but it doesn't follow from this that it's always wrong to light a candle in your home.

Is this the full story? Not quite, and here's why. Imagine that you've got a sufficiently good reason to light a candle. You realize that this increases the likelihood not only that your house will burn down but also that your neighbor's house will burn down. Now, imagine that there is some small thing you could do to reduce the likelihood of your neighbor's house burning down. You could install a smoke alarm, for instance. It seems like you are morally obligated to do this.

Note that you are not morally obligated to do this for your own sake. There is nothing necessarily wrong with burning yourself or destroying your house. I certainly don't recommend doing either of those things, but they are not necessarily morally wrong. The reason, then, that you are morally

² See, e.g., Walter Sinnott-Armstrong, "It's Not My Fault: Global Warming and Individual Moral Obligations," in *Perspectives on Climate Change* (Elsevier, 2005), pp. 221–253.

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obligated to install a smoke alarm is not to protect yourself but to protect your neighbor. If your candle were to start a fire, your smoke alarm would alert you to the danger, and you could call on the fire department to put out the fire before it destroys your neighbor's house. Failing to install a smoke alarm would be irresponsible. This becomes increasingly true as the number of people living close to you increases. If you are surrounded by homes, or if you live in an apartment and are surrounded by neighboring families with children and pets, lighting a candle without having a smoke alarm is especially irresponsible.

When we contribute to climate change, we're doing something analogous. We're increasing the likelihood that humans and nonhuman animals will die or be forced to find new places to live. Fortunately, there's something we can do to reduce the likelihood of this. We can offset our GHG emissions (hereafter, simply *emissions*). When we purchase carbon offsets, we fund projects that reduce emissions by funding the development of wind farms, enabling landfills to capture emissions, and/or preventing deforestation. When we offset enough of our emissions, we go *carbon neutral*, which is to say that our net emissions (i.e., our emissions minus our offsets) equals zero. By offsetting our emissions, we make it the case that no human or nonhuman animal is more likely to die or lose her home on our account. When we offset our emissions, we act responsibly. This is what morality requires.³

Finally, imagine that you're living in an apartment and are surrounded by neighboring families. You light candles from time to time, but you have installed a smoke alarm and a sprinkler system. You do not significantly increase the likelihood that others will lose their homes. The same, however, cannot be said of your neighbors. They light candles all the time but don't have smoke alarms or sprinkler systems. They are endangering all the people and nonhuman animals living in the apartment complex, but they don't see the problem. You would move to a new apartment complex, but let's assume that you're stuck in this one. It seems to me that, in a case like this, a responsible person would not simply cross his fingers and hope for the best. He would try to convince his neighbors to stop lighting candles all the time. He would encourage the manager of the apartment complex to add smoke alarms and sprinkler systems to every unit. He would petition the local government to require these things in apartment buildings and vote for candidates who support these policies. He would advocate for change.

We are in an analogous position. Those around us are continually contributing to climate change, and in doing so, they are increasing the likelihood that human and nonhuman animals around the world will die or lose their homes. But they do not see the problem. They do not see that their actions are unnecessarily risky. We might like to move to a new planet, but we are stuck on this one. We have nowhere else to go. It seems to me that, in a case like this, a responsible person would not simply cross his or her fingers and hope for the best. She would try to convince others to reduce their emissions and to offset whatever emissions remained. She would encourage her local and national representatives to pass legislation that would reduce emissions, and she would vote for candidates who support these laws. She would advocate for change.

For Review and Discussion:

1. Most people kill flies, spiders, and any other insects that they find in their homes when, in many

³ To find out your annual carbon footprint, you can visit the Global Footprint Network's Footprint Calculator at <http://www.footprintcalculator.org/>. Then, you can offset your emissions at a verified carbon offset provider like Green Mountain Energy or TerraPass. My family offsets our carbon emissions at Green Mountain Energy's website, which you can find here: <https://www.greenmountainenergy.com/home-energy-solutions/carbon-offsets/>.

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cases, they could capture those insects and release them outside. Spelman argues that it is morally wrong to kill grasshoppers for no good reason, but what about a grasshopper (or a spider) that has found its way into your home? Do we have a sufficiently good reason to kill it? Or should we capture it and release it outside?

2. Spelman contends that it is morally wrong to contribute to climate change unless one has a sufficiently good reason to do so. Identify at least three activities that contribute to climate change. When do we have sufficiently good reasons to perform those activities? When do we lack sufficiently good reasons to perform those activities?

3. Spelman argues that individuals are morally obligated not only to reduce their GHG emissions and offset any remaining emissions, but also to advocate for climate-friendly policies and politicians. What sorts of activities would count as advocating for climate-friendly policies? Which of those activities are morally obligatory, and which ones are not?

16 Rape, Date Rape, and the “Affirmative Consent” Law in California

Noah Levin¹

Any type of forced sexual contact is, at a minimum, criminal assault and often passes a threshold into rape. Where the line is drawn is not directly relevant for my current analysis, which is two related issues: to understand when someone is capable of consent; and to appreciate when someone is reasonable in believing they have obtained consent. The term “date rape” quite literally does not need a qualifier: if rape occurs, it does not matter how. When the term is used, however, it is usually meant to denote “impaired sex” in which one or more parties involved in sexual contact was impaired due the use of alcohol or drugs and their ability to consent was questionable. Understanding this threshold, of when proper consent to sexual contact occurs, is the task at hand. The state of California has moved from a “no means no” policy to a “yes means yes” policy for sexual consent on college campuses, which means the assumption is that parties must actively consent to sexual contact for it to be permitted (yes means yes) rather than assuming that sexual contact is fine until someone says otherwise (no means no). The California “Affirmative Consent” law contains one of the nation’s most rigid requirements for consent, and I maintain that, while the intent behind the law is noble and sorely needed given the rampant occurrence of sexual assault across college campuses, the law itself is overly rigid and too far-reaching, resulting in criminalizing sexual contact that does not, and should not, constitute anything criminal. It is, however, a good first step.

Two Latin phrases are used in understanding guilt, both morally and legally: *mens rea* and *actus reus*. The first, *mens rea*, means “guilty mind.” It is meant to capture a situation when someone intended to commit a crime. The second, *actus reus*, means merely that a guilty action occurred. For example, if I am throwing a baseball at a wall in a park with my eyes closed and someone walks in front of me and gets hit in the eye and ultimately loses it, a guilty action occurred. I assaulted someone in a way that I should not have – it wasn’t an innocent mistake or entirely an accident as I shouldn’t have been doing what I was doing. However, I also didn’t intend to hurt someone with what I was doing: I did not have a guilty mind. Because the action occurred (at least in part due to my negligence), it doesn’t matter much what I intended: something bad happened, and that’s enough for me to be punished. But this isn’t always true, as real accidents do happen, and even when something that is a “guilty action” occurs, there might be no one to blame. For example, if a bird flies into a car windshield, that car in turn hits my car and forces me into a sidewalk where I hit a pedestrian, there is no one to blame. People can also have a guilty mind with no guilty actions and we are wont to punish them, as is in the case of attempted murder where the attempt results in no harm whatsoever. So how are these relevant for the current analysis?

For a rape to occur, there has to be unwanted sexual contact to the extent it qualifies as a rape. There must be the *actus reus*. It is hard to imagine someone raping someone without the actual assault occurring (though there are many ways that one can be assaulted, no doubt). But what if an act of rape

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occurs and there was no intention for it to happen? There are a few different ways that this can happen. If someone was **grossly negligent** (willingly chose not to do what they should have) or didn't do their **due diligence** (didn't do enough to make sure they were doing the right thing) in obtaining consent, then, even if there was no *mens rea* a person can still be guilty of having committed rape. What this means is if someone engages in intercourse with a severely inebriated person that is barely conscious or if someone makes strong advances and doesn't allow for the rejection of such advances, dominating a situation in which the other party doesn't feel safe to say no, then due diligence to obtain consent was not taken. I'll return to the ideas of negligence and due diligence later, but it's the defense of "well, she didn't say no," that led to the California "Affirmative Consent" law. It shifts the standard of requirement away from one person having to explicitly state that they do not want to engage in sexual contact into one that requires both parties to ensure they have obtained consent from the involved parties. The full text of the law, Senate Bill No. 967 (SB 967) which adds to Section 67386 of the California Education Code, was passed September 28, 2014, and is often referred to as the "Affirmative Consent" law, is reprinted below:

SB 967, De León. Student safety: sexual assault.

Existing law requires the governing boards of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions to adopt and implement written procedures or protocols to ensure that students, faculty, and staff who are victims of sexual assault on the grounds or facilities of their institutions receive treatment and information, including a description of on-campus and off-campus resources.

This bill would require the governing boards of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions, in order to receive state funds for student financial assistance, to adopt policies concerning sexual assault, domestic violence, dating violence, and stalking that include certain elements, including an affirmative consent standard in the determination of whether consent was given by a complainant. The bill would require these governing boards to adopt certain sexual assault policies and protocols, as specified, and would require the governing boards, to the extent feasible, to enter into memoranda of understanding or other agreements or collaborative partnerships with on-campus and community-based organizations to refer students for assistance or make services available to students. The bill would also require the governing boards to implement comprehensive prevention and outreach programs addressing sexual assault, domestic violence, dating violence, and stalking. By requiring community college districts to adopt or modify certain policies and protocols, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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The people of the State of California do enact as follows:

SECTION 1. Section 67386 is added to the Education Code, to read:

67386. (a) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall adopt a policy concerning sexual assault, domestic violence, dating violence, and stalking, as defined in the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1092(f)) involving a student, both on and off campus. The policy shall include all of the following:

(1) An affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. “Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

(2) A policy that, in the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

(A) The accused’s belief in affirmative consent arose from the intoxication or recklessness of the accused.

(B) The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

(3) A policy that the standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence.

(4) A policy that, in the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

(A) The complainant was asleep or unconscious.

(B) The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.

(C) The complainant was unable to communicate due to a mental or physical condition.

(b) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions

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shall adopt detailed and victim-centered policies and protocols regarding sexual assault, domestic violence, dating violence, and stalking involving a student that comport with best practices and current professional standards. At a minimum, the policies and protocols shall cover all of the following:

- (1) A policy statement on how the institution will provide appropriate protections for the privacy of individuals involved, including confidentiality.
- (2) Initial response by the institution's personnel to a report of an incident, including requirements specific to assisting the victim, providing information in writing about the importance of preserving evidence, and the identification and location of witnesses.
- (3) Response to stranger and nonstranger sexual assault.
- (4) The preliminary victim interview, including the development of a victim interview protocol, and a comprehensive followup victim interview, as appropriate.
- (5) Contacting and interviewing the accused.
- (6) Seeking the identification and location of witnesses.
- (7) Providing written notification to the victim about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate.
- (8) Participation of victim advocates and other supporting people.
- (9) Investigating allegations that alcohol or drugs were involved in the incident.
- (10) Providing that an individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the institution's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.
- (11) The role of the institutional staff supervision.
- (12) A comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases.
- (13) Procedures for confidential reporting by victims and third parties.

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(c) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall, to the extent feasible, enter into memoranda of understanding, agreements, or collaborative partnerships with existing on-campus and community-based organizations, including rape crisis centers, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, and including resources for the accused.

(d) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall implement comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking. A comprehensive prevention program shall include a range of prevention strategies, including, but not limited to, empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction. Outreach programs shall be provided to make students aware of the institution's policy on sexual assault, domestic violence, dating violence, and stalking. At a minimum, an outreach program shall include a process for contacting and informing the student body, campus organizations, athletic programs, and student groups about the institution's overall sexual assault policy, the practical implications of an affirmative consent standard, and the rights and responsibilities of students under the policy.

(e) Outreach programming shall be included as part of every incoming student's orientation.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

To summarize what this law does, it requires that each individual, regardless of relationship status, prior history, or lack of protest, actively obtain express consent before and during a sexual encounter. This does not need to be the mood-killing “Do I have your permission to continue?” every few seconds; being an active, engaged participant that responds positively to and initiates wanted contact is enough. In other words, if both people are actively into it, you can keep going. If there's any doubt (and this is important), then you need to ask to be sure. We do this with most things (and there's a hilarious video analogizing having sex to offering someone tea that can be found online and is appropriately titled “Tea and Consent”²), so it shouldn't be odd to do the same thing with sex. We don't force people to drink tea or force people to have a conversation with us, and if we don't think they're into it, we ask.

There are some worrisome legal technicalities that arise with this law as written, however. With such a shift toward placing responsibility on seeking consent and ensuring the other person is both capable of consenting and actually consenting, how do we apply reasonable standards? How much

² <https://vimeo.com/128105683>

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alcohol can someone consume and still be able to consent? The case could be made that any consumption of alcohol or drugs impairs someone's judgment. Can you tell how much someone has had to drink? Or how coherent they are after a few drinks? How many people have said, "no, really, I'm good" when they're not? Would ignorance be a defense here? It also requires a preponderance of evidence (which just means it seems more likely than not that a violation occurred), and this could severely undermine the rights of the accused. I say this not to defend attackers, but to defend the liberty of everyone. The problem with current laws is that the accused can hide behind their legal protections quite effectively, but we must be careful not to swing to other side too far and make it overly difficult for innocent people to defend themselves when unfairly accused (as does occur).

Now to be brief in my major criticisms, I would like to point out situations that would run afoul of this law:

- 1) A quadriplegic requests their partner unhook them from communication devices in order to make intercourse possible;
- 2) A committed married couple gets very drunk together and engages in intercourse, with neither actively consenting to it and barely remembering engaging in the sexual acts in the morning;
- 3) One half of a committed married couple gets very drunk while the other is sober, they move to the bedroom, and the inebriated one says, "go ahead and finish up if I fall asleep";
- 4) A deaf individual is concerned about being able to communicate during a sexual encounter without violating the terms of their school's policies.

But I would like to point out which situations this law rightfully captures as problematic,

- 5) Two drunk students go back to a dorm room, start making out, one of them begins pulling off each other's clothes and is not met with protest, which eventually leads to one-sided intercourse in which the other student is physically uninterested and uninvolved, but never explicitly objects;
- 6) A sober student engages in intercourse with a very inebriated student that actively consents to intercourse;
- 7) One member of a dating couple has sex with their partner after that partner passes out after pulling an all-nighter.

Finally, the possible implication in the law that someone whose judgment might be impaired is incapable of sexual consent seems to be a problem. This restricts one's autonomy to be able to do such things, and being inebriated does not *prima facie* mean that one is unable to consent to sexual activities. Many introverts utilize the inhibition-defeating effects of alcohol to help them in social situations, even with those they know. I am not advocating for this (nor am I criticizing it), but it seems to be an important choice someone should be able to make without fear of legal retribution (in this case, it would be violation of school policies defined by the Educational Code).

SB 967 is a good start to fixing the awful and widespread problem of sexual assaults on college and university campuses, but it is overreaching and results in criminalizing situations that should not be problematic. In doing so, it suggests there is something wrong with activities that individuals ought to be able to choose to do as an important expression of their individual autonomy. A move to a standard of affirmative consent is commendable, necessary, and important, but we must be careful to strike the right

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balance with the laws we create.

For Review and Discussion:

1. Are there clear criteria we can use to determine when someone is capable of consent? What would they look like? Or why would it not be possible?
2. It is generally assumed that people under the age of 18 are incapable of consent because they lack the intellectual development to be able to consent to such things (these are cases of “statutory rape”). Let’s say that someone is over the age of 18 but has the intellectual and maturity level of a 12-year-old. They have the biological urges of an 18-year-old, but might not be able to appreciate what it means to consent. Would they be able to consent to sexual contact? If not, are their rights being unfairly restricted?
3. Which standard do you think is better and why: “yes means yes” or “no means no”?

17 The Ethics of Pornography: Deliberating on a Modern Harm

Eduardo Salazar¹

The modern form of pornography can be difficult to define. However, we can initiate a discussion by contextualizing it. First, modern pornography is a product of free market capitalism: it has created a billion dollar industry. Second, it is a modern artifact that runs with technological advances. With the advent of the Internet, it has become readily available for anyone to experience it at virtually any time. Third, the notion of private (or hidden) sexuality has morphed into a more mainstream and public spectacle. There are now public conventions, such as Adult-Con, that promote and celebrate pornography. It is now a cultural icon of historical status. Philosophical discourse on pornography reflects on whether it should be prohibited due to the harm it causes. It involves a legalistic discussion pertaining to freedom of speech, civil liberties, and harms. As such, how ought civil society engage with it given its controversial nature? The purpose of this discussion is threefold. First, certain qualified definitions of pornography will be noted to better understand what is at stake. Second, anti-pornography arguments that seek to ban it will be discussed. Third, liberal views are presented to contrast with anti-pornography arguments. I conclude by providing reasons for endorsing a more liberal view on the civil status of pornography. Although I sympathize with many of the concerns that anti-pornography proponents worry about, I ultimately conclude that pornography presents us with a modern harm that a healthy, free society should contend and live with.

A first move common in philosophy is to begin by clearly defining and explaining concepts in an argument or theory before providing a full discussion. The preliminary question we face here is what exactly counts as pornography? What criteria do we use to include certain material within the set of items deemed pornographic? How do we justify such criteria? What about marginal cases? Providing a neat and clean definition has proven quite challenging. In deliberating on an obscenity case in 1964, U.S. Supreme Court Justice Potter Stewart commented, “I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description [“hard-core pornography”], and perhaps I could never succeed in intelligibly doing so. But I know it when I see it, and the motion picture involved in this case is not that”. We can entertain this shifting definition as a starting point. However, a working definition requires us to provide certain qualifiers to capture in greater accuracy the meaning of *pornography*.² First, we can say that the definition falls under the broader concept of *sexually explicit material*. We can further say that sexually explicit material refers to the *depiction of explicit sexual acts on a variety of mediums with the intention of arousing an audience, reader, and/or viewer to sexual stimulation*. And by *sexual acts* we mean depicting direct or indirect intercourse between actors or toys, extreme “positions”, nudity, fetishistic symbolism, and/or

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² Caroline West “Pornography and Censorship”, *The Stanford Encyclopedia of Philosophy* (Fall 2018 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/fall2018/entries/pornography-censorship/>>.

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sadomasochism.

As it came to prominence in the public sphere in the late 19th century, pornography referred to material that was deemed *obscene* for public viewership because it corrupted our sense of morality, family values, and a healthy society.³ This obscenity position also chastised artistic workings of sexually explicit material, such as erotica or *avant-garde* risqué films. The obscenity position can be seen as a zero-sum account, which does not admit of degrees: anything that remotely depicts sexually explicit material that arouses stimulation is considered pornographic. But is all sexually explicit material pornography?

Some contest that the obscenity position is too restrictive. This view negates *carte blanche* the artistic and philosophical exploration of sexuality, which is meant to be publicly shared with those interested. Contemporary scholars generally hold a permissive attitude concerning erotica as erotica focuses more on ideas and emotions pertaining to sexuality, rather than completely focusing on sex acts themselves. Erotica may also include intercourse, extremes, fetishisms, nudity, and/or sadomasochism, but there is a greater equality shared between women and men actors.⁴ That is, the parties involved have their ideas, feelings, emotions, and bodies tended to and highlighted to some equal extent, which seems to be lacking in pornography. For these reasons, some anti-pornography proponents allow room for sexually explicit material in the form of erotica, and rebuke the obscenity position which marginalizes *all* sexually explicit material. As such, it prevents the exploration and deeper understanding of sexuality. It also threatens freedom of speech as artistic expression. If erotica functions as legitimate artistic and philosophical expression, what exactly makes pornography proper so repulsive and wanton?

Some of the most important and interesting arguments against pornography have been developed within feminist philosophy.⁵ The general feminist critique claims that pornography has an explicit and pernicious impact on those involved in making it, especially women. As such, feminist thinkers take it to mean: sexually explicit material that results in arousing a person *that is deemed harmful*. In contrast to erotica, this modified definition amends it as something that *directly or indirectly promotes harming actresses and/or women more generally*. Linda Marchiano's autobiographical book *Ordeal*⁶ depicts the adult film industry as causing her significant harm. Marchiano, star of the infamous film *Deep Throat*, writes that abuse is a common practice in the making of adult films. She reported that she was kidnapped, beaten, and forced to perform under threat. The Marchiano case provided evidence to ban pornography because *Ordeal* showed that pornography perpetrated harmful criminal acts.

It is important to note that anti-pornography arguments are generally grounded on the *harm principle*. The notion of harm has its philosophical roots in John Stuart Mill's work in political philosophy.⁷ It serves as a principle that helps define personal freedom and potential government infringement of that freedom. Simply stated, the harm principle says that humans are agents who are free to pursue personal and social goals and interests *to the extent that it does not harm others*. If our actions harm others, it presents the government with evidence to justify their infringement and limit those harmful acts. For example, one can hold racist views. However, one is not free to harm another person

³ Lynn Hunt "Obscenity and the Origins of modernity: 1500-1800." Drucilla Cornell in *Feminism and Pornography*. New York: Oxford University Press, 2000.

⁴ Lisa Z. Sigel. "Looking at Sex: Pornography and Erotica since 1750" in Sarah Toulalan and Kate Fischer *The Routledge History of Sex and the Body: 1500 to the Present*. New York: Routledge, 2013.

⁵ Drucilla Cornell (Ed.). *Feminism and Pornography*. New York: Oxford University Press, 2000.

⁶ Linda Lovelace and M. McGrady. *Ordeal*. Secaucus: New Jersey. Citadel Press 1980.

⁷ John Stuart Mill. *On Liberty: A Translation Into English*. Manchester: Industrial Systems Research, 2019

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due to their “inferior” race status. But does the Marchiano case provide sufficient evidence to justify banning pornography altogether?

For one, the Marchiano case alone does not present sufficient evidence to justify banning pornography. If it were the norm, presumably more women would speak out and seek retribution. We simply need more evidence to validate Marchiano’s (anecdotal) case against pornography. Second, it is important to differentiate between criminal acts (abduction, assault, etc.) versus signing a contract to perform in a (adult) film. The criminal act of assault does not carry over into an arranged, specific legal contract (i.e., acting in a film). In other words, such criminal acts are not inherently present in the production of adult films *per se*. But the feminist can respond by saying that harm need not be defined as direct, brute physical harm.

Certain feminist arguments have modified the notion of harm to mean that it promotes the *subordination* and *servility* of women. Consequently, such modification results in sexual violence perpetrated against women in the making of films and in the general public. Such a position posits a direct correlation between the making and viewing of pornography with the increased incidence rate of violence targeting women; rape is the most egregious offense motivated by pornography. While this correlation would be cause for great alarm, the evidence for such claims remains inconclusive.⁸ In fact, scholarly interest and research analysis on the effects of pornography is a new field of research. The first academic journal, *Porn Studies*, dedicated to scholarly research was first published in 2014. Subsequent studies have furthered revealed inconclusive results regarding its effects.⁹ As such, we should be skeptical about positions that condemn pornography for having a direct and strong correlation with increased sexual violence. Perhaps stronger correlation will be shown in the future, however.

Legal scholar Catharine Mackinnon has reworked the notion of harm. She argues that harm is *inherently present* in pornography in subtle ways.¹⁰ Moreover, the debate is not only about freedom of speech, but it concerns acts (the making and dissemination of pornography) that cause harm. She claims that it harms women because it violates their civil liberties in two significant ways: 1. It violates their right to equal status. Women’s status is deformed to one of sexual objects, servility, and subordination; and 2. It violates their right to freedom of speech. Women are silenced by porn to define themselves as they deem right. We will briefly explore these two charges.

First, pornography violates women’s rights to equality, which can be interpreted as a form of sexual violence and sexism. It portrays women as mere willing sexual objects, at the complete service of male fantasies, which constructs an image and status of a lesser and naturally subordinate gender. This unequal status permeates into mainstream society: politics, media, education, and renders women as inferior beings. It prevents women from acquiring jobs, education, etc. It presents us with a case of sex discrimination. Gender and sex discrimination are unlawful, and therefore pornography should be banned. But is this a clear case of harm or sexism?

Do Hollywood films, music videos, or advertisements that depict women as subordinate also present us with cases of sexism? If so, we would need to prohibit numerous media projects that circulate in society. While pornography may lead to women being *depicted* as subordinate, it does not follow that it presents a case of discriminatory practices. Actors willfully engage in contractual agreements in

⁸ Anthony D’Amato, “Porn Up, Rape Down” (June 23, 2006). Northwestern Public Law Research Paper No. 913013. Available at SSRN: <https://ssrn.com/abstract=913013> or <http://dx.doi.org/10.2139/ssrn.913013>

⁹ Jessica Brown. “Is Porn Harmful? The Evidence, the Myths and the Unknowns.” BBC: *Future Now*. September 26th 2017. <http://www.bbc.com/future/story/20170926-is-porn-harmful-the-evidence-the-myths-and-the-unknowns>

¹⁰ Catharine MacKinnon. *Only Words*. Cambridge: Harvard University Press, 1993.

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making such projects knowing that they will be asked to act out these scripted subordinate roles. Furthermore, sexual subordination or domination (by one or both sex/gender) itself is not necessarily harmful. It can be part of healthy sexual engagement within a meaningful relationship.

Second, McKinnon claims that pornography violates women's rights to freedom of speech, which can be interpreted as a type of sexual violence and sexism. This second violation claims that pornography is harmful to women because it silences them in pernicious ways. A woman's interests in expressing her freedom of speech is violated. In fact, MacKinnon sees pornographic material as libelous speech because it misrepresents women and nullifies their effort to respond in significant ways to articulate and rectify their image. It also prevents women from reporting incidents of sexual violence because a woman's image (as a willing sexual object) and voice (misunderstood or dismissed) are drowned out. Similar to certain hate speech being regulated, pornographic material should also be banned because it is inherently harmful. This is an ingenuous reworking of the harm principle in the context of showing how pornography violates women's right to freedom of speech. However, as with the above case of purported inequality, the fact that actresses willfully engage in contractual matters neutralizes this charge, as they know that they may need to engage in certain uncomfortable scenes, etc. We will now discuss how liberal arguments attempt to formulate and mitigate the harm problem of pornography.

In general, the liberal argument for protecting pornography rests on three key legal and moral principles.¹¹ First, the liberal argument contends that people have the right to express themselves as they deem meaningful, even if it offends certain sections of society. Minorities or fringe groups are protected by the right to freedom of speech. This right is protected to the extent that it does not harm another person and/or group. Hate groups have rights to the extent to which they do not inflict harm on another, and not just offend. But, as we have seen, the notion of harm becomes very thorny. Can we legitimately claim that material that portrays women as subordinate and unequal count as an act of harm, or should it be considered an offense instead? Because there is no clear connection between pornography and harm, it is wise to err on the side of the right of freedom of speech, at least for now. Otherwise, other groups may be prohibited from expressing their ideas by a moral majority in conjunction with (big) government.

Second, the harm principle is another key element in the liberal defense, which serves two functions. It serves as the guarantee of the freedom of expression as long as it brings no harm to others. This is its positive variation. The other "negative" function serves to prevent organizations or government from encroaching on one's right to expression. No government agency or moral mobs can enter production sets and confiscate and end filming without justification.

Third, the principle of autonomy plays a central role as well. In order for any type of freedom to be meaningful, we must already assume that we have a significant amount of autonomy and power to make independent decisions as moral agents. We may make some poor decisions, but that alone should not warrant the erosion of our freedom of expression. In this manner, the liberal argument supporting pornography can be seen as presenting an anti-paternalistic view. That is, having the rational capacity of making decisions based on the best evidence at hand should ward off any other party from interfering with or prohibiting our choices.

Given these liberal considerations, it is necessary to contextualize pornography, harmful speech and acts, and rights in terms of the notion of *contractualism*. As stated in the introduction, pornography

¹¹ Ronald Dworkin. "Do We Have a Right To Pornography?" in *A Matter of Principle*. Cambridge: Harvard University Press, 1985.

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has become a cultural staple and billion dollar industry. One of the basic elements present in industries is the legally binding contract made on free and mutually acceptable terms, *ideally*. Workers and actors actively engage in signing contracts to be in films. There may exist some deceitful and corrupt means by which workers sign contracts, but such practices have been reported to also be present in signing sports athletes to contracts, for example. Given the sordid entertainment industry, including both film and sports, we do not entertain prohibiting sports due to such practices. It is a matter of reframing the industry in their negotiating practices.

The idea of contractualism helps legitimize the notions of autonomy, freedom of expression, workers rights, mutual benefits, amongst other crucial factors in a relatively free society. Contractualism, as a relational tool between individuals and groups, views people as rational beings capable of forming independent opinions and making independent decisions about what types of work to engage in. Pornographers engage in the production of extreme and graphic sexual material, but they do so willingly under contract. We can advise and educate people about the dangers of certain industries, but we should not take their right to engage in agreed upon contractual jobs.

One of the most important liberal concerns regarding pornography lies in trepidation over *paternalism*. Simply stated, it refers to an authority figure who limits a person's/group's freedom in order to promote the person's/group's best interest, which runs counter to liberal notions of autonomy. The worry for liberals is that if the government prohibits pornography because of supposed harm, then it may outlaw other forms of expression. This line of reasoning takes on the form of a slippery slope argument. If right X is taken away, then right Y will be taken away too. But if right Y is taken, then surely right Z will also be stripped away. Typically considered a logical fallacy or a type of erroneous thinking, the slippery slope assumption found in (some) liberal arguments concerning pornography present a relevant potential harm.

There are several key questions that underlie a fruitful discussion concerning pornography: does pornography, in fact, create and/or promote real harms? If so, what type of harms? What evidence can we provide to justify such harm claims? What types of harms are more detrimental than others? Or, does pornography reflect a decadent and hedonistic society? If it serves as a reflection of other problems, does it function as a cathartic means by which to release sexual/aggressive tension? The aim of our discussion was not intended to provide definitive answers to these questions. We need more research and analysis to more accurately determine the supposed harm caused by pornography. Newer media and technologies make it difficult to truly assess the harm of such an industry. That is why we must conclude, albeit tentatively, by stating that pornography is harmful, *but not to the extent to which we are justified in prohibiting it*. It is perhaps most harmful to the young actresses involved in its production who perform under great duress and subordination and who carry emotional scars for subsequent years. It is harmful to viewers as it may create problems for them in developing healthy, meaningful relationships. However, these noted concerns do not trump the fact that actors and viewers both actively engage in pursuing these harmful interests. As such, the ultimate conclusion to this discussion views pornography as a commodity, as addiction, as exploitation, as perversity, as misogyny, that harms. But it is a harm that we must allow to circulate if we truly respect human autonomy, and aspire to grow into healthy, mature adults who are capable of understanding and deliberating on complex, difficult questions.

For Review and Discussion:

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1. Can pornography be clearly defined? What are some of the concerns in attempting to define it?
2. Is pornography inherently harmful? Why or why not? If so, how?
3. This chapter mostly focuses on heterosexual pornography which dominates the industry. Do the arguments presented apply to non-heterosexual pornography? Why or why not?

18 The Social Contract

Thomas Hobbes¹

CHAPTER XIII. OF THE NATURAL CONDITION OF MANKIND, AS CONCERNING THEIR FELICITY, AND MISERY

Nature hath made men so equal, in the faculties of body, and mind; as that though there be found one man sometimes manifestly stronger in body, or of quicker mind then another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim to himself any benefit, to which another may not pretend, as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himself.

And as to the faculties of the mind, (setting aside the arts grounded upon words, and especially that skill of proceeding upon general, and infallible rules, called Science; which very few have, and but in few things; as being not a native faculty, born with us; nor attained, (as Prudence,) while we look after somewhat else,) I find yet a greater equality amongst men, than that of strength. For Prudence, is but Experience; which equal time, equally bestows on all men, in those things they equally apply themselves unto. That which may perhaps make such equality incredible, is but a vain concept of one's own wisdom, which almost all men think they have in a greater degree, than the Vulgar; that is, than all men but themselves, and a few others, whom by Fame, or for concurring with themselves, they approve. For such is the nature of men, that howsoever they may acknowledge many others to be more witty, or more eloquent, or more learned; Yet they will hardly believe there be many so wise as themselves: For they see their own wit at hand, and other men at a distance. But this proves rather that men are in that point equal, than unequal. For there is not ordinarily a greater sign of the equal distribution of anything, than that every man is contented with his share.

From Equality Proceeds Diffidence

From this equality of ability, arises equality of hope in the attaining of our Ends. And therefore if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their End, (which is principally their own conservation, and sometimes their delectation only,) endeavour to destroy, or subdue one another. And from hence it comes to pass, that where an Invader hath no more to fear, than another man's single power; if one plant, sow, build, or possess a convenient Seat, others may probably be expected to come prepared with forces united, to dispossess, and deprive him, not only of the fruit of his labour, but also of his life, or liberty. And the Invader again is in the like danger of another.

¹ From: Hobbes, T. (1651). *Leviathan*. This work is in the Public Domain.

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From Diffidence War

And from this diffidence of one another, there is no way for any man to secure himself, so reasonable, as Anticipation; that is, by force, or wiles, to master the persons of all men he can, so long, till he see no other power great enough to endanger him: And this is no more than his own conservation requires, and is generally allowed. Also because there be some, that taking pleasure in contemplating their own power in the acts of conquest, which they pursue farther than their security requires; if others, that otherwise would be glad to be at ease within modest bounds, should not by invasion increase their power, they would not be able, long time, by standing only on their defence, to subsist. And by consequence, such augmentation of dominion over men, being necessary to a man's conservation, it ought to be allowed him.

Again, men have no pleasure, (but on the contrary a great deal of grief) in keeping company, where there is no power able to over-awe them all. For every man looks that his companion should value him, at the same rate he sets upon himself: And upon all signs of contempt, or undervaluing, naturally endeavours, as far as he dares (which amongst them that have no common power, to keep them in quiet, is far enough to make them destroy each other,) to extort a greater value from his condemners, by damage; and from others, by the example.

So that in the nature of man, we find three principal causes of quarrel. First, Competition; Secondly, Diffidence; Thirdly, Glory.

The first, makes men invade for Gain; the second, for Safety; and the third, for Reputation. The first use Violence, to make themselves Masters of other men's persons, wives, children, and cattle; the second, to defend them; the third, for trifles, as a word, a smile, a different opinion, and any other sign of undervalue, either direct in their Persons, or by reflection in their Kindred, their Friends, their Nation, their Profession, or their Name.

Out Of Civil States,

There Is Always War Of Every One Against Every One Hereby it is manifest, that during the time men live without a common Power to keep them all in awe, they are in that condition which is called War; and such a war, as is of every man, against every man. For WAR, consists not in Battle only, or the act of fighting; but in a tract of time, wherein the Will to contend by Battle is sufficiently known: and therefore the notion of Time, is to be considered in the nature of War; as it is in the nature of Weather. For as the nature of Foul weather, lies not in a shower or two of rain; but in an inclination thereto of many days together: So the nature of War, consists not in actual fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary. All other time is PEACE.

The Incommodities Of Such A War

Whatsoever therefore is consequent to a time of War, where every man is Enemy to every man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them with all. In such condition, there is no place for Industry; because the fruit thereof is uncertain; and consequently no Culture of the Earth; no Navigation, nor use

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of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continual fear, and danger of violent death; And the life of man, solitary, poor, nasty, brutish, and short.

It may seem strange to some man, that has not well weighed these things; that Nature should thus dissociate, and render men apt to invade, and destroy one another: and he may therefore, not trusting to this Inference, made from the Passions, desire perhaps to have the same confirmed by Experience. Let him therefore consider with himself, when taking a journey, he arms himself, and seeks to go well accompanied; when going to sleep, he locks his doors; when even in his house he locks his chests; and this when he knows there bee Laws, and public Officers, armed, to revenge all injuries shall be done him; what opinion he has of his fellow subjects, when he rides armed; of his fellow Citizens, when he locks his doors; and of his children, and servants, when he locks his chests. Does he not there as much accuse mankind by his actions, as I do by my words? But neither of us accuse man's nature in it. The Desires, and other Passions of man, are in themselves no Sin. No more are the Actions, that proceed from those Passions, till they know a Law that forbids them; which till Lawes be made they cannot know: nor can any Law be made, till they have agreed upon the Person that shall make it.

It may peradventure be thought, there was never such a time, nor condition of war as this; and I believe it was never generally so, over all the world: but there are many places, where they live so now. For the savage people in many places of America, except the government of small Families, the concord whereof depends on natural lust, have no government at all; and live at this day in that brutish manner, as I said before. Howsoever, it may be perceived what manner of life there would be, where there were no common Power to fear; by the manner of life, which men that have formerly lived under a peaceful government, use to degenerate into, in a civil War.

But though there had never been any time, wherein particular men were in a condition of war one against another; yet in all times, Kings, and persons of Sovereign authority, because of their Independency, are in continual jealousies, and in the state and posture of Gladiators; having their weapons pointing, and their eyes fixed on one another; that is, their Forts, Garrisons, and Guns upon the Frontiers of their Kingdoms; and continual Spies upon their neighbours; which is a posture of War. But because they uphold thereby, the Industry of their Subjects; there does not follow from it, that misery, which accompanies the Liberty of particular men.

In Such A War, Nothing Is Unjust

To this war of every man against every man, this also is consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no common Power, there is no Law: where no Law, no Injustice. Force, and Fraud, are in war the two Cardinal virtues. Justice, and Injustice are none of the Faculties neither of the Body, nor Mind. If they were, they might be in a man that were alone in the world, as well as his Senses, and Passions. They are Qualities, that relate to men in Society, not in Solitude. It is consequent also to the same condition, that there be no Propriety, no Dominion, no Mine and Thine distinct; but only that to be every mans that he can get; and for so long, as he can keep it. And thus much for the ill condition, which man by mere Nature is actually placed in; though with a possibility to come out of it, consisting partly in the Passions, partly in his

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Reason.

The Passions That Incline Men To Peace

The Passions that incline men to Peace, are Fear of Death; Desire of such things as are necessary to commodious living; and a Hope by their Industry to obtain them. And Reason suggests convenient Articles of Peace, upon which men may be drawn to agreement. These Articles, are they, which otherwise are called the Lawes of Nature: whereof I shall speak more particularly, in the two following Chapters.

CHAPTER XIV. OF THE FIRST AND SECOND NATURALL LAWES, AND OF CONTRACTS

Right Of Nature What

The RIGHT OF NATURE, which Writers commonly call Jus Natural, is the Liberty each man hath, to use his own power, as he will himself, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing anything, which in his own Judgement, and Reason, he shall conceive to be the aptest means thereunto.

Liberty What

By LIBERTY, is understood, according to the proper signification of the word, the absence of external Impediments: which Impediments, may oft take away part of a man's power to do what he would; but cannot hinder him from using the power left him, according as his judgement, and reason shall dictate to him.

A Law Of Nature What

A LAW OF NATURE, (Lex Naturalis,) is a Precept, or general Rule, found out by Reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved. For though they that speak of this subject, use to confound Jus, and Lex, Right and Law; yet they ought to be distinguished; because RIGHT, consists in liberty to do, or to forbear; Whereas LAW, determines, and binds to one of them: so that Law, and Right, differ as much, as Obligation, and Liberty; which in one and the same matter are inconsistent.

Naturally Every Man Has Right To Everything

And because the condition of Man, (as hath been declared in the precedent Chapter) is a condition of War of every one against every one; in which case everyone is governed by his own Reason; and there is nothing he can make use of, that may not be a help unto him, in preserving his life against his enemies; It follows, that in such a condition, every man has a Right to everything; even to one another's body. And therefore, as long as this natural Right of every man to everything endures, there can be no security to any man, (how strong or wise soever he be,) of living out the time, which Nature ordinarily allows men to live.

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The Fundamental Law Of Nature

And consequently it is a precept, or general rule of Reason, "That every man, ought to endeavour Peace, as farre as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of War." The first branch, of which Rule, contains the first, and Fundamental Law of Nature; which is, "To seek Peace, and follow it." The Second, the sum of the Right of Nature; which is, "By all means we can, to defend ourselves."

The Second Law Of Nature

From this Fundamental Law of Nature, by which men are commanded to endeavour Peace, is derived this second Law; "That a man be willing, when others are so too, as far forth, as for Peace, and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself." For as long as every man holds this Right, of doing anything he likes; so long are all men in the condition of War. But if other men will not lay down their Right, as well as he; then there is no Reason for any one, to divest himself of his: For that were to expose himself to Prey, (which no man is bound to) rather than to dispose himself to Peace. This is that Law of the Gospel; "Whatsoever you require that others should do to you, that do ye to them."...

CHAPTER XV. OF OTHER LAWS OF NATURE

The Third Law Of Nature, Justice

From that law of Nature, by which we are obliged to transfer to another, such Rights, as being retained, hinder the peace of Mankind, there follows a Third; which is this, That Men Perform Their Covenants Made: without which, Covenants are in vain, and but Empty words; and the Right of all men to all things remaining, we are still in the condition of War.

Justice And Injustice What

And in this law of Nature, consists the Fountain and Original of JUSTICE. For where no Covenant hath preceded, there hath no Right been transferred, and every man has right to everything; and consequently, no action can be Unjust. But when a Covenant is made, then to break it is Unjust: And the definition of INJUSTICE, is no other than The Not Performance Of Covenant. And whatsoever is not Unjust, is Just.

Justice And Propriety Begin With The Constitution of Common-wealth But because Covenants of mutual trust, where there is a fear of not performance on either part, (as hath been said in the former Chapter,) are invalid; though the Original of Justice be the making of Covenants; yet Injustice actually there can be none, till the cause of such fear be taken away; which while men are in the natural condition of War, cannot be done. Therefore before the names of Just, and Unjust can have place, there must be some coercive Power, to compel men equally to the performance of their Covenants, by the terrour of some punishment, greater than the benefit they expect by the breach of their Covenant; and to make good that Propriety, which by mutual Contract men acquire, in recompence of the universal Right they abandon: and such power there is none before the erection of a Commonwealth. And this is also to be

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gathered out of the ordinary definition of Justice in the Schools: For they say, that "Justice is the constant Will of giving to every man his own." And therefore where there is no Own, that is, no Propriety, there is no Injustice; and where there is no coercive Power erected, that is, where there is no Common-wealth, there is no Propriety; all men having Right to all things: Therefore where there is no Common-wealth, there nothing is Unjust. So that the nature of Justice, consists in keeping of valid Covenants: but the Validity of Covenants begins not but with the Constitution of a Civil Power, sufficient to compel men to keep them: And then it is also that Propriety begins.

Justice Not Contrary To Reason

The Fool hath said in his heart, there is no such thing as Justice; and sometimes also with his tongue; seriously alleging, that every man's conservation, and contentment, being committed to his own care, there could be no reason, why every man might not do what he thought conduced thereunto; and therefore also to make, or not make; keep, or not keep Covenants, was not against Reason, when it conduced to ones benefit. He does not therein deny, that there be Covenants; and that they are sometimes broken, sometimes kept; and that such breach of them may be called Injustice, and the observance of them Justice: but he questions, whether Injustice, taking away the fears of God, (for the same Fool hath said in his heart there is no God,) may not sometimes stand with that Reason, which dictates to every man his own good; and particularly then, when it conduces to such a benefit, as shall put a man in a condition, to neglect not only the dispraise, and revilings, but also the power of other men...yet it can never be against Reason, seeing all the voluntary actions of men tend to the benefit of themselves; and those actions are most Reasonable, that conduce most to their ends. This specious reasoning is nevertheless false.

For the question is not of promises mutual, where there is no security of performance on either side; as when there is no Civil Power erected over the parties promising; for such promises are no Covenants: But either where one of the parties has performed already; or where there is a Power to make him perform; there is the question whether it be against reason, that is, against the benefit of the other to perform, or not. And I say it is not against reason. For the manifestation whereof, we are to consider; First, that when a man doth a thing, which notwithstanding anything can be foreseen, and reckoned on, tends to his own destruction, howsoever some accident which he could not expect, arriving may turn it to his benefit; yet such events do not make it reasonably or wisely done. Secondly, that in a condition of War, wherein every man to every man, for want of a common Power to keep them all in awe, is an Enemy, there is no man can hope by his own strength, or wit, to defend himself from destruction, without the help of Confederates; where everyone expects the same defence by the Confederation, that anyone else does: and therefore he which declares he thinks it reason to deceive those that help him, can in reason expect no other means of safety, than what can be had from his own single Power. He therefore that breaks his Covenant, and consequently declares that he thinks he may with reason do so, cannot be received into any Society, that unite themselves for Peace and defence, but by the error of them that receive him; nor when he is received, be retained in it, without seeing the danger of their error; which errors a man cannot reasonably reckon upon as the means of his security; and therefore if he be left, or cast out of Society, he perishes; and if he live in Society, it is by the errors of other men, which he could not foresee, nor reckon upon; and consequently against the reason of his preservation; and so, as all men that contribute not to his destruction, forbear him only out of ignorance of what is good for themselves.

For Review and Discussion:

1. Hobbes famously said that life in the state of nature is “solitary, poor, nasty, brutish, and short.” Why does he say this and do you agree?
2. What does Hobbes think motivates us to get out of the state of nature?
3. How and why do we create the first elements of a civil society for Hobbes?

UNIT FOUR: HAPPINESS

The study of happiness runs deep in ethics. Aristotle, Jeremy Bentham, and John Stuart Mill all assume it simply *is* the most valuable thing, motivation, and goal in our lives. But they each take a different view on it and how it relates to doing what's right: For Aristotle, it is not the factor that should motivate us (in some sense, genuine happiness is the side-effect of living a good life), Bentham equates happiness with pleasure, and Mill believes that happiness is a robust concept that can, and should be, used to drive every decision we make. Even Immanuel Kant, the big opponent of consequentialist ethics, recognizes that happiness is simply a good thing we desire, even though he believes it plays no role in determining the rightness and wrongness of actions.

The Lego Movie 2: The Second Part (2019, Mike Mitchell), the almost-as-entertaining follow-up to the shockingly creative *Lego Movie* (2014, Phil Lord, Christopher Miller, and Chris McKay), contains the song, "Everything's Not Awesome" (2019, Shawn Patterson, Jo Li, and The Lonely Island), a brilliant parody of the film series' marquee song, "Everything is Awesome" (2014, Shawn Patterson, Jo Li, and The Lonely Island). I mention these movies and songs for two reasons: firstly, watching them will bring happiness into your life; secondly, there are some excellent lyrics on happiness to be found in this act of self-parody. In the original song, the lyrics are:

"Everything is awesome, everything is cool when you're part of a team
Everything is awesome, when you're living out a dream
Everything is better when we stick together
Some have said you and I are gonna win forever
Let's party forever"

These lines get parodied in "Everything's not Awesome" as:

"Everything's not awesome
Things can't be awesome all of the time
It's an unrealistic expectation
But that doesn't mean we shouldn't try
To make everything awesome
In a less idealistic kind of way.
We should maybe aim for not bad"

These lyrics actually capture how happiness is often approached in ethics: pure, amazing awesomeness is what we should strive for, even if it's not possible. We need to study it as an ideal if we are to have a chance of achieving anything close to it. At the very least, we should aim for the opposite of miserableness. There are many aspects to happiness, and this Unit will cover a variety of concepts, theories, and approaches that are associated with it.

Chapter 19, *Is Pleasure all that Matters? Thoughts on the "Experience Machine"* by Prabhpal Singh, analyzes a famous thought experiment that attempts to illustrate that, while we desire pleasure, there is more to life than simply having it. Chapter 20, *Utilitarianism* by J.S. Mill, is an important selection from the classic work by the influential 19th century philosopher where he lays out the basics of his moral theory of utilitarianism. Chapter 21, *Utilitarianism: Pros and Cons* by B.M. Wooldridge,

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runs through the appeal of utilitarianism along with some of its shortcomings. Chapter 22, *Existentialism, Genetic Engineering, and the Meaning of Life: The Fifths*, is a fictional short story that looks at the perspective of an interstellar colonist whose life is to be lived entirely on a spaceship for a journey that he did not begin and will not be able to complete. Chapter 23, *The Solitude of the Self* by Elizabeth Cady Stanton, is a classic piece by the influential 19th century social and political reformer that presents the reasons for sexual equality while giving attention to the differences that often exist between the sexes. Chapter 24, *Game Theory, the Nash Equilibrium, and the Prisoner's Dilemma* by Douglas E. Hill, discusses a famous problem in the interdisciplinary field of Game Theory which has an important impact on how we appreciate our own happiness in relation to others.

19 Is Pleasure all that Matters? Thoughts on the “Experience Machine”

Prabhpal Singh¹

The notion of *Hedonism* is one of serious philosophical significance, especially in accounts of human action and motivations, and in ethical accounts of good and happy human lives. The term ‘Hedonism’ is derived from the Greek word ‘*hēdone*’, meaning ‘pleasure’. There are two doctrines of Hedonism, one being the descriptive thesis of *Psychological Hedonism*, which states that only pleasure motivates us, and the other being the normative thesis of *Ethical Hedonism*, which states that pleasure is the only good and promoting pleasure is what makes one’s life a valuable and happy one.

My aim is to argue against both doctrines of Hedonism. I will consider some philosophical criticisms and counter examples against both views, including discussion of Robert Nozick’s famous ‘Experience Machine’² thought experiment, in an attempt to show neither only pleasure motivates us, nor pleasure is the only good.

Deliberate human action involves motivation. Motives can be understood in two ways. Motives can be those things that move a person to action, or motives can be the ultimate ends of an action. The hedonistic picture of human motivation holds that only pleasure is a motive for human action. Consider the following claim:

Psychological Hedonism: Only pleasure motivates us.

According to this claim, it is only pleasure that moves people to action, and only pleasure is the ultimate end of human action. On this view, the underlying reason I eat chocolate cake, or go for a walk, or chat with friends is because I find doing these things pleasurable. I pursue my goals with the ultimate aim of enjoying the pleasure I would gain from achieving them. This goes for all human actions. We act in ways we take to promote our pleasure, and avoid acting in ways which promote our displeasure.

But is this really all there is to human motivation? Is it really true that *only* pleasure moves us to action? Consider the following examples: A single mother who works multiple jobs in order to save money to secure her children’s future, or a spy who endures painful torture in order to protect their nation’s secrets, or a boy strolling down the street who kicks a rock as he walks by it ‘just because he felt like it’. It is not clear in these examples that the person acting is doing so only for the sake of pleasure. What pleasure does the single mother gain from laboring away while trying to support her children? Is that she loves and cares about her children and their future not a more plausible motive for her actions rather than that she finds laboring her life away pleasurable? Does the spy not endure pain for the reason that they deeply value loyalty to their nation rather than for the sake of some masochistic pleasure? Do people not sometimes just do things ‘for the hell of it’?

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² Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New York: Basic Books Inc. p. 42

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If it is the case that people do sometimes act on and for motives other than pleasure, then the thesis of Psychological hedonism is false. The examples mentioned above are meant to illustrate instances in which this is precisely the case. It is highly intuitive that the people in those examples are not solely motivated by the promotion of their own pleasure. This is reason to doubt the thesis of Psychological Hedonism.

The Psychological Hedonist may insist that the people in these cases do have motives besides pleasure, but that these motives are ultimately reducible to pleasure. The single mother struggles to support her children because she wants to see them grow, but having them grow safe and healthy is something that brings her pleasure. The spy takes pleasure in the knowledge that they have remained loyal to their country. And the boy finds some pleasure in doing some things ‘just for the hell of it’. If this is the case, then pleasure is still their fundamental motivation, just in an underlying manner.

It may very well be the case the single mother, the spy, and the boy on the street really are acting for nothing more than pleasure, but someone who accepts the thesis of Psychological Hedonism must explain why the possible alternative motives are not the correct ones, and only pleasure is in fact what moves them to action. In other words, sure, our motivations could be reducible to the promotion of pleasure, but how can we distinguish pleasure as the fundamental motive in the above mentioned cases? The Psychological Hedonist could provide hedonic accounts for each of the mentioned examples, but their explanations lack determinacy. There is not a way for the Psychological Hedonist to demonstrate that pleasure in fact is the fundamental motive for those actors. There is a burden of proof for the Psychological Hedonist to explain why our intuitions in certain cases are the incorrect ones and the hedonic picture of human motivation is the correct one. The challenge for the Psychological Hedonist in defending their thesis is to explain why it often appears people act for lots of reasons and motives beyond pleasure, something they cannot determine. Given that many human actions are intuitively motivated by a variety of things besides pleasure, pleasure is not the only thing that motivates us. Therefore the thesis of Psychological Hedonism is false.

As mentioned, Psychological Hedonism is only a *descriptive* thesis, meaning it is only a claim about how we in fact behave and are. It does not tell us how we *should be*. In other words, it is not a *normative* thesis. The normative thesis, called *Ethical Hedonism*, is as follows:

Ethical Hedonism: Only pleasure has value or worth, and only displeasure has disvalue or the opposite of worth.

On this view, what makes something (like a course of action, or state of affairs) good, valuable, or worthwhile is the pleasure that thing produces. For the Ethical Hedonist, pleasure is the only thing to consider when it comes to evaluating things as good or valuable. This means that what makes giving to charity, or helping a friend, or volunteering at a soup kitchen good is that these things produce pleasure. The same goes for all other goods as well, for what it means for something to be good is for it to produce pleasure.

But, why think the thesis of Ethical Hedonism is true? Is it really the case that pleasure is all there is to what is good, valuable, or worthwhile? While Ethical Hedonism may seem simple and attractive, perhaps even intuitive to some, it faces serious problems. One potential problem for this view is that it does not account for values besides pleasure. By claiming *only* pleasure is good, it leaves out other things that seem to be, at least intuitively, good and valuable.

One way to think about the notion that there may be things valuable beyond pleasure is to consider the famous thought experiment presented by Philosopher Robert Nozick in his 1974 book,

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Anarchy, State, and Utopia. In chapter 3 of his book, Nozick invites us to imagine what he calls the ‘Experience Machine’³. Nozick writes:

“Suppose there were an experience machine that would give you any experience you desired. Superduper neuropsychologists could stimulate your brain so that you would think and feel you were writing a great novel, or making a friend, or reading an interesting book. All the time you would be floating in a tank, with electrodes attached to your brain. Should you plug into this machine for life, preprogramming your life's experiences?”⁴

Anyone who plugs into the machine will be able to experience anything they desire. If you wanted to experience climbing a mountain, or winning Olympic gold, you could. What experience(s) you choose to have while plugged into the machine will be indiscernible from those same experience(s) you would have if you had them outside of the machine. You could stay plugged in as long or as little as you like. If you wanted, you could plug into an endless stream of pleasurable experiences. The question Nozick asks is **should you enter the machine?** It sure is tempting. After all, who wouldn't want to experience endless pleasure? However, Nozick argues we should *not* enter the machine. This is because there seems to be more that matters besides how our lives feel like ‘from the inside’.

Nozick draws a distinction between *actually doing* something and merely having *an experience of doing* something. One reason to not enter the machine is because whatever experiences you have in the machine will not be reflective of a reality beyond your first-person experience. If I climb a mountain in the machine, I will not have truly climbed a mountain. If I play the experience of winning Olympic gold, I have only done so in my own mind, not in reality. This also applies to *being* a certain way. We also want to be certain sorts of people. Nozick argues that while plugged into the machine, we cannot know what sort of people we are, if we are courageous, kind, intelligent, or loving because we have only the experiences produced by the machine. It is important to us what we *actually do* and who we *actually are* beyond simulated experience. According to Nozick, plugging into the machine is a kind of ‘suicide’⁵, one in which we lose all connection to reality, despite being able to simulate it. For Nozick, the Experience Machine thought experiment is meant to show there are things that matter to us beyond how our lives feel ‘from the inside’.

Pleasure is a feeling which exists only in our minds as an experience. Nozick's thought experiment invites us to not only think about the distinction between mere experience and external reality, but also the *value* of mere experiences as opposed to real experiences. If Nozick is right that we should not enter the machine for the reason that *really* doing something and *really* being some way matter beyond merely having the experience of doing or being, then it looks like there is value and worth in things being real and true. If it is the case that realness and truth are valuable, then it follows that not only pleasure is valuable. So, if pleasure is not the only thing which is valuable or worthwhile, then the thesis of Ethical Hedonism is false.

But one could object to Nozick, and argue it would be good to enter the machine. Why should we think that ‘real’ experiences are any better than non-real ones? After all, one of the stipulations of entering the machine is that the experiences in it would be indiscernible from ‘real’ ones, so what does it matter if they are not the real deal? If I can have the experience of climbing a mountain, or winning Olympic gold, who cares if I did not actually do it? To answer this, consider a further example:

³ Nozick. 1974. p. 42-45

⁴ Nozick. 1974, p. 42

⁵ Nozick. 1974, p. 43

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In universe A, Avery loves Blair, and Blair loves Avery back. Avery has many experiences with Blair, all of which Avery always finds very pleasing.

In universe B, Avery loves Blair, but Blair only pretends to love Avery back. Blair is just using Avery and actually does not love Avery at all. Avery never catches on to Blair's act.

While Avery from universe A and Avery from universe B have identical experiences and therefore feel identical pleasure in their respective situations, would we want to say that their lives are equally good?

If we accept the thesis of Ethical Hedonism, then we must accept that there is no difference in the quality of Avery's life in the different universes. But does there not seem to be something wrong with Avery's life in universe B independently of their experiences? It seems to me that Avery in universe B is essentially living a lie, one in which they falsely believe they are loved when in fact they are not. Their relationship with Blair is a substance-less illusion. This example and Nozick's experience machine demonstrate that being in touch with reality and not being deceived, and not having false beliefs of one's situation, have value and are important for a good life. The core distinction at work here is between our first-person experience of the world, and the world itself. Because there is a difference in how our lives feel like to us, and how they actually are, it is the question of what makes a happy life is not only about what a happy life might feel like. A pleasurable life *feels* good, but it does not follow from this that it *is* good. The distinction between feeling and being, much like the distinction between experiencing and being suggest there is more to a good and happy life than merely experiencing pleasure. If there is more to a happy life than how it feels to us, then pleasure cannot be the only thing of value or worth. Therefore, the thesis of Ethical Hedonism is false.

If Nozick's thought experiment successfully demonstrates that pleasure is not the only thing of value, and in so far as there are any values, then there is a plurality of values. On this *Value Pluralist* view, there is a variety of distinct values that each contribute to a happy life. A happy life will then depend upon realizing not just pleasure, but other values as well. Some candidates for these other values may include truth, knowledge, love, courage, respect, faith, peace, honesty, and virtue (of course, this is not an exhaustive list).

In conclusion, both the Psychological and Ethical theses of Hedonism are false. People often act on variety of motives beyond the promotion of pleasure. Furthermore, the ethical considerations brought to light by Nozick's Experience Machine thought experiment indicate there is more to a good life than how things are like from our first-person experience. Because pleasure is mere experience, and there are things which matter beyond mere experience, pleasure is not the only thing good, valuable, or worthwhile.

For Review and Discussion:

1. Is pleasure the most important "good" in our lives? If so, why? If not, what else matters?
2. Would you plug into the experience machine? Why or why not?
3. Can you come up with your own version of the experience machine that would be more appealing to more people?

20 Utilitarianism

J.S. Mill¹

Chapter 2 What Utilitarianism Is.

...The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure. To give a clear view of the moral standard set up by the theory, much more requires to be said; in particular, what things it includes in the ideas of pain and pleasure; and to what extent this is left an open question. But these supplementary explanations do not affect the theory of life on which this theory of morality is grounded- namely, that pleasure, and freedom from pain, are the only things desirable as ends; and that all desirable things (which are as numerous in the utilitarian as in any other scheme) are desirable either for the pleasure inherent in themselves, or as means to the promotion of pleasure and the prevention of pain.

Now, such a theory of life excites in many minds, and among them in some of the most estimable in feeling and purpose, inveterate dislike. To suppose that life has (as they express it) no higher end than pleasure- no better and nobler object of desire and pursuit- they designate as utterly mean and grovelling; as a doctrine worthy only of swine, to whom the followers of Epicurus were, at a very early period, contemptuously likened; and modern holders of the doctrine are occasionally made the subject of equally polite comparisons by its German, French, and English assailants.

When thus attacked, the Epicureans have always answered, that it is not they, but their accusers, who represent human nature in a degrading light; since the accusation supposes human beings to be capable of no pleasures except those of which swine are capable. If this supposition were true, the charge could not be gainsaid, but would then be no longer an imputation; for if the sources of pleasure were precisely the same to human beings and to swine, the rule of life which is good enough for the one would be good enough for the other. The comparison of the Epicurean life to that of beasts is felt as degrading, precisely because a beast's pleasures do not satisfy a human being's conceptions of happiness. Human beings have faculties more elevated than the animal appetites, and when once made conscious of them, do not regard anything as happiness which does not include their gratification. I do not, indeed, consider the Epicureans to have been by any means faultless in drawing out their scheme of consequences from the utilitarian principle. To do this in any sufficient manner, many Stoic, as well as Christian elements require to be included. But there is no known Epicurean theory of life which does not assign to the pleasures of the intellect, of the feelings and imagination, and of the moral sentiments, a much higher value as pleasures than to those of mere sensation. It must be admitted, however, that utilitarian writers in general have placed the superiority of mental over bodily pleasures chiefly in the greater permanency,

¹ From: Mill, J.S. (1863). *Utilitarianism*. This work is in the Public Domain.

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safety, uncostliness, etc., of the former- that is, in their circumstantial advantages rather than in their intrinsic nature. And on all these points utilitarians have fully proved their case; but they might have taken the other, and, as it may be called, higher ground, with entire consistency. It is quite compatible with the principle of utility to recognise the fact, that some kinds of pleasure are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone.

If I am asked, what I mean by difference of quality in pleasures, or what makes one pleasure more valuable than another, merely as a pleasure, except its being greater in amount, there is but one possible answer. Of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference, irrespective of any feeling of moral obligation to prefer it, that is the more desirable pleasure. If one of the two is, by those who are competently acquainted with both, placed so far above the other that they prefer it, even though knowing it to be attended with a greater amount of discontent, and would not resign it for any quantity of the other pleasure which their nature is capable of, we are justified in ascribing to the preferred enjoyment a superiority in quality, so far outweighing quantity as to render it, in comparison, of small account.

Now it is an unquestionable fact that those who are equally acquainted with, and equally capable of appreciating and enjoying, both, do give a most marked preference to the manner of existence which employs their higher faculties. Few human creatures would consent to be changed into any of the lower animals, for a promise of the fullest allowance of a beast's pleasures; no intelligent human being would consent to be a fool, no instructed person would be an ignoramus, no person of feeling and conscience would be selfish and base, even though they should be persuaded that the fool, the dunce, or the rascal is better satisfied with his lot than they are with theirs. They would not resign what they possess more than he for the most complete satisfaction of all the desires which they have in common with him. If they ever fancy they would, it is only in cases of unhappiness so extreme, that to escape from it they would exchange their lot for almost any other, however undesirable in their own eyes. A being of higher faculties requires more to make him happy, is capable probably of more acute suffering, and certainly accessible to it at more points, than one of an inferior type; but in spite of these liabilities, he can never really wish to sink into what he feels to be a lower grade of existence. We may give what explanation we please of this unwillingness; we may attribute it to pride, a name which is given indiscriminately to some of the most and to some of the least estimable feelings of which mankind are capable: we may refer it to the love of liberty and personal independence, an appeal to which was with the Stoics one of the most effective means for the inculcation of it; to the love of power, or to the love of excitement, both of which do really enter into and contribute to it: but its most appropriate appellation is a sense of dignity, which all human beings possess in one form or other, and in some, though by no means in exact, proportion to their higher faculties, and which is so essential a part of the happiness of those in whom it is strong, that nothing which conflicts with it could be, otherwise than momentarily, an object of desire to them.

Whoever supposes that this preference takes place at a sacrifice of happiness- that the superior being, in anything like equal circumstances, is not happier than the inferior- confounds the two very different ideas, of happiness, and content. It is indisputable that the being whose capacities of enjoyment are low, has the greatest chance of having them fully satisfied; and a highly endowed being will always feel that

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any happiness which he can look for, as the world is constituted, is imperfect. But he can learn to bear its imperfections, if they are at all bearable; and they will not make him envy the being who is indeed unconscious of the imperfections, but only because he feels not at all the good which those imperfections qualify. It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, are a different opinion, it is because they only know their own side of the question. The other party to the comparison knows both sides.

It may be objected, that many who are capable of the higher pleasures, occasionally, under the influence of temptation, postpone them to the lower. But this is quite compatible with a full appreciation of the intrinsic superiority of the higher. Men often, from infirmity of character, make their election for the nearer good, though they know it to be the less valuable; and this no less when the choice is between two bodily pleasures, than when it is between bodily and mental. They pursue sensual indulgences to the injury of health, though perfectly aware that health is the greater good.

It may be further objected, that many who begin with youthful enthusiasm for everything noble, as they advance in years sink into indolence and selfishness. But I do not believe that those who undergo this very common change, voluntarily choose the lower description of pleasures in preference to the higher. I believe that before they devote themselves exclusively to the one, they have already become incapable of the other. Capacity for the nobler feelings is in most natures a very tender plant, easily killed, not only by hostile influences, but by mere want of sustenance; and in the majority of young persons it speedily dies away if the occupations to which their position in life has devoted them, and the society into which it has thrown them, are not favourable to keeping that higher capacity in exercise. Men lose their high aspirations as they lose their intellectual tastes, because they have not time or opportunity for indulging them; and they addict themselves to inferior pleasures, not because they deliberately prefer them, but because they are either the only ones to which they have access, or the only ones which they are any longer capable of enjoying. It may be questioned whether any one who has remained equally susceptible to both classes of pleasures, ever knowingly and calmly preferred the lower; though many, in all ages, have broken down in an ineffectual attempt to combine both.

From this verdict of the only competent judges, I apprehend there can be no appeal. On a question which is the best worth having of two pleasures, or which of two modes of existence is the most grateful to the feelings, apart from its moral attributes and from its consequences, the judgment of those who are qualified by knowledge of both, or, if they differ, that of the majority among them, must be admitted as final. And there needs be the less hesitation to accept this judgment respecting the quality of pleasures, since there is no other tribunal to be referred to even on the question of quantity. What means are there of determining which is the acutest of two pains, or the intensest of two pleasurable sensations, except the general suffrage of those who are familiar with both? Neither pains nor pleasures are homogeneous, and pain is always heterogeneous with pleasure. What is there to decide whether a particular pleasure is worth purchasing at the cost of a particular pain, except the feelings and judgment of the experienced? When, therefore, those feelings and judgment declare the pleasures derived from the higher faculties to be preferable in kind, apart from the question of intensity, to those of which the animal nature, disjoined from the higher faculties, is susceptible, they are entitled on this subject to the same regard.

I have dwelt on this point, as being a necessary part of a perfectly just conception of Utility or Happiness, considered as the directive rule of human conduct. But it is by no means an indispensable condition to the acceptance of the utilitarian standard; for that standard is not the agent's own greatest

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happiness, but the greatest amount of happiness altogether; and if it may possibly be doubted whether a noble character is always the happier for its nobleness, there can be no doubt that it makes other people happier, and that the world in general is immensely a gainer by it. Utilitarianism, therefore, could only attain its end by the general cultivation of nobleness of character, even if each individual were only benefited by the nobleness of others, and his own, so far as happiness is concerned, were a sheer deduction from the benefit. But the bare enunciation of such an absurdity as this last, renders refutation superfluous.

According to the Greatest Happiness Principle, as above explained, the ultimate end, with reference to and for the sake of which all other things are desirable (whether we are considering our own good or that of other people), is an existence exempt as far as possible from pain, and as rich as possible in enjoyments, both in point of quantity and quality; the test of quality, and the rule for measuring it against quantity, being the preference felt by those who in their opportunities of experience, to which must be added their habits of self-consciousness and self-observation, are best furnished with the means of comparison. This, being, according to the utilitarian opinion, the end of human action, is necessarily also the standard of morality; which may accordingly be defined, the rules and precepts for human conduct, by the observance of which an existence such as has been described might be, to the greatest extent possible, secured to all mankind; and not to them only, but, so far as the nature of things admits, to the whole sentient creation...

...I must again repeat, what the assailants of utilitarianism seldom have the justice to acknowledge, that the happiness which forms the utilitarian standard of what is right in conduct, is not the agent's own happiness, but that of all concerned. As between his own happiness and that of others, utilitarianism requires him to be as strictly impartial as a disinterested and benevolent spectator. In the golden rule of Jesus of Nazareth, we read the complete spirit of the ethics of utility. To do as you would be done by, and to love your neighbour as yourself, constitute the ideal perfection of utilitarian morality. As the means of making the nearest approach to this ideal, utility would enjoin, first, that laws and social arrangements should place the happiness, or (as speaking practically it may be called) the interest, of every individual, as nearly as possible in harmony with the interest of the whole; and secondly, that education and opinion, which have so vast a power over human character, should so use that power as to establish in the mind of every individual an indissoluble association between his own happiness and the good of the whole; especially between his own happiness and the practice of such modes of conduct, negative and positive, as regard for the universal happiness prescribes; so that not only he may be unable to conceive the possibility of happiness to himself, consistently with conduct opposed to the general good, but also that a direct impulse to promote the general good may be in every individual one of the habitual motives of action, and the sentiments connected therewith may fill a large and prominent place in every human being's sentient existence. If the, impugners of the utilitarian morality represented it to their own minds in this its, true character, I know not what recommendation possessed by any other morality they could possibly affirm to be wanting to it; what more beautiful or more exalted developments of human nature any other ethical system can be supposed to foster, or what springs of action, not accessible to the utilitarian, such systems rely on for giving effect to their mandates...

Chapter 4 **Of what sort of Proof the Principle of Utility is Susceptible.**

IT HAS already been remarked, that questions of ultimate ends do not admit of proof, in the ordinary acceptation of the term. To be incapable of proof by reasoning is common to all first principles; to the first premises of our knowledge, as well as to those of our conduct. But the former, being matters of fact, may be the subject of a direct appeal to the faculties which judge of fact- namely, our senses, and our internal consciousness. Can an appeal be made to the same faculties on questions of practical ends? Or by what other faculty is cognisance taken of them?

Questions about ends are, in other words, questions what things are desirable. The utilitarian doctrine is, that happiness is desirable, and the only thing desirable, as an end; all other things being only desirable as means to that end. What ought to be required of this doctrine- what conditions is it requisite that the doctrine should fulfil- to make good its claim to be believed?

The only proof capable of being given that an object is visible, is that people actually see it. The only proof that a sound is audible, is that people hear it: and so of the other sources of our experience. In like manner, I apprehend, the sole evidence it is possible to produce that anything is desirable, is that people do actually desire it. If the end which the utilitarian doctrine proposes to itself were not, in theory and in practice, acknowledged to be an end, nothing could ever convince any person that it was so. No reason can be given why the general happiness is desirable, except that each person, so far as he believes it to be attainable, desires his own happiness. This, however, being a fact, we have not only all the proof which the case admits of, but all which it is possible to require, that happiness is a good: that each person's happiness is a good to that person, and the general happiness, therefore, a good to the aggregate of all persons. Happiness has made out its title as one of the ends of conduct, and consequently one of the criteria of morality.

But it has not, by this alone, proved itself to be the sole criterion. To do that, it would seem, by the same rule, necessary to show, not only that people desire happiness, but that they never desire anything else. Now it is palpable that they do desire things which, in common language, are decidedly distinguished from happiness. They desire, for example, virtue, and the absence of vice, no less really than pleasure and the absence of pain. The desire of virtue is not as universal, but it is as authentic a fact, as the desire of happiness. And hence the opponents of the utilitarian standard deem that they have a right to infer that there are other ends of human action besides happiness, and that happiness is not the standard of approbation and disapprobation.

But does the utilitarian doctrine deny that people desire virtue, or maintain that virtue is not a thing to be desired? The very reverse. It maintains not only that virtue is to be desired, but that it is to be desired disinterestedly, for itself. Whatever may be the opinion of utilitarian moralists as to the original conditions by which virtue is made virtue; however they may believe (as they do) that actions and dispositions are only virtuous because they promote another end than virtue; yet this being granted, and it having been decided, from considerations of this description, what is virtuous, they not only place virtue at the very head of the things which are good as means to the ultimate end, but they also recognise as a psychological fact the possibility of its being, to the individual, a good in itself, without looking to any end beyond it; and hold, that the mind is not in a right state, not in a state conformable to Utility, not

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in the state most conducive to the general happiness, unless it does love virtue in this manner- as a thing desirable in itself, even although, in the individual instance, it should not produce those other desirable consequences which it tends to produce, and on account of which it is held to be virtue. This opinion is not, in the smallest degree, a departure from the Happiness principle. The ingredients of happiness are very various, and each of them is desirable in itself, and not merely when considered as swelling an aggregate. The principle of utility does not mean that any given pleasure, as music, for instance, or any given exemption from pain, as for example health, is to be looked upon as means to a collective something termed happiness, and to be desired on that account. They are desired and desirable in and for themselves; besides being means, they are a part of the end. Virtue, according to the utilitarian doctrine, is not naturally and originally part of the end, but it is capable of becoming so; and in those who love it disinterestedly it has become so, and is desired and cherished, not as a means to happiness, but as a part of their happiness.

To illustrate this farther, we may remember that virtue is not the only thing, originally a means, and which if it were not a means to anything else, would be and remain indifferent, but which by association with what it is a means to, comes to be desired for itself, and that too with the utmost intensity. What, for example, shall we say of the love of money? There is nothing originally more desirable about money than about any heap of glittering pebbles. Its worth is solely that of the things which it will buy; the desires for other things than itself, which it is a means of gratifying. Yet the love of money is not only one of the strongest moving forces of human life, but money is, in many cases, desired in and for itself; the desire to possess it is often stronger than the desire to use it, and goes on increasing when all the desires which point to ends beyond it, to be compassed by it, are falling off. It may, then, be said truly, that money is desired not for the sake of an end, but as part of the end. From being a means to happiness, it has come to be itself a principal ingredient of the individual's conception of happiness. The same may be said of the majority of the great objects of human life- power, for example, or fame; except that to each of these there is a certain amount of immediate pleasure annexed, which has at least the semblance of being naturally inherent in them; a thing which cannot be said of money. Still, however, the strongest natural attraction, both of power and of fame, is the immense aid they give to the attainment of our other wishes; and it is the strong association thus generated between them and all our objects of desire, which gives to the direct desire of them the intensity it often assumes, so as in some characters to surpass in strength all other desires. In these cases the means have become a part of the end, and a more important part of it than any of the things which they are means to. What was once desired as an instrument for the attainment of happiness, has come to be desired for its own sake. In being desired for its own sake it is, however, desired as part of happiness. The person is made, or thinks he would be made, happy by its mere possession; and is made unhappy by failure to obtain it. The desire of it is not a different thing from the desire of happiness, any more than the love of music, or the desire of health. They are included in happiness. They are some of the elements of which the desire of happiness is made up. Happiness is not an abstract idea, but a concrete whole; and these are some of its parts. And the utilitarian standard sanctions and approves their being so. Life would be a poor thing, very ill provided with sources of happiness, if there were not this provision of nature, by which things originally indifferent, but conducive to, or otherwise associated with, the satisfaction of our primitive desires, become in themselves sources of pleasure more valuable than the primitive pleasures, both in permanency, in the space of human existence that they are capable of covering, and even in intensity.

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Virtue, according to the utilitarian conception, is a good of this description. There was no original desire of it, or motive to it, save its conduciveness to pleasure, and especially to protection from pain. But through the association thus formed, it may be felt a good in itself, and desired as such with as great intensity as any other good; and with this difference between it and the love of money, of power, or of fame, that all of these may, and often do, render the individual noxious to the other members of the society to which he belongs, whereas there is nothing which makes him so much a blessing to them as the cultivation of the disinterested love of virtue. And consequently, the utilitarian standard, while it tolerates and approves those other acquired desires, up to the point beyond which they would be more injurious to the general happiness than promotive of it, enjoins and requires the cultivation of the love of virtue up to the greatest strength possible, as being above all things important to the general happiness. It results from the preceding considerations, that there is in reality nothing desired except happiness.

Whatever is desired otherwise than as a means to some end beyond itself, and ultimately to happiness, is desired as itself a part of happiness, and is not desired for itself until it has become so.

For Review and Discussion:

1. What is the “Greatest Happiness Principle”? Do you think it is right?
2. Why does Mill think pleasure is all that matters in morality? Do you think he’s right?
3. What actions are moral actions according to a utilitarian? Is the color of your socks something you must consider in an important moral way?

21 Utilitarianism: Pros and Cons

B.M. Wooldridge¹

Consequentialism is a general moral theory that tells us that, in any given situation, we should perform those actions that lead to better overall consequences. There are generally two branches of Consequentialism: Hedonism, which tells us that the consequences we should pursue should be ‘pleasurable’ consequences, and Utilitarianism, which tells us that the consequences we should pursue should be ‘happy’ consequences. The focus of this paper will be on Utilitarianism, as this is undoubtedly the most popular form of consequentialist theories. John Stuart Mill, one of the foremost Utilitarian moral theorists, sums up Utilitarianism as follows: “actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness.”²

Any account of Utilitarianism will have two central tenets. First, Utilitarians are focused on states of affairs, which means that Utilitarianism is concerned with the result, or consequences, of one’s actions, and disregards other features like one’s motives or reasons for acting. One might have good motives or reasons for performing a certain action, but an action is only considered morally good for a Utilitarian if it maximizes the consequences, or happiness, of a given situation. Secondly, Utilitarians emphasize that agents are to be neutral in making their decisions. What this means is that under Utilitarianism, everyone counts for the same, and nobody counts for more than anybody else. Friends, family members, significant others, and anyone else important to you counts just the same as a complete stranger when making a moral decision.

On the face of it, this seems like a sensible moral theory. Like any other theory, Utilitarianism has its advantages and disadvantages. In this paper, I will argue that the disadvantages of Utilitarianism far outweigh the advantages. More specifically, I will argue that, despite its initial appeal, there are serious problems with Utilitarianism that render it a problematic moral theory. In what follows, I will consider a thought experiment from Bernard Williams to highlight the advantages and disadvantages of Utilitarianism, followed by a discussion of why Utilitarianism is a problematic moral theory.

To begin, consider the case of George. George has recently completed his PhD in Chemistry, and, like any other PhD candidate, finds it extremely difficult to land a job after completing his degree. George has a family, and his wife works hard to support them. While she is supportive of George, his difficulty finding a job puts a serious strain on their relationship. An older chemist who knows George tells George that he can get him a job in a laboratory. The laboratory pursues research into chemical and biological warfare. George, however, is opposed to chemical and biological warfare, and he therefore cannot accept the job. However, if George refuses the job, it will go to a colleague of George’s who does not have any reservations about chemical and biological warfare. Indeed, if this colleague takes the job, he will pursue the research with great zeal. For what it’s worth, George’s wife is not against chemical

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² John Stuart Mill, “Utilitarianism,” In *Moral Philosophy: A Reader, Fourth Edition*, Ed. Louis Pojman & Peter Tramel (Indianapolis: Hackett Publishing Company, 2009), 158.

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and biological warfare. Should George take the job?³

It seems that a Utilitarian would inform us that George should take the job, for doing so will lead to better overall consequences than turning down the job. In taking the job, George will not perform the research with great enthusiasm. Williams is not clear on whether George will actively sabotage the research, but it can be reasonably assumed that if George takes the job, he will perform his duties in such a way that will minimize the impact that chemical and biological research will have on developing weapons for war. While George will not directly be saving anyone, his work will indirectly lead to the saving of thousands of lives. Indeed, simply taking the job will ensure that someone who has great enthusiasm for chemical and biological warfare does not get the job. So even if George does not directly or indirectly save anyone while performing his duties, he will already have maximized the consequences by preventing someone who would do great harm from getting the job.

This thought experiment is useful in considering the strengths and weaknesses of Utilitarianism. Let us first begin with the strengths of the theory. Perhaps the biggest strength of Utilitarianism is that it is, at least *prima facie*, easier to reach a conclusion under this theory than other theories. That is, Utilitarianism provides us with a clear path for determining which action in a given situation will be the correct one: it is that action that will increase utility. This is in contrast to other moral theories, such as Deontology, which do not always provide a clear answer. Deontology, for example, focuses on the motives or reasons one has for acting, and it can be difficult sometimes to ascertain what one's motives and/or reasons are. Even if one explicitly outlines their motives or reasons, it is not always the case that this is truthful. The consequences of an action, however, do provide us with a clear criterion for what counts as a morally good action. If one's action leads to good, or happy, consequences, then that action is morally permissible. Thus, Utilitarianism is a theory that can easily help us reach decisions.

Relating this to the case of George, George's actions can be judged on whether they will lead to better consequences. In this case, his action will lead to good consequences, albeit indirectly. In accepting the job, George prevents someone else who might indirectly harm others by promoting chemical and biological warfare from getting the job. Consider, for a moment, if we judged this action not on the consequences, but rather on the reasons or motives for acting. Suppose George accepts the job because he is motivated to end chemical and biological warfare, or that his reason for taking the job is to help support his family. While these reasons might be noble ones, we cannot be clear on whether these are actually the motives/reasons that George has. Motives and reasons, in other words, are not as clearly accessible as the consequences of an action.

Another strength of Utilitarianism is its emphasis on neutrality. When making a decision, one is to take a 'God's eye' view of things, and consider everyone equally. This emphasis on neutrality makes Utilitarianism an impartial moral theory, meaning it considers everyone's status and interests as equal. Relating this to the case of George, we see that George needs to assess the situation from a neutral perspective. He should not favour his or his family's interests as opposed to the interests of others who might be impacted by chemical and biological warfare. Even if his wife and family were against chemical and biological warfare, and even considering that George himself is against chemical and biological warfare, he needs to put these interests and considerations aside and make the decision that is best for everyone involved.

While Utilitarianism does have its strengths as a theory, it also has some very serious weaknesses, and in the remainder of this paper I will outline of these weaknesses and argue why I think

³ Bernard Williams, "A Critique of Utilitarianism," in *Utilitarianism: For and Against*, J.J.C. Smart & Bernard Williams (Cambridge: Cambridge University Press, 1973), 98.

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they make Utilitarianism a problematic moral theory.

We can begin by considering the point about neutrality. While Utilitarians will count this as a strength of their theory, it can also be considered a weakness of the theory. In considering everyone equally, Utilitarianism devalues the importance of personal relationships. In some cases, following Utilitarianism will force us to disregard those who are close to us. Suppose, for instance, that George's wife and children, like George, were also against chemical and biological warfare. Utilitarianism will tell us that George should disregard their interests and feelings and perform that action that will increase the consequences. But this seems to be impersonal. The interests, feelings, and desires of George's family should matter more than the interests, feelings, and desires of complete strangers, simply because these people are closer to George. Each of us has special relations to individuals that we work hard to develop, and that, in many cases, help us become better people. To disregard the interests, feelings, and desires of these individuals seems to be wrong.

I should also point out here that while Utilitarians will *consider* everyone equally, this does not mean that they will *treat* everyone equally. Consider another example from Williams. Suppose that there is a racial minority in a society. This minority does not harm anyone else in the society, nor does it do anything particularly good either. However, the other citizens, who make up the majority, have prejudices against this minority, and consider its presence very disagreeable, and proposals are put forward to remove this minority.⁴ Williams is not clear on what would be involved in 'removing' the minority. The removal of the minority need not involve murder, although it could. It might involve, for example, removing them from society by forcing them to leave the society.

It seems that a Utilitarian would be forced to accept that eliminating this minority would increase the happiness for the majority of people, and would therefore be a moral action. But this seems wrong, mainly because removing the minority from society would involve what many people take to be morally evil actions, which is another problem with Utilitarianism. In some cases, Utilitarianism might sanction morally evil actions in order to achieve morally desirable consequences. Removing the minority might involve genocide or mass deportations, both of which seem morally problematic. Killing people simply because they are of a certain race or ethnicity, and/or removing them from a society without just cause, are severe moral violations that any reasonable person could not sanction. The idea here is this: sometimes, in working to achieve the greatest overall consequences, individuals will be forced to do bad things, and these bad things, even if they increase happiness, are still bad. And it is a failing of Utilitarianism that it does not recognize the moral value of labeling these as morally bad actions.

At this point a Utilitarian will surely have something to say. A Utilitarian might respond to the above points as follows. All of the critiques I have offered are focused only on the short-term consequences, and not the long-term consequences. When we focus on the long-term consequences of the above cases, the Utilitarian answer will change. For example, if George takes the job, this might lead to good consequences in the immediate future. But in the long run, it might lead to bad consequences. It might, for example, cause a serious strain on his marriage, and make George unhappy, which will in turn affect his relationships with others. In the racial minority case, while removing the minority might lead to better consequences in the short term, it will lead to worse consequences in the long term. It will, for example, weaken the trust among members of a community, and destabilize the social relations of individuals within that community. In response to this, a Utilitarian might adopt a rule, the general following of which will lead to better long-term consequences. In so doing, a Utilitarian switches the focus from a version of Utilitarianism that is focused on acts, to one that is focused on rules.

⁴ Williams, "A Critique of Utilitarianism," 105.

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This response from a Utilitarian fails, in that it invites more questions than what it does answers. Mainly, just how far into the future should we look when considering the consequences of our actions? Utilitarians do not provide a clear answer to this question. Saying that we should focus on the long-term consequences of an action when the implications of the short-term consequences are troubling seems to be problematic. And, moreover, should we really follow a rule when, in the moment, we can perform an act that will increase the happiness of others? Adopting rule-utilitarianism as a way to respond to these objections seems not only ad-hoc, but also inconsistent with the Utilitarian maxim of increasing the consequences.

Overall, the theory of Utilitarianism, while perhaps initially appealing, seems to have some serious flaws. While the theory of Utilitarianism might help us more easily reach moral conclusions than what other theories do, and while it emphasizes the neutrality of moral agents, it does nonetheless have a tendency to alienate us from those we are closest to, and might require us to perform actions that, under other moral theories, are considered morally problematic. It is for these reasons that Utilitarianism is a problematic moral theory.

For Review and Discussion:

1. What are the benefits of Utilitarianism? Are these benefits enough to convince you that it is the correct moral theory we should follow?
2. What are the drawbacks of Utilitarianism? Are these benefits enough to convince you that it is an incorrect moral theory we should follow?
3. If more happiness is produced by *not* following Utilitarianism, is that what we should do? What does this say about the theory?

22 Existentialism, Genetic Engineering, and the Meaning of Life: The Fifths

Noah Levin¹

I write this letter on behalf of the Fifths to the Ninths so that they may understand our decision. We have decided to fully adopt the Constitution of the Future World, the one that you are to live by, immediately for us all future generations. And, in doing this, are nullifying the Articles of the Journey as our governing documents. Most importantly this means that all planned genetic pairings, genetic selections for offspring, and educational and work placement based on genetic predispositions will be halted immediately, with all citizens of this craft free to mingle and mate with any they so please, birth offspring with or without genetic screenings and selections, and pursue whichever studies and careers they so choose. We, the Fifths, are the generation in the middle; the one with the least connection to solid ground and those generations that have or will touch it. Our great-great-grandparents, the Firsts, set off on this mission and few of us remember any of them directly; you, our great-great-children, will complete the journey, and few of us will remain to partake in your joy. Our choices are limited and those that came before and those that come after are entirely reliant upon our willingness to contribute to your dream. We are not allowed to have any dreams of our own. Indeed, we can't. This voyage was expected to take 247 years and 57 days. As I write this, the vessel has traveled precisely as was predicted and it should complete the journey exactly as expected. We understand the hope that drove the Firsts to embark and leave a dying planet behind, and we have this same hope for your future on a new world light-years away from Earth. It might seem selfish of us to make this decision and turn away from the plan, thereby jeopardizing the mission for everyone. But it is only selfish of us to make this decision if we are not afforded the gift of having any hope of our own. It is this hope, the only hope we can find for ourselves, that has led us to this point.

Our lives were completely planned for us. Many details of our conception were planned 100 years ago when this ship took off: the general time period of our births, the pool of mates that would make up our parents, and the general sets of genes that would be selected for in every single one of us. The Firsts hinged their hopes on their own future progeny carrying out their plans. Without us – and you – their efforts would be for naught. It's a burden for all of us, and one that bears heaviest on us Fifths. Our lives are defined by the voyage; neither by the home left behind nor the one to come. We will only ever know this ship as our home. So how do we come to love and care for homes and planets that will never be ours? To put it bluntly: we don't.

Whether by design or by choice, I do truly love – and am very gifted at – my profession: soil engineer. I have been genetically gifted with an extremely acute sense of smell, which most of the time is more burdensome than beneficial. I can smell and taste every note of every odor and flavor hundreds of times stronger than the average person. To control this, my body was also designed such that there are no communications between my stomach and my brain to warn of danger. Should I ingest something

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dangerous, my stomach cannot ask the rest of my body to release it. It's potentially hazardous, but this danger is worth it for what I can do: I can tell when soils are perfectly fertilized for their chosen crops to grow beautifully. It would seem reasonable to leave this to machines and allow them to maintain the precise chemical balances for plants to grow, but our noses and minds work in complex ways we are often unaware of that allow us to perform the delicate calculations required more expertly than a machine. Our subconscious mind works constantly to learn from the complex data we constantly take in. A machine can also make a mistake, and if no person had the ability to check the resultant product the soil generators put out, entire crops could be lost. My job is one of the most important on the ship, and I am the only one suited to do it. I simply could not choose not to do it without risking everyone and everything, and I cannot condemn you to a similar fate. We all should be able to choose the prisons that will restrict our lives.

On the planet we left and the new planet you will live on, there will be freedom. Freedom to move, to love, to live, to study, to play, to work, and to die as you see fit. We have not been afforded this necessity; freedom is not even a luxury can work toward. Just as those that are imprisoned unjustly, we must fight for what freedom we can find. Our prison was crafted in a dream from hope, whose beginning and end are love: love from the Firsts to you, the Ninths. We have everything provided for us on this ship and we are not imprisoned here out of hate or revenge, but love. And love can create the strongest chains. But this ship is a prison, nonetheless, and our lives are those of slaves. Dryden once wrote, "Oh! Give me liberty! For were ev'n paradise my prison, Still I should long to leap the crystal walls." How true this is.

We have made our decision for the same reason our great-great-grandparents left and for the same feeling you will have when you complete the journey: hope. One cannot hope if one does not grab what little liberty one can. Life is short and humble, and can get its greatest value from contributing to a cause greater than oneself. We are doing that, and we are grateful; but we must be able to do so willingly and on our own terms. Life is what we make of it, and we want to *live*. Sisyphus was condemned to forever roll a rock up the hill, driven to reach the top, but always failing with one step left. Day after day Sisyphus experienced this unending task, his punishment for defying the Gods. It was the worst the punishment the Greeks could come up with, but Camus knew the secret to transforming this hell into heaven: make the task his own, and find pleasure in the punishment itself. "One must imagine Sisyphus happy," if he can do this, Camus mused. We are all luminous cave flies whose life is given to feed their young that will in turn live for the same purpose to feed *their* young in an endless cycle. But if we make the cycle our own and find our own value in it, then life is wonderful and beautiful. We do this not just for ourselves, but for all that follow: the Sixths, the Sevenths, the Eighths, the Ninths, and everyone that will follow in the new world. We must be free to choose so that you are free to choose. I have accepted – even chosen – my place, but I cannot condemn my children to face the same limitations I have faced.

You might have assumed we would be happy, like Sisyphus, in choosing to embrace our fate, especially given that we are provided with everything we need, even a purpose with a goal aimed at a purpose bigger than us. So many spend their lives searching for this, but that search is the real value. I would spend all the money in the world to have one day on solid ground. No; one hour. No; one single minute would be enough to content my heart. It's not about being provided for; it is about being able to use those resources wisely to obtain those things that bring value and meaning into our lives. Because of the decisions of those before us, we had no choices. It was a chain that we could only break for you, the future. We give our own lives to the chain so the Sixths can have their lives for themselves. They can choose to give this freedom to the Sevenths if they please, as well, or they can take it back. That is up to them, but we are giving them the right to *choose* what they want to do.

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We have decided to govern ourselves by the laws and rules in the Constitution for the Future World rather than devise special rules for ourselves. It would be unfair, and we could not come up with something more finely crafted. The guidelines that the Firsts drafted and that the Seconds revised are remarkable, and you were to have the best government mankind has ever devised. We cannot envision a better foundation for the world that comes, and all we want is to live by those rules ourselves. We are not changing anything: we are merely accelerating the freedom that is to be given to you, the Ninths. It is something you and your children will take for granted, but we must steal it if we want it for ourselves. We want Freedom. Liberty. Choice. Failure.

We are uniquely situated in life to best understand its irony: we come from dust and will return to dust, but we all somehow believe the period between holds great importance. Why are our lives lived if not for others? And once those others are gone, as will inevitably and eventually happen, what's the point in any existence? It can only be to *live*. It's as simple as that, and that is all we are asking. No, it's what we are taking: our chance to live. To dare to dream our dreams for ourselves for our short lives. Part of our dreams include you. Indeed, I am going to give everything for you, and I want to. It is my choice, and in order for you to truly live, the choice to live must begin with me. I can understand and appreciate why the Firsts designed my life the ways they did. They wanted to give me the best chances I had to succeed; but in doing this, they undermined my ability to have any genuine success. Success is empty if it's handed to you, regardless of the intention.

I can only hope history looks back on us, and all those that came before, as making the right choices. We hold no ill will toward the Firsts. They sacrificed everything for all of us and bequeathed this sacrifice to us. It is an honorable burden we must bear, but it was not the burden we chose. I know not what the future holds, but I know it will be ours. And yours.

For Review and Discussion:

1. Genetic engineering is closely advancing to the point that we will be able to choose which genes our children will be born with. Would you make use of such technologies if you were going to have a child? Why or why not?
2. Suppose you find out that you were genetically pre-disposed to be the world's best coffee pourer. You could pour 100 cups in a minute to the exact level they needed to be without spilling a drop. Would this influence your future life plans in any way?
3. What gives us meaning in life? Does your answer to this impact your plans for the future in any way?

23 The Solitude of the Self

Elizabeth Cady Stanton¹

The point I wish plainly to bring before you on this occasion is the individuality of each human soul; our Protestant idea, the right of individual conscience and judgment; our republican idea, individual citizenship. In discussing the rights of woman, we are to consider, first, what belongs to her as an individual, in a world of her own, the arbiter of her own destiny, an imaginary Robinson Crusoe, with her woman, Friday, on a solitary island. Her rights under such circumstances are to use all her faculties for her own safety and happiness.

Secondly, if we consider her as a citizen, as a member of a great nation, she must have the same rights as all others members, according to the fundamental principles of our Government.

Thirdly, viewed as a woman, an equal factor in civilization, her rights and duties are still the same—individual happiness and development.

Fourthly, it is only the incidental relations of life, such as mother, wife, sister, daughter, which may involve some special duties and training. . . .

The strongest reason for giving woman all the opportunities for higher education, for the full development of her faculties, her forces of mind and body; for giving her the most enlarged freedom of thought and action; a complete emancipation from all forms of bondage, of custom, dependence, superstition; from all the crippling influences of fear—is the solitude and personal responsibility of her own individual life. The strongest reason why we ask for woman a voice in the government under which she lives; in the religion she is asked to believe; equality in social life, where she is the chief factor; a place in the trades and professions, where she may earn her bread, is because of her birthright to self-sovereignty; because, as an individual, she must rely on herself. No matter how much women prefer to lean, to be protected and supported, nor how much men desire to have them do so, they must make the voyage of life alone, and for safety in an emergency, they must know something of the laws of navigation. To guide our own craft, we must be captain, pilot, engineer; with chart and compass to stand at the wheel; to watch the winds and waves, and know when to take in the sail, and to read the signs in the firmament over all. It matters not whether the solitary voyager is man or woman; nature, having endowed them equally, leaves them to their own skill and judgment in the hour of danger, and, if not equal to the occasion, alike they perish.

To appreciate the importance of fitting every human soul for independent action, think for a moment of the immeasurable solitude of self. We come into the world alone, unlike all who have gone before us, we leave it alone, under circumstances peculiar to ourselves. No mortal ever has been, no mortal ever will be like the soul just launched on the sea of life. There can never again be just such a combination of

¹ From: Stanton, E. C. (1892). *The Solitude of Self. The Woman's Column*, 2–3. This work is in the Public Domain.

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prenatal influences; never again just such environments as make up the infancy, youth and manhood of this one. Nature never repeats herself, and the possibilities of one human soul will never be found in another. No one has ever found two blades of ribbon grass alike, and no one will ever find two human beings alike. Seeing, then, what must be the infinite diversity in human character, we can in a measure appreciate the loss to a nation when any class of the people is uneducated and unrepresented in the government.

We ask for the complete development of every individual, first, for his own benefit and happiness. In fitting out an army, we give each soldier his own knapsack, arms, powder, his blanket, cup, knife, fork and spoon. We provide alike for all their individual necessities; then each man bears his own burden.

Again, we ask complete individual development for the general good; for the consensus of the competent on the whole round of human interests, on all questions of national life; and here each man must bear his share of the general burden. It is sad to see how soon friendless children are left to bear their own burdens, before they can analyze their feelings; before they can even tell their joys and sorrows, they are thrown on their own resources. The great lesson that nature seems to teach us at all ages in self-dependence, self-protection, self-support. . . .

In youth our most bitter disappointments, our brightest hopes and ambitions, are known only to ourselves. Even our friendship and love we never fully share with another; there is something of every passion, in every situation, we conceal. Even so in our triumphs and our defeats. . . .

We ask no sympathy from others in the anxiety and agony of a broken friendship or shattered love. When death sunders our nearest ties, alone we sit in the shadow of our affliction. Alike amid the greatest triumphs and darkest tragedies of life, we walk alone. On the divine heights of human attainment, eulogized and worshipped as a hero or saint, we stand alone. In ignorance, poverty and vice, as a pauper or criminal, alone we starve or steal; alone we suffer the sneers and rebuffs of our fellows; alone we are hunted and hounded through dark courts and alleys, in by-ways and high-ways; alone we stand in the judgment seat; alone in the prison cell we lament our crimes and misfortunes; alone we expiate them on the gallows. In hours like these we realize the awful solitude of individual life, its pains, its penalties, its responsibilities, hours in which the youngest and most helpless are thrown on their own resources for guidance and consolation. Seeing, then, that life must ever be a march and a battle that each soldier must be equipped for his own protection, it is the height of cruelty to rob the individual of a single natural right.

To throw obstacles in the way of a complete education is like putting out the eyes; to deny the rights of property is like cutting off the hands. To refuse political equality is to rob the ostracized of all self-respect; of credit in the market place; of recompense in the world of work, of a voice in choosing those who make and administer the law, a choice in the jury before whom they are tried, and in the judge who decides their punishment. Think of . . . woman's position! Robbed of her natural rights, handicapped by law and custom at every turn, yet compelled to fight her own battles, and in the emergencies of life to fall back on herself for protection. . . .

The young wife and mother, at the head of some establishment, with a kind husband to shield her from the adverse winds of life, with wealth, fortune and position, has a certain harbor of safety, secure against

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the ordinary ills of life. But to manage a household, have a desirable influence in society, keep her friends and the affections of her husband, train her children and servants well, she must have rare common sense, wisdom, diplomacy, and a knowledge of human nature. To do all this, she needs the cardinal virtues and the strong points of character that the most successful statesman possesses. An uneducated woman trained to dependence, with no resources in herself, must make a failure of any position in life. But society says women do not need a knowledge of the world, the liberal training that experience in public life must give, all the advantages of collegiate education; but when for the lack of all this, the woman's happiness is wrecked, alone she bears her humiliation; and the solitude of the weak and the ignorant is indeed pitiable. In the wild chase for the prizes of life, they are ground to powder.

In age, when the pleasures of youth are passed, children grown up, married and gone, the hurry and bustle of life in a measure over, when the hands are weary of active service, when the old arm chair and the fireside are the chosen resorts, then men and women alike must fall back on their own resources. If they cannot find companionship in books, if they have no interest in the vital questions of the hour, no interest in watching the consummation of reforms with which they might have been identified, they soon pass into their dotage. The more fully the faculties of the mind are developed and kept in use, the longer the period of vigor and active interest in all around us continues. If, from a life-long participation in public affairs, a woman feels responsible for the laws regulating our system of education, the discipline of our jails and prisons, the sanitary condition of our private homes, public buildings and thoroughfares, an interest in commerce, finance, our foreign relations, in any or all these questions, her solitude will at least be respectable, and she will not be driven to gossip or scandal for entertainment.

The chief reason for opening to every soul the doors to the whole round of human duties and pleasures is the individual development thus attained, the resources thus provided under all circumstances to mitigate the solitude that at times must come to everyone. . . .

Inasmuch, then, as woman shares equally the joys and sorrows of time and eternity, is it not the height of presumption in man to propose to represent her at the ballot box and the throne of grace, to do her voting in the state, her praying in the church, and to assume the position of high priest at the family altar?

Nothing strengthens the judgment and quickens the conscience like individual responsibility. Nothing adds such dignity to character as the recognition of one's self-sovereignty; the right to an equal place, everywhere conceded—a place earned by personal merit, not an artificial attainment by inheritance, wealth, family and position. Conceding, then, that the responsibilities of life rest equally on man and woman, that their destiny is the same, they need the same preparation for time and eternity. The talk of sheltering woman from the fierce storms of life is the sheerest mockery, for they beat on her from every point of the compass, just as they do on man, and with more fatal results, for he has been trained to protect himself, to resist, and to conquer. Such are the facts in human experience, the responsibilities of individual sovereignty. Rich and poor, intelligent and ignorant, wise and foolish, virtuous and vicious, man and woman; it is ever the same, each soul must depend wholly on itself.

Whatever the theories may be of woman's dependence on man, in the supreme moments of her life, he cannot bear her burdens. Alone she goes to the gates of death to give life to every man that is born into the world; no one can share her fears, no one can mitigate her pangs; and if her sorrow is greater than she can bear, alone she passes beyond the gates into the vast unknown.

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From the mountain-tops of Judea long ago, a heavenly voice bade his disciples, "Bear ye one another's burdens"; but humanity has not yet risen to that point of self-sacrifice; and if ever so willing, how few the burdens are that one soul can bear for another! . . .

So it ever must be in the conflicting scenes of life, in the long, weary march, each one walks alone. We may have many friends, love, kindness, sympathy and charity, to smooth our pathway in everyday life, but in the tragedies and triumphs of human experience, each mortal stands alone.

But when all artificial trammels are removed, and women are recognized as individuals, responsible for their own environments, thoroughly educated for all positions in life they may be called to fill; with all the resources in themselves that liberal thought and broad culture can give; guided by their own conscience and judgment, trained to self-protection, by a healthy development of the muscular system, and skill in the use of weapons and defence; and stimulated to self-support by a knowledge of the business world and the pleasure that pecuniary independence must ever give; when women are trained in this way, they will in a measure be fitted for those hours of solitude that come alike to all, whether prepared or otherwise. As in our extremity we must depend on ourselves, the dictates of wisdom point to complete individual development.

In talking of education, how shallow the argument that each class must be educated for the special work it proposes to do, and that all those faculties not needed in this special work must lie dormant and utterly wither for want of use, when, perhaps, these will be the very faculties needed in life's greatest emergencies! Some say, "Where is the use of drilling girls in the languages, the sciences, in law, medicine, theology. As wives, mothers, housekeepers, cooks, they need a different curriculum from boys who are to fill all positions. The chief cooks in our great hotels and ocean steamers are men. In our large cities, men run the bakeries; they make our bread, cake and pies. They manage the laundries; they are now considered our best milliners and dressmakers. Because some men fill these departments of usefulness, shall we regulate the curriculum in Harvard and Yale to their present necessities? If not, why this talk in our best colleges of a curriculum for girls who are crowding into the trades and professions, teachers in all our public schools, rapidly filling many lucrative and honorable positions in life?" . . .

Women are already the equals of men in the whole realm of thought, in art, science, literature and government. . . . The poetry and novels of the century are theirs, and they have touched the keynote of reform, in religion, politics and social life. They fill the editor's and professor's chair, plead at the bar of justice, walk the wards of the hospital, speak from the pulpit and the platform. Such is the type of womanhood that an enlightened public sentiment welcomes to-day, and such the triumph of the facts of life over the false theories of the past.

Is it, then, consistent to hold the developed woman of this day within the same narrow political limits as the dame with the spinning wheel and knitting needle occupied in the past? No, no! Machinery has taken the labors of woman as well as man on its tireless shoulders; the loom and the spinning wheel are but dreams of the past; the pen, the brush, the easel, the chisel, have taken their places, while the hopes and ambitions of women are essentially changed.

We see reason sufficient in the outer conditions of human beings for individual liberty and development,

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but when we consider the self-dependence of every human soul, we see the need of courage, judgment and the exercise of every faculty of mind and body, strengthened and developed by use, in woman as well as man.

Whatever may be said of man's protecting power in ordinary conditions, amid all the terrible disasters by land and sea, in the supreme moments of danger, alone woman must ever meet the horrors of the situation. The Angel of Death even makes no royal pathway for her. Man's love and sympathy enter only into the sunshine of our lives. In that solemn solitude of self, that links us with the immeasurable and the eternal, each soul lives alone forever. A recent writer says: "I remember once, in crossing the Atlantic, to have gone upon the deck of the ship at midnight, when a dense black cloud enveloped the sky, and the great deep was roaring madly under the lashes of demoniac winds. My feeling was not of danger or fear (which is a base surrender of the immortal soul) but of utter desolation and loneliness; a little speck of life shut in by a tremendous darkness. . . ."

And yet, there is a solitude which each and every one of us has always carried with him, more inaccessible than the ice-cold mountains, more profound than the midnight sea; the solitude of self. Our inner being which we call ourself, no eye nor touch of man or angel has ever pierced. It is more hidden than the caves of the gnome; the sacred adytum of the oracle; the hidden chamber of Eleusinian mystery, for to it only omniscience is permitted to enter.

Such is individual life. Who, I ask you, can take, dare take on himself the rights, the duties, the responsibilities of another human soul?

For Review and Discussion:

1. This work was written in 1892 and was part of a call for equal rights and treatment for women. Are her arguments just as important today as they were then?
2. What are the differences, both explicit and implied, that the author points out between the sexes? Are these differences important? What does this mean about how we should approach education, society, and life in general?
3. Compare this piece to the others in this volume and pick out values that the author points out that are different than the other pieces. Why do you think this is?

24 Game Theory, the Nash Equilibrium, and the Prisoner's Dilemma

Douglas E. Hill¹

Game theory models human interactions. There are a lot of different ways that humans can interact, so there are a lot of different models. We will call these models games. It will help to start by first looking at two person games. In such a game, you and I are dealing with each other. We will assume that each of us is rationally self-interested; that is, that each of us will act to maximize our outcome, payoff, or payout. Of course, people do not always act in this way. Sometimes people act altruistically, for the benefit of others at some cost to themselves. Nonetheless, this will be a useful simplifying assumption.

One common model is the zero-sum game. In such a game, you win as much as I lose, or I lose as much as you win. This is the logic of the poker table, or a sporting match. Being rationally self-interested, I will try to win, and you should try to win, too. In such a game, our interests are diametrically opposed. Since you can only win when I lose, such a game would not allow for cooperation. Such a game only allows for win-lose or lose-win.

But not all interactions, or games are like this. Some games allow for cooperation. In such a game, it is possible for both of us to benefit. Win-win and lose-lose are possible outcomes. An example would be a coordination game. Suppose you and I would each profit (say one dollar each) if we meet, and that we get nothing if we fail to meet. We might meet at the market, or we might meet in the park. In this coordination game, only a dollar is at stake, so let us raise the stakes. Suppose you and I are drivers, going in the opposite direction on a road. Should you drive on the left or on the right? In such games, our interests are perfectly aligned. If we can coordinate on a meeting place we can both profit; if we can coordinate in the driving game we can both live. We would like to set up our society so that cooperative interactions are the rule rather than the exception. We shall see if this is possible.

The Nash Equilibrium

Consider a set of strategies taken by all the players in a game. If for any set of strategies, no individual player can benefit by changing his individual strategy, then that set of strategies forms a Nash-equilibrium. The term Nash-equilibrium applies to the set of strategies taken by all the players, not to any one player's individual strategy. If a player can only do worse by deviating then the equilibrium is strict, if she can do just as well (but no better) then the equilibrium is weak, and if she can do better, then it is not an equilibrium. The Nash-equilibrium is named after John Nash (1928-2015), who proved that every game has at least one Nash-equilibrium.

Take the case where we are driving on the road in opposite directions. How many equilibria does this game have? One equilibrium is where we each drive on our right. As long as we both stick to this,

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we will pass each other safely. If either of us deviates, we are liable to suffer injury or death. Since either of us would do strictly worse by deviating from the drive-on-the-right equilibrium, this equilibrium is strict. Similarly there is an equilibrium where we both drive on our left, also a strict equilibrium. But there is also a third equilibrium where we each randomly choose, so that we drive on each side with a 50% chance. Say we each flip a coin, and drive on the right if it comes up heads, and on the left if it comes up tails. In this case, we have a 50% of safely passing each other, and a 50% chance of getting into an accident. Is this really an equilibrium? Yes, because if this is what I am doing, you cannot do any better by changing. No matter what you do, you will have a 50% chance of avoiding an accident. Because you cannot do any better by changing, this is an equilibrium too. But because you do not do any worse by changing, this is only a weak equilibrium. But it is an equilibrium nonetheless.

This coordination game shows us a few things about Nash equilibria. There is not always a single equilibrium, and just because something is an equilibrium does not mean that it is a desirable outcome. There is the problem of Equilibrium Selection. In the driving game, we both very much want to be on the drive-on-the-left or the drive-on-the-right equilibria. We want to avoid the flip-a-coin-and-hope-for-the-best equilibrium. The problem is that the other two equilibria are equally good, so we may not know which one to choose. In this case, the local custom tells us which equilibrium we should coordinate on. When in Rome, we drive on the right, because that is what the Romans do. But when in London, we drive on the left, because that is what the Londoners do.

John Nash's life is depicted in the movie *A Beautiful Mind* (2001), directed by Ron Howard. This film has a scene meant to illustrate Nash's ideas. In this scene, Nash, portrayed by Russell Crowe, imagines a scene in a bar. Several men are waiting in the bar when in walk several attractive brunette women and one very attractive blonde woman. In the first iteration (as the Nash character imagines), the men all pursue the blonde. But she must reject most of them, who then each pursue a brunette. But the brunettes do not wish to be someone's second choice, so then they also reject each man. So each man (except perhaps one who has won the blonde) finds that his strategy has led him to a bad outcome. So they rethink their strategies, and try again in another iteration. In this case, each man initially approaches a brunette. Each man is happy to have a chance at winning a woman, each brunette is happy to be a man's first choice, and the only one left out is the blonde, who is shocked at being ignored. While we might wish that the film could have come up with an example that treated the women as players rather than outcomes in a game, let us here ask if it illustrated Nash's idea. Did the men find a Nash equilibrium?

While the men found an outcome that was better for most of them than when they all approached the blonde, their new strategies do not form a Nash equilibrium. For a set of strategies to form a Nash-equilibrium, no one can do better by changing. But in this scene, any one of the men could do better by approaching the blonde who was then being ignored. As this scenario is described, a chance at winning the blonde is the biggest prize. As long as she is ignored, there is a better outcome available for someone, so any outcome that leaves her ignored cannot be a Nash-equilibrium. Thus this scene failed to illustrate a Nash-equilibrium. (To be fair to the film, it never says "Nash-equilibrium" in this scene, or anywhere else in the movie. Instead, Crowe as Nash says "governing dynamics".)

The Prisoner's Dilemma

Suppose you and an acquaintance are arrested by the police. They separate you and offer each of you this deal. "We think that you and your friend are accomplices on a serious crime, but we cannot prove it. So we'll offer you this deal: If you testify that your friend committed this crime and he stays silent, we will let you go free right now, and we will sentence him to serve ten years in prison. If you

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both testify against each other, you will each get five years. If you both keep silent, we will hold you as long as we can without charging you, about six months. And we are making this same offer to your friend.” What should you hope for, and what should you do?

You should hope that your acquaintance keeps quiet, and she should hope that you keep quiet. In game theoretic terms, this is known as cooperating, and testifying against your partner is known as defecting. If you both cooperate with each other, you each only get six months in jail. But you can do better. If your partner keeps silent, you could testify against her; that is, you could defect. In this case, you go free, which is a better outcome for you. And what if your partner does not cooperate? What if she defects by testifying against you? In that case, if you keep silent (cooperate), you get ten years in prison. If you testify against her as well (defect), then you only get 5 years. So no matter what she does, you are better off defecting against her. And she can follow the same logic, so no matter what you do, she is better off defecting against you.

So the only Nash-equilibrium in the prisoner’s dilemma is for both of you to defect. This does not mean that this is the best outcome available to you. This equilibrium leads you both to very bad outcome, where each of you spends five years in prison. There is another outcome that is much better for both of you: for you both to cooperate by keeping silent. In that case, you only get six months. If you could somehow agree to this option that gives you your second best result, you can avoid the much worse second worst result. But as long as someone can do better by deviating from this, it is not an equilibrium. And in this case, either of you can do better by defecting. Mutual cooperation is not an equilibrium; the only equilibrium is mutual defection. So following your rational self-interest leads both of you to a very inefficient outcome.

Lest you think that the lesson here is that crime does not pay, I never wrote whether or not you and your acquaintance had actually committed the crime of which you were accused. You are better off testifying against her, and she against you, regardless of whether you actually committed the crime. But the prisoner’s dilemma structure is not limited to accused criminals. Many common human interactions have the structure of the prisoner’s dilemma. Take the example of trade: you have a rare book that you no longer want. I have \$100 which I would gladly pay for the book. The book is worth more than \$100 to me, and less than \$100 to you, so we ought to make a deal. But this simple interaction also has the structure of a prisoner’s dilemma. We both have something that each other wants, and we agree to the exchange. But then you think, maybe I will send you the money and maybe I won’t. If I do not send the money, you would sure hate to have been cheated out of the book. And even if I do send the money, you are still better off with the money and the book. Similarly, I know that maybe you will send the book and maybe you won’t. If you do not send the book, I would sure hate to have been cheated out of the money. And even if you do send the book, I am still better off with the book and the money. Each of us is aware of what the other is thinking, so neither of us honors a deal that would have made us both better off.

Making an agreement works better when we can agree to an equilibrium. A good contract gives no one an incentive to break it. The prisoner’s dilemma, with its single non-cooperative equilibrium, represents a worst-case game. But the scenario models a common trading scenario. Nonetheless, we manage to trade, and find it in our self-interest to do so. Somehow we manage to change the game, and create some cooperative equilibria.

Iterated Prisoner’s Dilemma

Trade flourishes. And we not only trade only out of a moral concern for others; we find it in our best interests to trade. Our way out of the tragic logic of the prisoner’s dilemma lies in the fact that we

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wish to trade again. One is unlikely to make a living, much less get rich, with a single trade. But we trade now with an eye to the future. I am liable to cooperate with you today in the hopes that we will cooperate today *and* in the future. “The shadow of the future” changes the game. Let us think about how we actually manage to make that deal about the book. Are you really better off keeping the book, regardless of what I do? If we expect to trade again in the future, you are better off keeping your end of the bargain, and so am I.

Game theoreticians model this by repeating the game. Each repetition can be called an iteration, stage, or trial. So instead of a single-stage prisoner’s dilemma, we now have a repeated or iterated prisoner’s dilemma. Let us suppose that we will keep playing the prisoners dilemma every day. A dollar today is worth more to us than a dollar tomorrow, so we need to discount the value of that dollar tomorrow. The factor by which we discount the future is called, naturally enough, the discount factor. The discount factor can also be thought of as the probability of another iteration. The mathematics is the same for either interpretation. A famous result called the Folk Theorem says that given a sufficient discount factor (i.e. we sufficiently value the future, or think that additional play is sufficiently likely), then any outcome that we could rationally agree to with a binding contract forms a Nash equilibrium without such a binding contract. This is called the Folk Theorem because game theoreticians assumed it was true (and cited it in their papers) before it was actually proven (involving various technical assumptions).

With the infinitely (or indefinitely) repeated game, an infinite number of equilibria now exist. And “always defect” remains an equilibrium: if you and I both plan to defect on every play, either of us will only do worse by cooperating. But there are now cooperative equilibria as well. But one cannot simply cooperate regardless of the play of the other. The strategy to always cooperate is not an equilibrium, for then one of us could do better by defecting. And consistently defecting against a cooperator gives you your best possible outcome. But we can make our play conditional on each other’s past play.

One popular strategy in the literature is called grim-trigger. In grim-trigger, you start out cooperating, and keep cooperating as long as I cooperate. But as soon as I defect, you defect every play after that. In this strategy, you only get burned once. Once you figure that I’m not a consistent cooperator, you never take a chance on me again. A strategy that has done well in tournaments is tit-for-tat. In tit-for-tat, you start off cooperating, and then henceforth copy the previous play of your partner. So as long as we cooperate with each other, we will keep cooperating. But if you are playing tit-for-tat and I defect against you, I will have to cooperate with you, while you defect against me, to get you to cooperate again. The loss that I take from having you defect against me can be regarded as a penalty or punishment.

Many other strategies have been tried in tournaments and simulations. And in the infinitely repeated game, there are an infinite number of equilibria. So equilibrium selection becomes a problem. But cooperative strategies generally form equilibria with each other: if you are playing grim-trigger, and I am playing tit-for-tat, and we both sufficiently value the possibility of future play, then we will keep cooperating and neither of us can do any better with a different strategy. But non-cooperative strategies also form equilibria with each other. If you start off defecting and then repeat my previous play (we could call this suspicious-tit-for-tat), and I always defect, then we will keep defecting against each other, and either of us will do worse if we change to a strategy that has us cooperate.

One of these cooperative strategies may get us to cooperate if you and I expect to repeatedly trade with each other. But what if you and I are unlikely to trade again? One possibility is that rational cooperation may not be possible. Since we do not expect to do business again in the future, we are too

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tempted to defect against one another today. This is why you are more likely to be cheated by a business that caters to tourists than by a business in your home town. The business in your home town knows that your repeat business is more likely if it treats you well now. The tourist trap knows that your repeat business is unlikely regardless of how it treats you. In a sufficiently small community, traders may know each other, and know who has a reputation for fair dealing, and who has a reputation for defecting. In this case you could defect against the defectors you know, and (assuming that you want to keep trading), cooperate with the cooperators you know.

But human ingenuity has found ways to extend reputation to larger communities. Think again about the case where you want to sell a book, and I want to buy it. If we are trading on a website such as eBay or Amazon, you are liable to report my failure to send the money, and I am liable to report your failure to send the book. Future traders will learn about this, and will hurt our reputations for future trading. If either of us wants to do business in the future, we will find it in our interest to honor our deal today. In this case the website that records our history acts as an institution that expands the possibility of future deals. As long as we expect to play again with someone (not necessarily the same player), we may sufficiently value the future to cooperate today.

Similarly, if a bank loans you money, you might be tempted not to pay. For a large loan, the bank will have some collateral: typically the car or house that you borrowed the money for. If you do not repay, the bank will repossess the collateral. But for a small loan, a bank may not hold any collateral, and if you do not repay, may decide that it is not worth it to try to collect. Nonetheless you will usually still find it in your interest to repay. If you do not, the bank will report this unpaid debt to a credit bureau. And then you will find it difficult to borrow money in the future, as other banks will ask the credit bureau about you before loaning you money.

Institutional solutions such as eBay and credit bureaus have other advantages over popular strategies such as grim-trigger or tit-for-tat. There are an infinite number of equilibria, and we might worry that we are stuck on a non-cooperative equilibrium. But the institution could not exist if traders did not find it in their interest to use it. So they signal that there is a cooperative equilibrium. And such institutions are robust to errors. In tit-for-tat, if you are mistakenly thought to have defected, you will be defected against, in a continuing cycle, until this is corrected by another error. In grim-trigger, if you are mistakenly thought to have defected, you are never cooperated with again. But as long as the error rates of a reputation reporting institution, such as a credit bureau, are sufficiently low, traders can find it in their interest to cooperate, and pay any penalties, even if they are mistaken.

So when the prisoner's dilemma scenario is repeated, cooperative equilibria are possible. But cooperation is not guaranteed, as non-cooperative equilibria remain. And we may quite rationally fear that we are stuck on such a non-cooperative equilibrium. Non-cooperation is always an equilibrium, and may be the only equilibrium. Having and maintaining a cooperative equilibrium depends on many things, including sufficiently valuing future trading prospects, and some indication that we are on a cooperative equilibrium. Institutions like credit bureaus and eBay can make future prospects more likely and signal a cooperative equilibrium. But cooperation, and reputation that can make it possible, are fragile. Benjamin Franklin recognized this when he wrote "Glass, China and Reputation are easily cracked, and never well mended."

The Tragedy of the Commons

We need not limit games to two players. A scenario with the structure of the prisoner's dilemma, extended to many players, is called the tragedy of the commons. Named by Garrett Hardin (1915-2003), it is based on the following scenario: A number of ranchers keep their herds (say of cattle or sheep) in

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their barns, but there is a common field, the commons, that they graze on. The commons is a renewable resource that can regenerate itself if it is not overgrazed. And at one point, the commons is sufficient to feed all the animals. But then each rancher thinks, “I can be a little richer if I herd a few more animals; after all, if no one else does this, the commons can easily handle my few additional grazers. And if everyone else grazes more, I want to get a bit more before the commons is destroyed.” But then every rancher reasons the same way, and the commons is overgrazed and destroyed. This has the same structure as the prisoner’s dilemma: you cooperate by keeping your herd small, and you defect (against the other herders) by increasing your herd. Everyone is better off if they can all cooperate, but each herder is better off with more animals, no matter what the other herders do.

Many ecological problems, such as overfishing, have this structure. Every fisherman wants an ample stock of fish in the sea, but every fisherman is tempted to catch a few more fish. Each fisherman thinks “If no one else overfishes, the stock of fish can spare a few more for me. And if everyone else overfishes, I want to get a few more fish while there are still fish to be caught.” And as a result, the fish may be wiped out, or severely depleted, when if the fishermen could have limited their catch, they could have left enough fish to reproduce and provide fish forever. In these tragedies of the commons, the individual rancher or fisherman gets the benefit of the extra animals, but the cost is borne by the whole community that uses the commons.

One possibility is that the commons is doomed. Rather than being held in common, such a resource cannot be shared and so must be owned by someone, such as an individual, corporate entity, or government, who is responsible for it. This would be bad news, since some resources (like a field or fishing zone) could be plausibly owned and managed by some authority, but other larger shared resources, such as the oceans or the air, could not. However, Elinor Ostrom (1933-2012) won the 2009 Nobel Prize in Economics for showing how many communities have long solved problems with Tragedy of the Commons structures. Ostrom observed that local communities have come up with local solutions: successful arrangements to share the commons have in common low-cost dispute resolution, with the users of the commons themselves creating and modifying the rules, among other principles. Well-meaning authorities from the outside have sometimes messed up local arrangements that had been working well. Again, human ingenuity has found ways to change the structure of the game to make cooperation possible, saving the commons.

A Cautiously Optimistic Conclusion

Two competing views of human nature come from the French/Swiss philosopher Jean-Jacques Rousseau (1712-1778), and the English philosopher Thomas Hobbes (1588-1679). Both look back to imagine the primitive state of humanity before civilization. Rousseau’s positive image is the “Noble Savage”; he writes “nothing is more gentle than man in his primitive state”. Hobbes’ cynical image is the “State of Nature” which consists of the “war of all against all” where life is “solitary, poor, nasty, brutish and short.” If Rousseau is right, then cooperation should come naturally. Modernity has corrupted us to now care too much about our own interests, so we somehow must restore ourselves to a state closer to the Noble Savage. If Hobbes is right, then defection will come naturally, and we will have to work to make cooperation possible.

Rousseau and Hobbes did not have the archeological evidence to settle their dispute. But we do, and Harvard psychologist Steven Pinker summarizes this evidence in his books *The Blank Slate* and *The Better Angels of our Nature*. Alas, he finds that “man in his primitive state” lived with a shockingly high rate of violence. Pinker bluntly concludes “Hobbes was right, Rousseau was wrong.” We should not be

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surprised. The difficulty comes from the structure of some common interactions, interactions that even a Noble Savage would have faced.

Hobbes' solution was to institute an absolute sovereign: we form a social contract to make one of us the dictator who will create and enforce the law, taking us out of the violent State of Nature. This absolute dictator, the sovereign, will make us cooperate. He will impose penalties on defectors so that it will no longer be in their interests to cheat. Defecting will no longer be an equilibrium. Looking at the history of dictators since Hobbes' time, we might be forgiven for our reluctance to institute this option.

Hobbes was an astute analyst of human conflict, able to reason how early humans must have lived. But we need not follow Hobbes all the way to his conclusion. We have seen several cases above where people have worked out cooperative equilibria with much less force, without having to invest so much power in one person. Credit bureaus and eBay, without any police power, create systems where most people find it in their interests to pay their debts and honor their deals. Ostrom documents that many communities, without the power of the states they are part of, made it in their interests to share and maintain the commons.

So to create a better society, we must continue to find cooperative equilibria. Societies that have asked their people to act out of equilibrium, against their own interests, experienced poverty and horrors as their people let them down again and again. Societies that have created cooperative equilibria have prospered, because when people find it in their own interests to benefit others, they naturally do so.

Ironically, Hobbes' pessimistic view of human nature leaves us with a conditionally hopeful conclusion. Human ingenuity has found ways to change the structures of these games, to create cooperate equilibria, generally without the heavy hand of the state (which has often made things worse). But the non-cooperative solutions in general remain equilibria, so cooperation is fragile and not inevitable. The past was awful, but the world has gotten better as we have solved more problems. And as long as we continue to solve more problems, to create and coordinate on cooperative equilibria, the future looks bright.²

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² Thanks to Kristin Seemuth Whaley and Noah Levin for their helpful comments on this essay. Thanks to my wife for her insight and support. Any errors or omissions belong to the author alone.

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For Review and Discussion:

1. What is a Nash equilibrium?
2. What is the prisoner's dilemma?
3. How do we avoid being trapped in a prisoner's dilemma?

UNIT FIVE: RELIGION, LAW, AND ABSOLUTE MORALITY

This final Unit finishes where many might want to begin this work: religion and classical moral theories that offer a general take on how morality should work. Very early in this work I explained why I included these last: I believe you (the students new to Ethics) were ill-suited to study these, having rarely deeply confronted your own moral sentiments before. By finally gaining a deep appreciation of your own moral leanings and why you have them, you are in a good place to now understand the general ways you can go about doing ethics and analyzing where it all comes from. Is God important for morality? Can we figure out moral principles for ourselves? Do we use reason to do morality – and, if so, what’s the goal of our moral reasoning?

Chapter 25, *The Myth of Gyges and The Crito* by Plato, contains two classic selections from the works of Plato (which include healthy doses of Socrates) that discuss why we should care about doing the morally right things at all. Chapter 26, *God, Morality, and Religion* by Kristin Seemuth Whaley, analyzes the relationship between God and morality and where right and wrong might come from. Chapter 27, *The Categorical Imperative* by Immanuel Kant, includes a classic and important selection from this influential philosopher where he lays out some of the basic principles and implications of his deontological moral theory (that is, a moral system based on following rules and having proper intentions). Chapter 28, *The Virtues* by Aristotle, is an important selection from the incomparable philosopher’s explanation of the basic components of his moral theory of virtue ethics. Chapter 29, *Beyond Good and Evil* by Friedrich Nietzsche, presents some of the philosopher’s critique of traditional morality. Chapter 30, *Other Moral Theories: Subjectivism, Relativism, Emotivism, Intuitionism, etc.* by Jan Franciszek Jacko, describes how metaethics helps us do normative ethics through examining a variety of moral theories that might not have been apparent in the other chapters in this work.

25 The Myth of Gyges and The Crito

Plato¹

The Myth of Gyges

The Republic Book III

[Glaucou is speaking to Socrates on the topic of justice]

...They say that to do injustice is, by nature, good; to suffer injustice, evil; but that the evil is greater than the good. And so when men have both done and suffered injustice and have had experience of both, not being able to avoid the one and obtain the other, they think that they had better agree among themselves to have neither; hence there arise laws and mutual covenants; and that which is ordained by law is termed by them lawful and just. This they affirm to be the origin and nature of justice; --it is a mean or compromise, between the best of all, which is to do injustice and not be punished, and the worst of all, which is to suffer injustice without the power of retaliation; and justice, being at a middle point between the two, is tolerated not as a good, but as the lesser evil, and honoured by reason of the inability of men to do injustice. For no man who is worthy to be called a man would ever submit to such an agreement if he were able to resist; he would be mad if he did. Such is the received account, Socrates, of the nature and origin of justice.

Now that those who practise justice do so involuntarily and because they have not the power to be unjust will best appear if we imagine something of this kind: having given both to the just and the unjust power to do what they will, let us watch and see whither desire will lead them; then we shall discover in the very act the just and unjust man to be proceeding along the same road, following their interest, which all natures deem to be their good, and are only diverted into the path of justice by the force of law. The liberty which we are supposing may be most completely given to them in the form of such a power as is said to have been possessed by Gyges the ancestor of Croesus the Lydian. According to the tradition, Gyges was a shepherd in the service of the king of Lydia; there was a great storm, and an earthquake made an opening in the earth at the place where he was feeding his flock. Amazed at the sight, he descended into the opening, where, among other marvels, he beheld a hollow brazen horse, having doors, at which he stooping and looking in saw a dead body of stature, as appeared to him, more than human, and having nothing on but a gold ring; this he took from the finger of the dead and reascended. Now the shepherds met together, according to custom, that they might send their monthly report about the flocks to the king; into their assembly he came having the ring on his finger, and as he was sitting among them he chanced to turn the collet of the ring inside his hand, when instantly he became invisible to the rest of the company and they began to speak of him as if he were no longer present. He was

¹ From: Plato. (1910). *The Republic* (B. Jowett, Trans). (Original work published circa 360 BCE); Plato. (1892). *Euthyphro* (B. Jowett, Trans). (Original work published circa 360 BCE); Plato. (1900). *Crito* (B. Jowett, Trans). (Original work published circa 360 BCE). These works are in the Public Domain.

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astonished at this, and again touching the ring he turned the collet outwards and reappeared; he made several trials of the ring, and always with the same result-when he turned the collet inwards he became invisible, when outwards he reappeared. Whereupon he contrived to be chosen one of the messengers who were sent to the court; where as soon as he arrived he seduced the queen, and with her help conspired against the king and slew him, and took the kingdom. Suppose now that there were two such magic rings, and the just put on one of them and the unjust the other; no man can be imagined to be of such an iron nature that he would stand fast in justice. No man would keep his hands off what was not his own when he could safely take what he liked out of the market, or go into houses and lie with any one at his pleasure, or kill or release from prison whom he would, and in all respects be like a God among men. Then the actions of the just would be as the actions of the unjust; they would both come at last to the same point. And this we may truly affirm to be a great proof that a man is just, not willingly or because he thinks that justice is any good to him individually, but of necessity, for wherever any one thinks that he can safely be unjust, there he is unjust. For all men believe in their hearts that injustice is far more profitable to the individual than justice, and he who argues as I have been supposing, will say that they are right. If you could imagine any one obtaining this power of becoming invisible, and never doing any wrong or touching what was another's, he would be thought by the lookers-on to be a most wretched idiot, although they would praise him to one another's faces, and keep up appearances with one another from a fear that they too might suffer injustice. Enough of this.

Now, if we are to form a real judgment of the life of the just and unjust, we must isolate them; there is no other way; and how is the isolation to be effected? I answer: Let the unjust man be entirely unjust, and the just man entirely just; nothing is to be taken away from either of them, and both are to be perfectly furnished for the work of their respective lives. First, let the unjust be like other distinguished masters of craft; like the skilful pilot or physician, who knows intuitively his own powers and keeps within their limits, and who, if he fails at any point, is able to recover himself. So let the unjust make his unjust attempts in the right way, and lie hidden if he means to be great in his injustice (he who is found out is nobody): for the highest reach of injustice is: to be deemed just when you are not. Therefore I say that in the perfectly unjust man we must assume the most perfect injustice; there is to be no deduction, but we must allow him, while doing the most unjust acts, to have acquired the greatest reputation for justice. If he have taken a false step he must be able to recover himself; he must be one who can speak with effect, if any of his deeds come to light, and who can force his way where force is required his courage and strength, and command of money and friends. And at his side let us place the just man in his nobleness and simplicity, wishing, as Aeschylus says, to be and not to seem good. There must be no seeming, for if he seem to be just he will be honoured and rewarded, and then we shall not know whether he is just for the sake of justice or for the sake of honours and rewards; therefore, let him be clothed in justice only, and have no other covering; and he must be imagined in a state of life the opposite of the former. Let him be the best of men, and let him be thought the worst; then he will have been put to the proof; and we shall see whether he will be affected by the fear of infamy and its consequences. And let him continue thus to the hour of death; being just and seeming to be unjust. When both have reached the uttermost extreme, the one of justice and the other of injustice, let judgment be given which of them is the happier of the two...

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Crito

[Crito comes to visit Socrates while he is in prison awaiting a sentence of death for his conviction on charges of corrupting the youth of Athens.]

...

Crito. Fear not. There are persons who at no great cost are willing to save you and bring you out of prison; and as for the informers, you may observe that they are far from being exorbitant in their demands; a little money will satisfy them. My means, which, as I am sure, are ample, are at your service, and if you have a scruple about spending all mine, here are strangers who will give you the use of theirs; and one of them, Simmias the Theban, has brought a sum of money for this very purpose; and Cebes and many others are willing to spend their money too. I say, therefore, do not on that account hesitate about making your escape, and do not say, as you did in the court, that you will have a difficulty in knowing what to do with yourself if you escape. For men will love you in other places to which you may go, and not in Athens only; there are friends of mine in Thessaly, if you like to go to them, who will value and protect you, and no Thessalian will give you any trouble. Nor can I think that you are justified, Socrates, in betraying your own life when you might be saved; this is playing into the hands of your enemies and destroyers; and moreover I should say that you were betraying your children; for you might bring them up and educate them; instead of which you go away and leave them, and they will have to take their chance; and if they do not meet with the usual fate of orphans, there will be small thanks to you. No man should bring children into the world who is unwilling to persevere to the end in their nurture and education. But you are choosing the easier part, as I think, not the better and manlier, which would rather have become one who professes virtue in all his actions, like yourself. And, indeed, I am ashamed not only of you, but of us who are your friends, when I reflect that this entire business of yours will be attributed to our want of courage. The trial need never have come on, or might have been brought to another issue; and the end of all, which is the crowning absurdity, will seem to have been permitted by us, through cowardice and baseness, who might have saved you, as you might have saved yourself, if we had been good for anything (for there was no difficulty in escaping); and we did not see how disgraceful, Socrates, and also miserable all this will be to us as well as to you. Make your mind up then, or rather have your mind already made up, for the time of deliberation is over, and there is only one thing to be done, which must be done, if at all, this very night, and which any delay will render all but impossible; I beseech you therefore, Socrates, to be persuaded by me, and to do as I say.

Socrates. Dear Crito, your zeal is invaluable, if a right one; but if wrong, the greater the zeal the greater the evil; and therefore we ought to consider whether these things shall be done or not. For I am and always have been one of those natures who must be guided by reason, whatever the reason may be which upon reflection appears to me to be the best; and now that this fortune has come upon me, I cannot put away the reasons which I have before given: the principles which I have hitherto honored and revered I still honor, and unless we can find other and better principles on the instant, I am certain not to agree with you; no, not even if the power of the multitude could inflict many more imprisonments, confiscations, deaths, frightening us like children with hobgoblin terrors. But what will be the fairest way of considering the question? Shall I return to your old argument about the opinions of men, some of which are to be regarded, and others, as we were saying, are not to be regarded? Now were we right in maintaining this before I was condemned? And has the argument which was once good now proved to be talk for the sake of talking; in fact an amusement only, and altogether vanity? That is what I want to

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consider with your help, Crito: whether, under my present circumstances, the argument appears to be in any way different or not; and is to be allowed by me or disallowed. That argument, which, as I believe, is maintained by many who assume to be authorities, was to the effect, as I was saying, that the opinions of some men are to be regarded, and of other men not to be regarded. Now you, Crito, are a disinterested person who are not going to die to-morrow- at least, there is no human probability of this, and you are therefore not liable to be deceived by the circumstances in which you are placed. Tell me, then, whether I am right in saying that some opinions, and the opinions of some men only, are to be valued, and other opinions, and the opinions of other men, are not to be valued. I ask you whether I was right in maintaining this?

Cr. Certainly.

Soc. The good are to be regarded, and not the bad?

Cr. Yes.

Soc. And the opinions of the wise are good, and the opinions of the unwise are evil?

Cr. Certainly.

Soc. And what was said about another matter? Was the disciple in gymnastics supposed to attend to the praise and blame and opinion of every man, or of one man only- his physician or trainer, whoever that was?

Cr. Of one man only.

Soc. And he ought to fear the censure and welcome the praise of that one only, and not of the many?

Cr. That is clear.

Soc. And he ought to live and train, and eat and drink in the way which seems good to his single master who has understanding, rather than according to the opinion of all other men put together?

Cr. True.

Soc. And if he disobeys and disregards the opinion and approval of the one, and regards the opinion of the many who have no understanding, will he not suffer evil?

Cr. Certainly he will.

Soc. And what will the evil be, whither tending and what affecting, in the disobedient person?

Cr. Clearly, affecting the body; that is what is destroyed by the evil.

Soc. Very good; and is not this true, Crito, of other things which we need not separately enumerate? In

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the matter of just and unjust, fair and foul, good and evil, which are the subjects of our present consultation, ought we to follow the opinion of the many and to fear them; or the opinion of the one man who has understanding, and whom we ought to fear and reverence more than all the rest of the world: and whom deserting we shall destroy and injure that principle in us which may be assumed to be improved by justice and deteriorated by injustice; is there not such a principle?

Cr. Certainly there is, Socrates.

Soc. Take a parallel instance; if, acting under the advice of men who have no understanding, we destroy that which is improvable by health and deteriorated by disease- when that has been destroyed, I say, would life be worth having? And that is- the body?

Cr. Yes.

Soc. Could we live, having an evil and corrupted body?

Cr. Certainly not.

Soc. And will life be worth having, if that higher part of man be depraved, which is improved by justice and deteriorated by injustice? Do we suppose that principle, whatever it may be in man, which has to do with justice and injustice, to be inferior to the body?

Cr. Certainly not.

Soc. More honored, then?

Cr. Far more honored.

Soc. Then, my friend, we must not regard what the many say of us: but what he, the one man who has understanding of just and unjust, will say, and what the truth will say. And therefore you begin in error when you suggest that we should regard the opinion of the many about just and unjust, good and evil, honorable and dishonorable. Well, someone will say, "But the many can kill us."

Cr. Yes, Socrates; that will clearly be the answer.

Soc. That is true; but still I find with surprise that the old argument is, as I conceive, unshaken as ever. And I should like to know Whether I may say the same of another proposition- that not life, but a good life, is to be chiefly valued?

Cr. Yes, that also remains.

Soc. And a good life is equivalent to a just and honorable one- that holds also?

Cr. Yes, that holds.

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Soc. From these premises I proceed to argue the question whether I ought or ought not to try to escape without the consent of the Athenians: and if I am clearly right in escaping, then I will make the attempt; but if not, I will abstain. The other considerations which you mention, of money and loss of character, and the duty of educating children, are, I fear, only the doctrines of the multitude, who would be as ready to call people to life, if they were able, as they are to put them to death- and with as little reason. But now, since the argument has thus far prevailed, the only question which remains to be considered is, whether we shall do rightly either in escaping or in suffering others to aid in our escape and paying them in money and thanks, or whether we shan not do rightly; and if the latter, then death or any other calamity which may ensue on my remaining here must not be allowed to enter into the calculation.

Cr. I think that you are right, Socrates; how then shall we proceed?

Soc. Let us consider the matter together, and do you either refute me if you can, and I will be convinced; or else cease, my dear friend, from repeating to me that I ought to escape against the wishes of the Athenians: for I am extremely desirous to be persuaded by you, but not against my own better judgment. And now please to consider my first position, and do your best to answer me.

Cr. I will do my best.

Soc. Are we to say that we are never intentionally to do wrong, or that in one way we ought and in another way we ought not to do wrong, or is doing wrong always evil and dishonorable, as I was just now saying, and as has been already acknowledged by us? Are all our former admissions which were made within a few days to be thrown away? And have we, at our age, been earnestly discoursing with one another all our life long only to discover that we are no better than children? Or are we to rest assured, in spite of the opinion of the many, and in spite of consequences whether better or worse, of the truth of what was then said, that injustice is always an evil and dishonor to him who acts unjustly? Shall we affirm that?

Cr. Yes.

Soc. Then we must do no wrong?

Cr. Certainly not.

Soc. Nor when injured injure in return, as the many imagine; for we must injure no one at all?

Cr. Clearly not.

Soc. Again, Crito, may we do evil?

Cr. Surely not, Socrates.

Soc. And what of doing evil in return for evil, which is the morality of the many-is that just or not?

Cr. Not just.

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Soc. For doing evil to another is the same as injuring him?

Cr. Very true.

Soc. Then we ought not to retaliate or render evil for evil to anyone, whatever evil we may have suffered from him. But I would have you consider, Crito, whether you really mean what you are saying. For this opinion has never been held, and never will be held, by any considerable number of persons; and those who are agreed and those who are not agreed upon this point have no common ground, and can only despise one another, when they see how widely they differ. Tell me, then, whether you agree with and assent to my first principle, that neither injury nor retaliation nor warding off evil by evil is ever right. And shall that be the premise of our agreement? Or do you decline and dissent from this? For this has been of old and is still my opinion; but, if you are of another opinion, let me hear what you have to say. If, however, you remain of the same mind as formerly, I will proceed to the next step.

Cr. You may proceed, for I have not changed my mind.

Soc. Then I will proceed to the next step, which may be put in the form of a question: Ought a man to do what he admits to be right, or ought he to betray the right?

Cr. He ought to do what he thinks right.

Soc. But if this is true, what is the application? In leaving the prison against the will of the Athenians, do I wrong any? or rather do I not wrong those whom I ought least to wrong? Do I not desert the principles which were acknowledged by us to be just? What do you say?

Cr. I cannot tell, Socrates, for I do not know.

Soc. Then consider the matter in this way: Imagine that I am about to play truant (you may call the proceeding by any name which you like), and the laws and the government come and interrogate me: "Tell us, Socrates," they say; "what are you about? are you going by an act of yours to overturn us- the laws and the whole State, as far as in you lies? Do you imagine that a State can subsist and not be overthrown, in which the decisions of law have no power, but are set aside and overthrown by individuals?" What will be our answer, Crito, to these and the like words? Anyone, and especially a clever rhetorician, will have a good deal to urge about the evil of setting aside the law which requires a sentence to be carried out; and we might reply, "Yes; but the State has injured us and given an unjust sentence." Suppose I say that?

Cr. Very good, Socrates.

Soc. "And was that our agreement with you?" the law would say, "or were you to abide by the sentence of the State?" And if I were to express astonishment at their saying this, the law would probably add: "Answer, Socrates, instead of opening your eyes: you are in the habit of asking and answering questions. Tell us what complaint you have to make against us which justifies you in attempting to destroy us and the State? In the first place did we not bring you into existence? Your father married your mother by our aid and begat you. Say whether you have any objection to urge against those of us who regulate

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marriage?" None, I should reply. "Or against those of us who regulate the system of nurture and education of children in which you were trained? Were not the laws, who have the charge of this, right in commanding your father to train you in music and gymnastic?" Right, I should reply. "Well, then, since you were brought into the world and nurtured and educated by us, can you deny in the first place that you are our child and slave, as your fathers were before you? And if this is true you are not on equal terms with us; nor can you think that you have a right to do to us what we are doing to you. Would you have any right to strike or revile or do any other evil to a father or to your master, if you had one, when you have been struck or reviled by him, or received some other evil at his hands?- you would not say this? And because we think right to destroy you, do you think that you have any right to destroy us in return, and your country as far as in you lies? And will you, O professor of true virtue, say that you are justified in this? Has a philosopher like you failed to discover that our country is more to be valued and higher and holier far than mother or father or any ancestor, and more to be regarded in the eyes of the gods and of men of understanding? also to be soothed, and gently and reverently entreated when angry, even more than a father, and if not persuaded, obeyed? And when we are punished by her, whether with imprisonment or stripes, the punishment is to be endured in silence; and if she leads us to wounds or death in battle, thither we follow as is right; neither may anyone yield or retreat or leave his rank, but whether in battle or in a court of law, or in any other place, he must do what his city and his country order him; or he must change their view of what is just: and if he may do no violence to his father or mother, much less may he do violence to his country." What answer shall we make to this, Crito? Do the laws speak truly, or do they not?

Cr. I think that they do.

Soc. Then the laws will say: "Consider, Socrates, if this is true, that in your present attempt you are going to do us wrong. For, after having brought you into the world, and nurtured and educated you, and given you and every other citizen a share in every good that we had to give, we further proclaim and give the right to every Athenian, that if he does not like us when he has come of age and has seen the ways of the city, and made our acquaintance, he may go where he pleases and take his goods with him; and none of us laws will forbid him or interfere with him. Any of you who does not like us and the city, and who wants to go to a colony or to any other city, may go where he likes, and take his goods with him. But he who has experience of the manner in which we order justice and administer the State, and still remains, has entered into an implied contract that he will do as we command him. And he who disobeys us is, as we maintain, thrice wrong: first, because in disobeying us he is disobeying his parents; secondly, because we are the authors of his education; thirdly, because he has made an agreement with us that he will duly obey our commands; and he neither obeys them nor convinces us that our commands are wrong; and we do not rudely impose them, but give him the alternative of obeying or convincing us; that is what we offer and he does neither. These are the sort of accusations to which, as we were saying, you, Socrates, will be exposed if you accomplish your intentions; you, above all other Athenians." Suppose I ask, why is this? they will justly retort upon me that I above all other men have acknowledged the agreement. "There is clear proof," they will say, "Socrates, that we and the city were not displeasing to you. Of all Athenians you have been the most constant resident in the city, which, as you never leave, you may be supposed to love. For you never went out of the city either to see the games, except once when you went to the Isthmus, or to any other place unless when you were on military service; nor did you travel as other men do. Nor had you any curiosity to know other States or their laws: your affections did not go beyond us and our State; we were your especial favorites, and you acquiesced in our

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government of you; and this is the State in which you begat your children, which is a proof of your satisfaction. Moreover, you might, if you had liked, have fixed the penalty at banishment in the course of the trial-the State which refuses to let you go now would have let you go then. But you pretended that you preferred death to exile, and that you were not grieved at death. And now you have forgotten these fine sentiments, and pay no respect to us, the laws, of whom you are the destroyer; and are doing what only a miserable slave would do, running away and turning your back upon the compacts and agreements which you made as a citizen. And first of all answer this very question: Are we right in saying that you agreed to be governed according to us in deed, and not in word only? Is that true or not?" How shall we answer that, Crito? Must we not agree?

Cr. There is no help, Socrates.

...

For Review and Discussion:

1. If you could do anything and not get caught, what would you do? Why don't you do that right now?
2. Do you agree with Glaucon who says that people are only good because they might get punished for doing bad things? Or are there other reasons people don't do bad things?
3. Is justice an important virtue to uphold? Why or why not?

26 God, Morality, and Religion

Kristin Seemuth Whaley¹

I. Introduction

Religion and morality seem to go hand-in-hand, and specific moral codes are often grounded in specific religious traditions. Identifying the nature of the relationship between religion and morality may therefore seem straightforward: the right thing to do is whatever is right according to religious tradition. Justification for this claim derives support from the idea that religious moral codes have origins in divine will: “Morality is whatever God commands.” The theory that identifies the morally right with what God commands is called, unsurprisingly, ‘Divine Command Theory’. Divine Command Theory, or ‘DCT’, is attractive to religious practitioners for a couple reasons. One is that it captures the sense that religion provides guidance for living an ethical life; God provides this guidance through giving commands and shaping religious moral codes. Another is that DCT seems to provide a moral theory according to which there are objective moral facts; morality isn’t susceptible to subjective preferences or impermanent social consciousness. If the morally right is what God commands, there is a true measure of our actions and a genuine responsibility for our behavior.

Despite this attraction, DCT is subject to a *dilemma*, a style of argument that requires commitment to either of two possible, and unfavorable, options. The Divine Command Theorist is forced to make a choice: if the moral is whatever God commands, then either God commands things because they are right, or they are right because God commands them. As we will see, taking either option requires serious theological concessions.

A similar dilemma is found in Plato’s *Euthyphro*, a dialogue in which Socrates inquires about the nature of piety, or holiness. Euthyphro begins by proposing that whatever the gods love is pious or holy, and that which they hate is impious or unholy. Socrates presses Euthyphro by raising the dilemma of whether the pious or holy is beloved by the gods because it is holy, or whether the pious is holy because it is loved by the gods. Euthyphro replies that the pious is loved by the gods because it is holy; the pious is pious for a reason independent of the relationship between piety and the gods. The gods, then, love the pious for this reason, whatever the reason ends up being. But whatever is beloved of the gods is beloved because the gods love it; being beloved by the gods is entirely dependent on the relationship between the beloved and the gods. Socrates cites this difference in dependence as a reason to reject ‘whatever the gods love’ as a legitimate definition of ‘piety’. There must be something else about piety, independent of its relationship to the gods, that establishes its true nature. Socrates is asking Euthyphro for this independent reason, which Euthyphro fails to provide.

We can instantiate the same kind of dilemma for Divine Command Theory, inquiring about the nature of

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morality. In what follows, we will address each option, or *horn* of the dilemma, in turn. In taking the first horn, that God commands things because they are right, the Divine Command Theorist will be required to concede that God is not unlimited in power. In taking the second horn, that things are right because God commands them, the Divine Command Theorist will be required to concede that God is not truly good. Since the Divine Command Theorist likely views unlimited power and unlimited goodness to be essential divine features, neither of these options is acceptable. Since it was the assumption that DCT is true that generated the dilemma, the Divine Command Theorist is forced to conclude that DCT is false.

II. The Dilemma

Divine Command Theory seems to be an attempt to ground morality theistically; the morally right is whatever God commands. As a background commitment, the Divine Command Theorist is likely motivating the theory in the context of a religious tradition that accepts the *divine perfections*, or attributes of God. The perfections include

- *omnipotence*: God is all-powerful,
- *omniscience*: God is all-knowing, and
- *omnibenevolence*: God is all-good.

It is certainly fair to question whether there is such a being that has, or necessarily has, the divine perfections. But the dilemma does not hinge on successfully arguing against the perfections. Instead, it is because the Divine Command Theorist likely accepts the divine perfections that the dilemma arises in the first place.

A being with the divine perfections, God, seems to be the kind of being that is capable of commanding actions that are morally right. Plausibly, God knows what is right, God desires for the right to be done, and God is powerful enough to effectively command the right. Therefore, DCT is a natural extension of this variety of theism.

But, given the divine perfections, we can construct the dilemma for the Divine Command Theorist:

- A1. If DCT is true, then morality is whatever God commands.
- A2. If morality is whatever God commands, then either God commands things because they are morally right, or things are morally right because God commands them.
- A3. If God commands things because they are morally right, then God is not omnipotent.
- A4. If things are morally right because God commands them, then God is not omnibenevolent.
- A5. God is both omnipotent and omnibenevolent.
- ∴ AC. DCT is false. (‘∴’ means ‘therefore’)

The argument begins in premise A1 by citing the definition of Divine Command Theory: the morally right is what God commands. The Divine Command Theorist will accept this premise, since it provides an accurate statement of what DCT is. Premise A2 sketches options for the relationship between morality and God’s commands: either God’s commands are grounded by moral facts or moral facts are grounded by God’s commands. If there is an explanatory relationship between God and morality, then it has to be one or the other. In the first case, God looks to the moral facts to determine what should be

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commanded, ensuring that God is commanding what is indeed right. In the second case, God's commands establish the moral facts; whatever God decides is right becomes right in virtue of God's command.

More work needs to be done to establish premises A3 and A4, and we will see auxiliary arguments for these premises shortly. But before we do so, note that even if you don't agree with premise A5, the Divine Command Theorist almost certainly does. Premise A5 affirms a background commitment that the Divine Command Theorist likely accepts: God has the divine perfections. So, since accepting DCT yields two unacceptable options, the argument concludes with AC that DCT is false.

III. The First Horn: The Argument for A3

Premise A3 represents the first horn of the dilemma for the Divine Command Theorist: If God commands things because they are morally right, then God is not omnipotent. Premise A3 can be established by appealing to an auxiliary argument:

- B1. If God commands things because they are morally right, then morality is outside God's control.
- B2. If morality is outside God's control, then God is not omnipotent.
- ∴ A3. If God commands things because they are morally right, then God is not omnipotent.

B1, the first premise of the auxiliary argument highlights the relationship between morality and God's commands in taking the first horn of the dilemma. According to the first horn, God will guarantee that any command given fits with what's morally right. God will look to the moral facts and then make commands on their basis. So, suppose God is about to issue the Ten Commandments. God will investigate the nature of morality, identify the moral facts, and issue the commandments accordingly: Thou shalt not murder, thou shalt not steal, etc. God makes these commands because murder and stealing are wrong. The commandments should be followed, then, because the commandments accord with the moral facts. Since God is omnibenevolent, God will only issue commands that fit with the moral facts, and God defers to the moral facts in order to make moral commands. So, although God will command things that are morally right, the moral facts cannot be determined by God. Otherwise, they would be right because God commands them, and not the other way around.

Having deferred to the moral facts, God's commands are therefore somewhat restricted, and we arrive at B2. God cannot decide to command just anything; God will command only what is right. Accordingly, morality is independent of God, and God's commands are restricted to only what is right. Morality is not affected or changed by God's will. If this is the case, then a whole range of facts, moral facts, are outside the scope of God's control, and God has no power to change them. But if this is the case, then God is not omnipotent; God is not all-powerful.

Some argue that being restricted by moral facts does not threaten God's omnipotence. God is also restricted, plausibly, by logical facts. God cannot, for instance, make a round square, but this may not seem to be much of a threat to God's power. Unlike logical facts, however, one might argue that moral facts, like natural facts or physical facts, seem to be exactly the kinds of facts that *should* be within God's power. But, in taking this horn of the dilemma, the moral facts instead have power over God.

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So, we arrive at A3: If God commands things because they are morally right, then God is not omnipotent. This is an unfortunate result for the Divine Command Theorist, who will consider rejecting God's omnipotence to be unacceptable. The first horn may then prod the Divine Command Theorist to consider the other option. Instead, perhaps things are morally right because God commands them.

IV. The Second Horn: The Argument for A4

Premise A4 represents the second horn of the dilemma for the Divine Command Theorist: If things are morally right because God commands them, then God is not omnibenevolent. Premise A4 can be established by appealing to an auxiliary argument:

- C1. If things are morally right because God commands them, then God's commands are morally arbitrary.
- C2. If God's commands are morally arbitrary, then God is not omnibenevolent.
- ∴ A4. If things are morally right because God commands them, then God is not omnibenevolent.

C1, the first premise of this auxiliary argument illustrates the challenge of taking the second horn of the dilemma. This relationship between God's commands and morality makes it the case that God could command anything whatsoever and it would be morally right simply because God commanded it. So, when God issues the commandment, 'Thou shalt not murder', a class of actions, particular kinds of killing, became morally wrong. If God never gave the command, then these kinds of killing would be morally acceptable. If God had not prohibited it, then it would not be morally wrong, for instance, to kill an innocent person for no reason, despite any apparently-bad consequences or apparently-bad intentions.

Since, according to the second horn, the moral facts depend entirely on God's commands, there is no objective standard that God must look to before making commands. God could command, 'Thou shalt put on thy right shoe before thy left shoe except on every third Thursday of the month, in which case thou shalt put on thy left shoe before thy right.', and it would become immoral to put on your left shoe before your right on a Monday. Such a command is totally unprincipled, and we should feel no moral pull toward either shoe. This is because such a command would be *morally arbitrary*, or without principle or moral reason. There is no external standard by which we could measure the legitimacy of the command and no recourse to appeal to if we broke it. So, C1, if things are right because God commands them, then God's commands are morally arbitrary.

Even worse, if God's commands are morally arbitrary, then God could command things that we consider to be morally reprehensible, and these things would become right. For instance, God could command 'Thou shalt torture thy children', and it would be morally right to torture your children. Any complaints that this is wrong would fall on deaf ears, for, according to the second horn, if God commanded it, it is not wrong. The fact that the second horn allows that God could command things like the torture of children negates any lingering plausibility concerning God's omnibenevolence.

It is very tempting at this point to think, "Well, God would never command the torture of children, because torturing children is wrong, and God would not command something that is wrong." But note that in making this move, we find ourselves again facing the first horn. If God would not command something that is wrong, then this is possible only if God looks to the moral facts in order to determine what to command. But, if God does so, then morality is outside God's control. The Divine Command

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Theorist can make this move, but then they must give up on God's omnipotence.

The moral arbitrariness of God's commands is a serious problem for the Divine Command Theorist, which we see in C2. Recall that God is supposed to be omnibenevolent. When omnibenevolence is attributed to God, it is supposed to highlight a perfection or a laudable divine quality. But if morality is arbitrary, then saying that God is good becomes trivial. It would be analogous to saying that God is divine, or, like Euthyphro, saying that whatever is beloved by the gods is loved by the gods. It may be true, but it does not provide any reason to think that divinity is a good-making feature or a perfection; it is true simply because anything that is God is divine. Likewise, anything that God commands would be morally right. So, saying that God is omnibenevolent is merely another way of saying that God meets the moral standard that God establishes. This is not praise-worthy; it is trivial.

We arrive at A4: If things are morally right because God commands them, then God is not omnibenevolent. Like rejecting God's omnipotence, rejecting God's omnibenevolence is likely to be considered unacceptable. In taking the second horn, the Divine Command Theorist fares just as poorly as in taking the first. Both options require conceding divine perfections, but this is inconsistent with what the Divine Command Theorist is trying to accomplish.

V. Remaining Options

Having established the auxiliary arguments, we now see the dilemma completed. If DCT is true, then either God commands things because they are morally right, or they are morally right because God commands them. If God commands things because they are right, then God is not omnipotent. If things are right because God commands them, then God is not omnibenevolent. Since God is (according to the divine perfections) both omnipotent and omnibenevolent, then we must conclude that DCT is false.

DCT has attraction given certain religious commitments. It is unlikely that an atheist, for instance, would endorse DCT. The dilemma is therefore forceful because it is contingent on a theological understanding that attributes the divine perfections to God. It is logically possible, however, for the Divine Command Theorist to reject A5 and deny that God is both omnipotent and omnibenevolent. An objection could take the form of arguing that it is theologically acceptable to say that God is not omnipotent or that God is not omnibenevolent. A Divine Command Theorist might prioritize the connection between God and morality over the divine perfections, and they may consider this to be necessary, albeit unpalatable, concession.

Another option is to deny the explanatory relationship between morality and God's commands. Perhaps what God commands is morally right but not *because* it is morally right, and whatever is morally right is morally right but not *because* God commands it. On this option, the class of actions that God commands is identical to the class of actions that are morally right, but there is no dependence in either direction.

In reply, I grant that these options are possible. They are not, however, desirable. While there may be theists willing to concede the divine perfections, I suggest that in doing so we likewise concede attraction to grounding morality theistically. The connection between God and morality seems attractive because of the divine perfections, and conceding the divine perfections weakens the case to think that God and morality are inextricably linked. Further, if one thinks that God and morality are inextricably linked, it is implausible to argue that there is no explanatory relationship between them.

VI. Conclusion

It is natural for religious practitioners to see religion as authoritative in matters of morality. But if DCT is true, and morality is whatever God commands, then a dilemma arises. Either way we try to define the relationship between the morally right and the commands of God, an unacceptable result follows. Either morality is outside God's control, in which case God is not omnipotent, or God's commands are morally arbitrary, in which case God is not omnibenevolent. Since omnipotence and omnibenevolence are divine perfections that cannot be simply subtracted from God's nature, both horns of the dilemma are unacceptable. As a result, we, and the Divine Command Theorist, should conclude that DCT is false.

For Review and Discussion:

1. What is the point of the Euthyphro dilemma and how can this create problems for DCT?
2. What are the reasons some people believe religion is necessary in order to have morality? Do you think they are right? Why or why not?
3. If God is perfect, does DCT still make sense? Why or why not?

27 The Categorical Imperative

Immanuel Kant¹

The Categorical Imperative

...Now all imperatives command either hypothetically or categorically. The former represent the practical necessity of a possible action as means to something else that is willed (or at least which one might possibly will). The categorical imperative would be that which represented an action as necessary of itself without reference to another end, i. e., as objectively necessary...

Finally, there is an imperative which commands a certain conduct immediately, without having as its condition any other purpose to be attained by it. This imperative is categorical. It concerns not the matter of the action, or its intended result, but its form and the principle of which it is itself a result; and what is essentially good in it consists in the mental disposition, let the consequence be what it may. This imperative may be called that of morality. There is a marked distinction also between the volitions on these three sorts of principles in the dissimilarity of the obligation of the will. In order to mark this difference more clearly, I think they would be most suitably named in their order if we said they are either rules of skill, or counsels of prudence, or commands (laws) of morality. For it is law only that involves the conception of an unconditional and objective necessity, which is consequently universally valid; and commands are laws which must be obeyed, that is, must be followed, even in opposition to inclination...

There is therefore but one categorical imperative, namely, this: Act only on that maxim whereby thou canst at the same time will that it should become a universal law. Now if all imperatives of duty can be deduced from this one imperative as from their principle, then, although it should remain undecided what is called duty is not merely a vain notion, yet at least we shall be able to show what we understand by it and what this notion means. Since the universality of the law according to which effects are produced constitutes what is properly called nature in the most general sense (as to form), that is the existence of things so far as it is determined by general laws, the imperative of duty may be expressed thus: Act as if the maxim of thy action were to become by thy will a universal law of nature. We will now enumerate a few duties, adopting the usual division of them into duties to ourselves and ourselves and to others, and into perfect and imperfect duties...

1. A man reduced to despair by a series of misfortunes feels wearied of life, but is still so far in possession of his reason that he can ask himself whether it would not be contrary to his duty to himself to take his own life. Now he inquires whether the maxim of his action could become a universal law of nature. His maxim is: "From self-love I adopt it as a principle to shorten my life when its longer duration is likely to bring more evil than satisfaction." It is asked then simply whether this principle founded on

¹ From: Kant, I. (1883). *Groundwork for the Metaphysics of Morals* (T.K. Abbott, Trans.). (Original work published 1785). This work is in the Public Domain.

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self-love can become a universal law of nature. Now we see at once that a system of nature of which it should be a law to destroy life by means of the very feeling whose special nature it is to impel to the improvement of life would contradict itself and, therefore, could not exist as a system of nature; hence that maxim cannot possibly exist as a universal law of nature and, consequently, would be wholly inconsistent with the supreme principle of all duty.

2. Another finds himself forced by necessity to borrow money. He knows that he will not be able to repay it, but sees also that nothing will be lent to him unless he promises stoutly to repay it in a definite time. He desires to make this promise, but he has still so much conscience as to ask himself: "Is it not unlawful and inconsistent with duty to get out of a difficulty in this way?" Suppose however that he resolves to do so: then the maxim of his action would be expressed thus: "When I think myself in want of money, I will borrow money and promise to repay it, although I know that I never can do so." Now this principle of self-love or of one's own advantage may perhaps be consistent with my whole future welfare; but the question now is, "Is it right?" I change then the suggestion of self-love into a universal law, and state the question thus: "How would it be if my maxim were a universal law?" Then I see at once that it could never hold as a universal law of nature, but would necessarily contradict itself. For supposing it to be a universal law that everyone when he thinks himself in a difficulty should be able to promise whatever he pleases, with the purpose of not keeping his promise, the promise itself would become impossible, as well as the end that one might have in view in it, since no one would consider that anything was promised to him, but would ridicule all such statements as vain pretences.

3. A third finds in himself a talent which with the help of some culture might make him a useful man in many respects. But he finds himself in comfortable circumstances and prefers to indulge in pleasure rather than to take pains in enlarging and improving his happy natural capacities. He asks, however, whether his maxim of neglect of his natural gifts, besides agreeing with his inclination to indulgence, agrees also with what is called duty. He sees then that a system of nature could indeed subsist with such a universal law although men (like the South Sea islanders) should let their talents rest and resolve to devote their lives merely to idleness, amusement, and propagation of their species- in a word, to enjoyment; but he cannot possibly will that this should be a universal law of nature, or be implanted in us as such by a natural instinct. For, as a rational being, he necessarily wills that his faculties be developed, since they serve him and have been given him, for all sorts of possible purposes.

4. A fourth, who is in prosperity, while he sees that others have to contend with great wretchedness and that he could help them, thinks: "What concern is it of mine? Let everyone be as happy as Heaven pleases, or as he can make himself; I will take nothing from him nor even envy him, only I do not wish to contribute anything to his welfare or to his assistance in distress!" Now no doubt if such a mode of thinking were a universal law, the human race might very well subsist and doubtless even better than in a state in which everyone talks of sympathy and good-will, or even takes care occasionally to put it into practice, but, on the other side, also cheats when he can, betrays the rights of men, or otherwise violates them. But although it is possible that a universal law of nature might exist in accordance with that maxim, it is impossible to will that such a principle should have the universal validity of a law of nature. For a will which resolved this would contradict itself, inasmuch as many cases might occur in which one would have need of the love and sympathy of others, and in which, by such a law of nature, sprung from his own will, he would deprive himself of all hope of the aid he desires. These are a few of the many actual duties, or at least what we regard as such, which obviously fall into two classes on the one

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principle that we have laid down.

We must be able to will that a maxim of our action should be a universal law. This is the canon of the moral appreciation of the action generally. Some actions are of such a character that their maxim cannot without contradiction be even conceived as a universal law of nature, far from it being possible that we should will that it should be so. In others this intrinsic impossibility is not found, but still it is impossible to will that their maxim should be raised to the universality of a law of nature, since such a will would contradict itself. It is easily seen that the former violate strict or rigorous (inflexible) duty; the latter only laxer (meritorious) duty. Thus it has been completely shown how all duties depend as regards the nature of the obligation (not the object of the action) on the same principle. If now we attend to ourselves on occasion of any transgression of duty, we shall find that we in fact do not will that our maxim should be a universal law, for that is impossible for us; on the contrary, we will that the opposite should remain a universal law, only we assume the liberty of making an exception in our own favour or (just for this time only) in favour of our inclination.

Consequently if we considered all cases from one and the same point of view, namely, that of reason, we should find a contradiction in our own will, namely, that a certain principle should be objectively necessary as a universal law, and yet subjectively should not be universal, but admit of exceptions. As however we at one moment regard our action from the point of view of a will wholly conformed to reason, and then again look at the same action from the point of view of a will affected by inclination, there is not really any contradiction, but an antagonism of inclination to the precept of reason, whereby the universality of the principle is changed into a mere generality, so that the practical principle of reason shall meet the maxim half way. Now, although this cannot be justified in our own impartial judgement, yet it proves that we do really recognise the validity of the categorical imperative and (with all respect for it) only allow ourselves a few exceptions, which we think unimportant and forced from us. We have thus established at least this much, that if duty is a conception which is to have any import and real legislative authority for our actions, it can only be expressed in categorical and not at all in hypothetical imperatives. We have also, which is of great importance, exhibited clearly and definitely for every practical application the content of the categorical imperative, which must contain the principle of all duty if there is such a thing at all.

For Review and Discussion:

1. Do you think Kant is right that we should ignore the consequences of our actions when determining what the right thing to do is? Why or why not?
2. Would you lie to the ax murderer? Why or why not?
3. Do you agree with Kant that there are never exceptions to moral rules?

28 The Virtues

Aristotle¹

Aristotle's Virtues

Book I

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Presumably, however, to say that happiness is the chief good seems a platitude, and a clearer account of what it is still desired. This might perhaps be given, if we could first ascertain the function of man. For just as for a flute-player, a sculptor, or an artist, and, in general, for all things that have a function or activity, the good and the 'well' is thought to reside in the function, so would it seem to be for man, if he has a function. Have the carpenter, then, and the tanner certain functions or activities, and has man none? Is he born without a function? Or as eye, hand, foot, and in general each of the parts evidently has a function, may one lay it down that man similarly has a function apart from all these? What then can this be? Life seems to be common even to plants, but we are seeking what is peculiar to man. Let us exclude, therefore, the life of nutrition and growth. Next there would be a life of perception, but it also seems to be common even to the horse, the ox, and every animal. There remains, then, an active life of the element that has a rational principle; of this, one part has such a principle in the sense of being obedient to one, the other in the sense of possessing one and exercising thought. And, as 'life of the rational element' also has two meanings, we must state that life in the sense of activity is what we mean; for this seems to be the more proper sense of the term. Now if the function of man is an activity of soul which follows or implies a rational principle, and if we say 'so-and-so-and' a good so-and-so' have a function which is the same in kind, e.g. a lyre, and a good lyre-player, and so without qualification in all cases, eminence in respect of goodness being added to the name of the function (for the function of a lyre-player is to play the lyre, and that of a good lyre-player is to do so well): if this is the case, and we state the function of man to be a certain kind of life, and this to be an activity or actions of the soul implying a rational principle, and the function of a good man to be the good and noble performance of these, and if any action is well performed when it is performed in accordance with the appropriate excellence: if this is the case, human good turns out to be activity of soul in accordance with virtue, and if there are more than one virtue, in accordance with the best and most complete.

But we must add 'in a complete life.' For one swallow does not make a summer, nor does one day; and so too one day, or a short time, does not make a man blessed and happy...

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We must consider it, however, in the light not only of our conclusion and our premisses, but also of what is commonly said about it; for with a true view all the data harmonize, but with a false one the facts soon clash. Now goods have been divided into three classes, and some are described as external, others as

¹ From: Aristotle. (1925). *Nicomachean Ethics* (W.D. Ross, Trans.). (Original work published circa 350 BCE). This work is in the Public Domain.

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relating to soul or to body; we call those that relate to soul most properly and truly goods, and psychical actions and activities we class as relating to soul. Therefore our account must be sound, at least according to this view, which is an old one and agreed on by philosophers. It is correct also in that we identify the end with certain actions and activities; for thus it falls among goods of the soul and not among external goods. Another belief which harmonizes with our account is that the happy man lives well and does well; for we have practically defined happiness as a sort of good life and good action. The characteristics that are looked for in happiness seem also, all of them, to belong to what we have defined happiness as being. For some identify happiness with virtue, some with practical wisdom, others with a kind of philosophic wisdom, others with these, or one of these, accompanied by pleasure or not without pleasure; while others include also external prosperity. Now some of these views have been held by many men and men of old, others by a few eminent persons; and it is not probable that either of these should be entirely mistaken, but rather that they should be right in at least some one respect or even in most respects.

With those who identify happiness with virtue or some one virtue our account is in harmony; for to virtue belongs virtuous activity. But it makes, perhaps, no small difference whether we place the chief good in possession or in use, in state of mind or in activity. For the state of mind may exist without producing any good result, as in a man who is asleep or in some other way quite inactive, but the activity cannot; for one who has the activity will of necessity be acting, and acting well. And as in the Olympic Games it is not the most beautiful and the strongest that are crowned but those who compete (for it is some of these that are victorious), so those who act win, and rightly win, the noble and good things in life.

Their life is also in itself pleasant. For pleasure is a state of soul, and to each man that which he is said to be a lover of is pleasant; e.g. not only is a horse pleasant to the lover of horses, and a spectacle to the lover of sights, but also in the same way just acts are pleasant to the lover of justice and in general virtuous acts to the lover of virtue. Now for most men their pleasures are in conflict with one another because these are not by nature pleasant, but the lovers of what is noble find pleasant the things that are by nature pleasant; and virtuous actions are such, so that these are pleasant for such men as well as in their own nature. Their life, therefore, has no further need of pleasure as a sort of adventitious charm, but has its pleasure in itself. For, besides what we have said, the man who does not rejoice in noble actions is not even good; since no one would call a man just who did not enjoy acting justly, nor any man liberal who did not enjoy liberal actions; and similarly in all other cases. If this is so, virtuous actions must be in themselves pleasant. But they are also good and noble, and have each of these attributes in the highest degree, since the good man judges well about these attributes; his judgement is such as we have described. Happiness then is the best, noblest, and most pleasant thing in the world, and these attributes are not severed as in the inscription at Delos-

Most noble is that which is justest, and best is health;
But pleasantest is it to win what we love.

For all these properties belong to the best activities; and these, or one- the best- of these, we identify with happiness.

Yet evidently, as we said, it needs the external goods as well; for it is impossible, or not easy, to do

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noble acts without the proper equipment. In many actions we use friends and riches and political power as instruments; and there are some things the lack of which takes the lustre from happiness, as good birth, goodly children, beauty; for the man who is very ugly in appearance or ill-born or solitary and childless is not very likely to be happy, and perhaps a man would be still less likely if he had thoroughly bad children or friends or had lost good children or friends by death. As we said, then, happiness seems to need this sort of prosperity in addition; for which reason some identify happiness with good fortune, though others identify it with virtue...

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...When then should we not say that he is happy who is active in accordance with complete virtue and is sufficiently equipped with external goods, not for some chance period but throughout a complete life? Or must we add 'and who is destined to live thus and die as befits his life'? Certainly the future is obscure to us, while happiness, we claim, is an end and something in every way final. If so, we shall call happy those among living men in whom these conditions are, and are to be, fulfilled- but happy men. So much for these questions....

Book II

i

Virtue, then, being of two kinds, intellectual and moral, intellectual virtue in the main owes both its birth and its growth to teaching (for which reason it requires experience and time), while moral virtue comes about as a result of habit, whence also its name (ethike) is one that is formed by a slight variation from the word ethos (habit). From this it is also plain that none of the moral virtues arises in us by nature; for nothing that exists by nature can form a habit contrary to its nature. For instance the stone which by nature moves downwards cannot be habituated to move upwards, not even if one tries to train it by throwing it up ten thousand times; nor can fire be habituated to move downwards, nor can anything else that by nature behaves in one way be trained to behave in another. Neither by nature, then, nor contrary to nature do the virtues arise in us; rather we are adapted by nature to receive them, and are made perfect by habit.

Again, of all the things that come to us by nature we first acquire the potentiality and later exhibit the activity (this is plain in the case of the senses; for it was not by often seeing or often hearing that we got these senses, but on the contrary we had them before we used them, and did not come to have them by using them); but the virtues we get by first exercising them, as also happens in the case of the arts as well. For the things we have to learn before we can do them, we learn by doing them, e.g. men become builders by building and lyreplayers by playing the lyre; so too we become just by doing just acts, temperate by doing temperate acts, brave by doing brave acts.

This is confirmed by what happens in states; for legislators make the citizens good by forming habits in them, and this is the wish of every legislator, and those who do not effect it miss their mark, and it is in this that a good constitution differs from a bad one.

Again, it is from the same causes and by the same means that every virtue is both produced and destroyed, and similarly every art; for it is from playing the lyre that both good and bad lyre-players are produced. And the corresponding statement is true of builders and of all the rest; men will be good or

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bad builders as a result of building well or badly. For if this were not so, there would have been no need of a teacher, but all men would have been born good or bad at their craft. This, then, is the case with the virtues also; by doing the acts that we do in our transactions with other men we become just or unjust, and by doing the acts that we do in the presence of danger, and being habituated to feel fear or confidence, we become brave or cowardly. The same is true of appetites and feelings of anger; some men become temperate and good-tempered, others self-indulgent and irascible, by behaving in one way or the other in the appropriate circumstances. Thus, in one word, states of character arise out of like activities. This is why the activities we exhibit must be of a certain kind; it is because the states of character correspond to the differences between these. It makes no small difference, then, whether we form habits of one kind or of another from our very youth; it makes a very great difference, or rather all the difference...

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...First, then, let us consider this, that it is the nature of such things to be destroyed by defect and excess, as we see in the case of strength and of health (for to gain light on things imperceptible we must use the evidence of sensible things); both excessive and defective exercise destroys the strength, and similarly drink or food which is above or below a certain amount destroys the health, while that which is proportionate both produces and increases and preserves it. So too is it, then, in the case of temperance and courage and the other virtues. For the man who flies from and fears everything and does not stand his ground against anything becomes a coward, and the man who fears nothing at all but goes to meet every danger becomes rash; and similarly the man who indulges in every pleasure and abstains from none becomes self-indulgent, while the man who shuns every pleasure, as boors do, becomes in a way insensible; temperance and courage, then, are destroyed by excess and defect, and preserved by the mean...

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...If it is thus, then, that every art does its work well- by looking to the intermediate and judging its works by this standard (so that we often say of good works of art that it is not possible either to take away or to add anything, implying that excess and defect destroy the goodness of works of art, while the mean preserves it; and good artists, as we say, look to this in their work), and if, further, virtue is more exact and better than any art, as nature also is, then virtue must have the quality of aiming at the intermediate. I mean moral virtue; for it is this that is concerned with passions and actions, and in these there is excess, defect, and the intermediate. For instance, both fear and confidence and appetite and anger and pity and in general pleasure and pain may be felt both too much and too little, and in both cases not well; but to feel them at the right times, with reference to the right objects, towards the right people, with the right motive, and in the right way, is what is both intermediate and best, and this is characteristic of virtue. Similarly with regard to actions also there is excess, defect, and the intermediate. Now virtue is concerned with passions and actions, in which excess is a form of failure, and so is defect, while the intermediate is praised and is a form of success; and being praised and being successful are both characteristics of virtue. Therefore virtue is a kind of mean, since, as we have seen, it aims at what is intermediate.

Again, it is possible to fail in many ways (for evil belongs to the class of the unlimited, as the Pythagoreans conjectured, and good to that of the limited), while to succeed is possible only in one way (for which reason also one is easy and the other difficult- to miss the mark easy, to hit it difficult); for

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these reasons also, then, excess and defect are characteristic of vice, and the mean of virtue;

For men are good in but one way, but bad in many.

Virtue, then, is a state of character concerned with choice, lying in a mean, i.e. the mean relative to us, this being determined by a rational principle, and by that principle by which the man of practical wisdom would determine it. Now it is a mean between two vices, that which depends on excess and that which depends on defect; and again it is a mean because the vices respectively fall short of or exceed what is right in both passions and actions, while virtue both finds and chooses that which is intermediate. Hence in respect of its substance and the definition which states its essence virtue is a mean, with regard to what is best and right an extreme.

But not every action nor every passion admits of a mean; for some have names that already imply badness, e.g. spite, shamelessness, envy, and in the case of actions adultery, theft, murder; for all of these and suchlike things imply by their names that they are themselves bad, and not the excesses or deficiencies of them. It is not possible, then, ever to be right with regard to them; one must always be wrong. Nor does goodness or badness with regard to such things depend on committing adultery with the right woman, at the right time, and in the right way, but simply to do any of them is to go wrong. It would be equally absurd, then, to expect that in unjust, cowardly, and voluptuous action there should be a mean, an excess, and a deficiency; for at that rate there would be a mean of excess and of deficiency, an excess of excess, and a deficiency of deficiency. But as there is no excess and deficiency of temperance and courage because what is intermediate is in a sense an extreme, so too of the actions we have mentioned there is no mean nor any excess and deficiency, but however they are done they are wrong; for in general there is neither a mean of excess and deficiency, nor excess and deficiency of a mean.

For Review and Discussion:

1. What is the “golden mean” and why is it important for Aristotle’s ethics?
2. What are some virtues that you think are important and why?
3. Can someone ever be *too* rational? Why or why not? What would Aristotle say?

29 Beyond Good and Evil

Friedrich Nietzsche¹

Beyond Good and Evil

In a tour through the many finer and coarser moralities which have hitherto prevailed or still prevail on the earth, I found certain traits recurring regularly together, and connected with one another, until finally two primary types revealed themselves to me, and a radical distinction was brought to light.

There is MASTER-MORALITY and SLAVE-MORALITY,—I would at once add, however, that in all higher and mixed civilizations, there are also attempts at the reconciliation of the two moralities, but one finds still oftener the confusion and mutual misunderstanding of them, indeed sometimes their close juxtaposition—even in the same man, within one soul. The distinctions of moral values have either originated in a ruling caste, pleasantly conscious of being different from the ruled—or among the ruled class, the slaves and dependents of all sorts.

In the first case, when it is the rulers who determine the conception "good," it is the exalted, proud disposition which is regarded as the distinguishing feature, and that which determines the order of rank. The noble type of man separates from himself the beings in whom the opposite of this exalted, proud disposition displays itself he despises them. Let it at once be noted that in this first kind of morality the antithesis "good" and "bad" means practically the same as "noble" and "despicable",—the antithesis "good" and "EVIL" is of a different origin. The cowardly, the timid, the insignificant, and those thinking merely of narrow utility are despised; moreover, also, the distrustful, with their constrained glances, the self-abasing, the dog-like kind of men who let themselves be abused, the mendicant flatterers, and above all the liars:—it is a fundamental belief of all aristocrats that the common people are untruthful. "We truthful ones"—the nobility in ancient Greece called themselves.

It is obvious that everywhere the designations of moral value were at first applied to MEN; and were only derivatively and at a later period applied to ACTIONS; it is a gross mistake, therefore, when historians of morals start with questions like, "Why have sympathetic actions been praised?" The noble type of man regards HIMSELF as a determiner of values; he does not require to be approved of; he passes the judgment: "What is injurious to me is injurious in itself;" he knows that it is he himself only who confers honour on things; he is a CREATOR OF VALUES. He honours whatever he recognizes in himself: such morality equals self-glorification. In the foreground there is the feeling of plenitude, of power, which seeks to overflow, the happiness of high tension, the consciousness of a wealth which would fain give and bestow:—the noble man also helps the unfortunate, but not—or scarcely—out of pity, but rather from an impulse generated by the super-abundance of power. The noble man honours in himself the powerful one, him also who has power over himself, who knows how to speak and how to

¹ From: Nietzsche, F. (1906). *Beyond Good and Evil* (H. Zimmern, Trans.). (Original work published 1906). This work is in the Public Domain.

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keep silence, who takes pleasure in subjecting himself to severity and hardness, and has reverence for all that is severe and hard. "Wotan placed a hard heart in my breast," says an old Scandinavian Saga: it is thus rightly expressed from the soul of a proud Viking. Such a type of man is even proud of not being made for sympathy; the hero of the Saga therefore adds warningly: "He who has not a hard heart when young, will never have one." The noble and brave who think thus are the furthest removed from the morality which sees precisely in sympathy, or in acting for the good of others, or in **DESINTERESSEMENT**, the characteristic of the moral; faith in oneself, pride in oneself, a radical enmity and irony towards "selflessness," belong as definitely to noble morality, as do a careless scorn and precaution in presence of sympathy and the "warm heart."

It is the powerful who **KNOW** how to honour, it is their art, their domain for invention. The profound reverence for age and for tradition—all law rests on this double reverence,—the belief and prejudice in favour of ancestors and unfavourable to newcomers, is typical in the morality of the powerful; and if, reversely, men of "modern ideas" believe almost instinctively in "progress" and the "future," and are more and more lacking in respect for old age, the ignoble origin of these "ideas" has complacently betrayed itself thereby.

A morality of the ruling class, however, is more especially foreign and irritating to present-day taste in the sternness of its principle that one has duties only to one's equals; that one may act towards beings of a lower rank, towards all that is foreign, just as seems good to one, or "as the heart desires," and in any case "beyond good and evil": it is here that sympathy and similar sentiments can have a place. The ability and obligation to exercise prolonged gratitude and prolonged revenge—both only within the circle of equals,—artfulness in retaliation, **RAFFINEMENT** of the idea in friendship, a certain necessity to have enemies (as outlets for the emotions of envy, quarrelsomeness, arrogance—in fact, in order to be a good **FRIEND**): all these are typical characteristics of the noble morality, which, as has been pointed out, is not the morality of "modern ideas," and is therefore at present difficult to realize, and also to unearth and disclose.

It is otherwise with the second type of morality, **SLAVE-MORALITY**. Supposing that the abused, the oppressed, the suffering, the unemancipated, the weary, and those uncertain of themselves should moralize, what will be the common element in their moral estimates? Probably a pessimistic suspicion with regard to the entire situation of man will find expression, perhaps a condemnation of man, together with his situation. The slave has an unfavourable eye for the virtues of the powerful; he has a skepticism and distrust, a **REFINEMENT** of distrust of everything "good" that is there honoured—he would fain persuade himself that the very happiness there is not genuine. On the other hand, **THOSE** qualities which serve to alleviate the existence of sufferers are brought into prominence and flooded with light; it is here that sympathy, the kind, helping hand, the warm heart, patience, diligence, humility, and friendliness attain to honour; for here these are the most useful qualities, and almost the only means of supporting the burden of existence. Slave-morality is essentially the morality of utility.

Here is the seat of the origin of the famous antithesis "good" and "evil":—power and dangerousness are assumed to reside in the evil, a certain dreadfulness, subtlety, and strength, which do not admit of being despised. According to slave-morality, therefore, the "evil" man arouses fear; according to master-morality, it is precisely the "good" man who arouses fear and seeks to arouse it, while the bad man is regarded as the despicable being.

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The contrast attains its maximum when, in accordance with the logical consequences of slave-morality, a shade of depreciation—it may be slight and well-intentioned—at last attaches itself to the "good" man of this morality; because, according to the servile mode of thought, the good man must in any case be the SAFE man: he is good-natured, easily deceived, perhaps a little stupid, un bonhomme. Everywhere that slave-morality gains the ascendancy, language shows a tendency to approximate the significations of the words "good" and "stupid."

For Review and Discussion:

1. Describe the two types of moralities that Nietzsche says exist.
2. What would someone who is "beyond morality" look like? What do you think they would do?
3. Think back to the Ring of Gyges and the idea that Glaucon claims that people would do whatever they feel like and is in their own self-interests if they could do anything without fear of consequences. What sorts of things do you think "Nietzschean Supermen" would do, keeping in mind that they would live their lives without fear of consequences?

30 Other Moral Theories: Subjectivism, Relativism, Emotivism, Intuitionism, etc.

Jan Franciszek Jacko¹

Metaethics includes moral theories that contain assumptions which answer some metaphysical and epistemological questions about moral goods and values. The metaphysical questions (such as *What are, and how do moral goods and values exist?*) are about the nature and existence of moral goods and values. Epistemological questions (such as *Can we know moral goods and values? If so, what are the sources of knowledge about them?*) regard sources of knowledge about moral goods, values and criteria of moral evaluations.² Assumptions of ethical subjectivism, relativism, decisionism, emotivism and intuitionism are exemplary answers to these questions. We call their answers “normative assumptions.”

There are at least three good reasons to ask and answer such questions. First, without answering them, moral judgments remain ambiguous. For example, if I say, “Action X is wrong,” the judgement has several meanings. To specify its sense, I should clarify my normative assumptions. For example, I can assume metaphysical subjectivism (anti-realism) or realism in metaethics. According to the former assumption, my above judgment about X is not about reality; it is about my or someone’s opinion. In this case, the exact meaning of this judgement is: *someone evaluates X as morally wrong*. If I assume the counter-assumption of metaphysical realism (anti-subjectivism), I mean that it is true that X *has the property of moral wrongness*.

Second, these assumptions are conducive to peculiar practices. To specify the practice, which follows from moral judgments, one has to determine some normative assumptions. For example, if I take the assumption of epistemological subjectivism (agnosticism) – I believe that no one can have any knowledge about moral goods and values; I mean that morality is a matter of preferences, which have no ground in knowledge. In practice, it means that one should not search for knowledge about goods and values to validate moral preferences, because such knowledge is not possible. If I believe in epistemological anti-subjectivism (realism), I assume that humans can possess some (precise or approximate, dubitable or indubitable) knowledge about goods and values, I should investigate my moral preferences and accommodate them to my knowledge. In practice of the public sphere, ethical epistemological subjectivists postulate accommodating the public morality and the law to individual or group preferences. Ethical epistemological anti-subjectivists search for knowledge about moral principles and attempt to adopt public morality and the law to the principles.

Third, the ambiguity of moral judgments is conducive to misunderstandings and violent conflicts. To avoid them, one should clarify one’s normative assumptions. People can disagree about normative assumptions. If the opposing groups do not clarify their normative assumptions, they can struggle

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² Metaethics “investigates where our ethical principles come from, and what they mean. Are they merely social inventions? Do they involve more than expressions of our individual emotions? Metaethical answers to these questions focus on the issues of universal truths, the will of God, the role of reason in ethical judgments, and the meaning of ethical terms themselves.” (Fieser, n.d.)

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against each other without knowing the matter of their disagreement. Mutual misunderstanding limits chances for dialogue, negotiations and consensus. In this case, the conflict turns irrational and violent. When people do not understand each other, their power becomes the decisive argument in their dispute, and their confrontation is the way to test this argument. Therefore, mutual misunderstandings are conducive to violent conflicts. For example, defenders of human rights sometimes fight each other over how to promote human rights, because of different normative assumptions that conceptualise human rights by answering questions such as: *Who is human? Why should one respect human rights?* When the opposing groups do not clarify their answers to these questions, opponents do not understand the position of the other party. If their defenders specify their normative assumptions, their concept of human rights becomes comprehensible to other groups, and their mutual understanding is conducive to dialogue, negotiations and a consensus.

To illustrate the role normative assumptions in communication, we present a conversation between John (J) and Mary (M). John maintains that lying is morally wrong. Mary wants to understand his position. For example:

M: *Why is lying morally wrong?* (Q1)

J: Because when you lie, you disrespect human dignity, which deserves respect.

M: *Can you prove your position?* (Q2)

J: No but you can intuit its truth: you can reach some evidence about it if you activate your intuition.

In the above conversation, John presents assumptions of ethical personalism and intuitionism. According to his personalism, human dignity is the moral good. His intuitionism is the assumption that people can know this good by intuition. In this chapter, we consider possible further questions of Mary and alternative answers of John.

Some regulatory definitions

In this text, “morality” means a system of moral norms and rules, which compose a moral code of conduct (conduct of moral code). In this meaning one can use the term “either descriptively to refer to some codes of conduct put forward by a society or some other group, such as a religion, or accepted by an individual for her own behaviour or normatively to refer to a code of conduct that, given specified conditions, would be put forward by all rational persons” (Gert, 2012). In the descriptive sense, “morality” means a **fact** of personal preferences, decisions, actions, evaluations according to some (moral) conventions of preferring, decision-making, acting, evaluating (Wreen, 2018, pp. 351–353). In the normative sense, “morality” means ideal – a pattern for the fact of morality.

We mean the strict sense of the “moral code.” In this sense, it comprises only moral norms and rules. In a broad sense, it also contains “moral principles ... ideals, virtues, goals, aims, and values, and at least ideally integrates all such components into a unified, workable whole, a ‘way of life.’ Order, structure, coordination, and integration, in other words, are important features of a moral code, as is an explanation and justification of both the content and structure of the code.” (Wreen, 2018, pp. 345–246)

We distinguish moral principle(s) from moral norms and rules. By “moral principle” or the “principle of morality” we mean the most precious (intrinsic, autotelic, most appreciated) goods according to a given hierarchy of values. Moral norms and rules operationalise the idea of moral principle. Moral norms are criteria to evaluate acts regarding their compliance with the moral

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principle(s). Moral rules specify the proper way to respect and promote the moral principle(s). Normative assumptions (of a theory) determine the hierarchy of goods/values and, in this way, specify the normative morality.

We distinguish moral principle from moral value: Moral value consists in respecting the principle of morality by intentions and actions. Intentions that respect it, are morally good (have the value of moral goodness) and actions that respect the principle of morality are morally right (have the value of moral rightness). The opposite of these values are anti-values of moral badness (of intentions) and moral wrongness (of actions). Consequently, we distinguish moral values (Lat. *bonum morale*) from moral (honest) goods (lat. *bona honesta*). Moral values are qualities of human acts. Moral goods are objectives of human acts. Such goods are considered most precious according to a hierarchy of goods adopted by a person. For example, if John assumes that human dignity is the moral good, he maintains that it is at the top of the hierarchy of goods (human dignity is more precious than any other good). According to this assumption, when someone intends respecting human dignity, his/her intention is morally good (it has the moral value of moral goodness); when he/she respects human dignity by his/her actions, they are morally right (they have the moral value of moral rightness). According to the anti-relativist theory of moral goods, they are precious regardless of personal preferences. According to the relativist theory of moral goods, they are precious because someone appreciates them. See, section “*What are the criteria of moral assessment? Normative relativism versus anti-relativism in metaethics*”.

In this text, the term “hierarchy of values” and “hierarchy of goods” means the system of preferences (Hansson & Grüne-Yanoff, 2018). We use the terms “value” and “good” interchangeably. However, in some contexts, the “value” means something precious for someone, and the term “good” means something precious regardless of personal preferences.

How do moral goods and values exist? Metaphysical realism versus anti-realism (subjectivism) in metaethics

In the above conversation, Mary can ask for more information about human dignity. For example, she can ask:

M: *Is human dignity something real?* (Q3)

M: *Do all humans possess their dignity?* (Q4)

John can offer two answers to the 3rd question: the answer of metaphysical realism and anti-realism (subjectivism) (Harrison, 1967b; Kim, 2006; Sayre-McCord, 2011). According to supporters of **metaphysical realism** in metaethics, moral goods are real, because they exist autonomously – regardless of any personal preferences:³ something is good or not good regardless of personal opinions, decisions, or emotions about it. According to this position, moral goods are **intrinsic** to some beings, situations, or states of affairs.

If John takes this position and maintains his personalism, he means that human dignity is intrinsic to persons and precious regardless of any human acts about it. If he abandons his personalism, he can specify the moral good differently, according to alternative conceptions of moral good within the theory metaphysical realism in metaethics. For example, he can maintain that love (agapism), happiness

³ We use the terms “existential autonomy,” “existential heteronomy” and “purely intentional objects” in their sense as defined by Roman Ingarden (Ingarden, 1983, 1989).

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(eudaemonism) or pleasure (hedonism) is intrinsically good.

If John abandons metaphysical realism, he takes the position of **metaphysical subjectivism (anti-realism)** and maintains that moral goods are not real, they exist solely by the power of human intentions.⁴ According to this assumption, human acts make something good by intending it, for example, by respecting, aiming at, wanting, or evaluating it. If John takes this position, he should give a negative answer to the 3rd question.

The above standpoints of ethical realism and antirealism do not determine the answer to the 4th question. Ethical realists can assume that all human beings have dignity or that only some humans, who meet some conditions of personhood, have their dignity. Ethical subjectivists may agree with this answer, by showing that only humans who are appreciated by someone have their dignity. However, some ethical anti-realists may assume that all humans deserve respect, because respecting them is a prerequisite for rational intentions, like Immanuel Kant shows in his conception of the categorical imperative.

The two above conceptions lead towards distinct theories of moral value. In their contexts John should offer distinct answers to the question:

M: *Is lying morally wrong or it just seems morally wrong to some people?* (Q5)

The theories of ethical realism and antirealism in metaethics differ in their answer to the above question. Supporters of **metaphysical realism** in metaethics maintain that moral judgments are about “moral facts” and can be true or false in the correspondence sense of truth (Harrison, 1967b, 1967a). They are either “natural (objects that are knowable only through experience), non-natural (but not supernatural) or theological (or supernatural)” (Campbell, 2015) This position can also have a name “ethical objectivism” (Harrison, 1967a). The position implies that there are some sources of knowledge about moral values. According to this position, John may say, that it is **true** that lying is wrong.

Ethical metaphysical subjectivists (anti-realists) claim that moral values are purely intentional predicates with no existential autonomy; they exist by the “power” of human acts (beliefs, feelings, decisions, attitudes or preferences). As Jonathan Harrison puts it, according to ethical subjectivist theories, “... moral predicates are not possessed by actions or actors in the absence of people who pass judgments upon them or who respond to them with such feelings as admiration, love, approval, detestation, hate, or disapproval” (Harrison, 1967b, p. 78). According to this approach, human acts “create” moral values. We put the term “create” in quotation because it does mean creating something real. It means creating purely intentional objects. In this context goods or values are purely intentional objects, which exist by the “power” of the intention. According to this position, moral judgements are not about any reality; they are about human evaluations or reactions. As Harrison writes, “A subjectivist ethical theory is a theory according to which moral judgments about men or their actions are judgments about the way people react to these men and actions — that is, the way they think or feel about them” (Harrison, 1967b, p. 78).

If John takes the position of metaphysical antirealism, he should not say that it is true that lying is wrong. He should rather say that *some people believe that it is morally wrong*. In this case, Mary should ask him:

⁴ In this text, terms “intention” and “intentionality” denote the relation between human acts and their intentional objects (Brentano, 1973; Husserl, 2001; Jacob, 2010). (Brentano, 1973; Husserl, 2001; Jacob, 2010)

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M: *What human acts can make something good or bad, right or wrong?* (Q6)

There are two anti-realist answers to this question: If John takes the position of metaphysical **decisionism** in metaethics, he believes that human decisions can “create” moral goods and values. If John assumes metaphysical **emotivism** in metaethics, he believes that human emotions bring values into existence. However, he should also be clear about whose decisions or feelings can create moral values. For Mary can ask:

M: *Whose acts can make something morally good or valuable?* (Q7)

John can make some optional assumptions to answer her questions. For example, **individual metaphysical subjectivists** in metaethics maintain that each agent “creates” his/her goods and values. For example, Jean-Paul Sartre presents this position. In his opinion, each decides his/her hierarchy of goods by his/her decisions, which are existential commitments.

Theories of **group subjectivism** present the assumption that a group of people “creates” values, by implicit or explicit consensus about them. In this case, John should convince Mary that there is a consensus of our society to respect property rights and she should respect the consensus.

According to the assumption of **universal subjectivism**, respecting moral values is the preconditions for rational actions. For example, Immanuel Kant presents a peculiar combination of metaphysical antirealism and universalism in metaethics. (Harrison, 1967b, p. 87; Tatarkiewicz, 1919, p. 22).

Therefore, to answer the Question 1 in the context of metaphysical subjectivism in metaethics, John can say that:

J: *You should not lie, because lying is not compatible with your existential commitment (individual metaphysical subjectivism).* (In this case, Mary can agree or say that she has no existential commitment to respecting human dignity and she sees no incompatibility between lying and respecting persons at least in some situations.)

M: *Why should I respect persons, if it is not my existential commitment? Why should not I lie, when the truth is more harmful to a person than a lie?* (Q8)

J: *You should respect the consensus of our society, which requires you not to lie (group metaphysical subjectivism).* (Mary can see no reasons to respect the consensus of her group.)

M: *Why should I respect the consensus of my group?* (Q9)

J: *Truthfulness is the prerequisite for rational intentions. You should be rational, therefore, you should not lie (universal metaphysical subjectivism).* (Mary may see no reason to believe that lying contradicts rational decisions.)

M: *Why is truthfulness the condition for rational decisions?* (Q10)

To answer these questions of Mary, John can offer a couple of assumptions concerning sources of moral knowledge and criteria of moral assessments. We discuss his possible answers in the two

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following sections.

If and how can we get knowledge about moral goods and values? Sources of moral knowledge. **Epistemological realism versus subjectivism (anti-realism) in metaethics**

If John takes the position of metaphysical realism in metaethics, he can offer several answers to Question 9 by indicating natural or supernatural sources of moral knowledge. The natural source of knowledge can be the reason (the position of epistemological rationalism) or emotions (the position of epistemological emotivism). For example, Plato, Aristotle, and Immanuel Kant maintain that human reason can allow us to know moral goods and values. According to Max Scheler, emotions mediate human knowledge about moral goods values. Supernatural knowledge is the effect of illumination or revelation. For example, St. Augustine maintains that moral knowledge is the gift of God – the effect of His illumination (Stump & Kretzmann, 2001).

Ethical intuitionism presents a peculiar answer to the Question 9: “One of the most distinctive features of Ethical intuitionism is its epistemology. All of the classic intuitionists maintained that basic moral propositions are self-evident—that is, evident in and of themselves—and so can be known without the need of any argument.” (Stratton-Lake, 2016)

The above answers present the position of **epistemological realism in metaethics**. According to this standpoint, humans can get knowledge about moral goods and values. The opposite assumption is **epistemological subjectivism (antirealism)** in metaethics. According to this standpoint, a human cannot know moral goods and values. He/she can only maintain opinions or beliefs about them.

If John takes the position of epistemological subjectivism, he can specify it according to his answers and Mary can repeat questions 8-10 endlessly. The position of epistemological subjectivism is conducive to faulty circular reasoning of (Lat.) *circulus vitiosus* or (Lat.) *regressus at infinitum*. To continue the discussion the interlocutors should agree on some criteria of moral assessment. To do it, they should decide if they take the position of normative anti-relativism or relativism in metaethics.

What are the criteria of moral assessment? Normative relativism versus anti-relativism in metaethics

The assumption of metaphysical anti-relativism (absolutism) is opposite to metaphysical relativism. These assumptions are about relations between the human mind and moral goods (values) and can have different meanings depending on the relationships they indicate. In this chapter, we consider only **normative** anti-relativism and relativism, which are assumptions about the validity of moral norms.⁵

Normative **anti-relativists** maintain that the validity or truth of moral judgments does not depend on any opinions, decisions or feelings. To specify this position, John can indicate some sources of moral knowledge according to some assumptions of ethical epistemological realism.

According to the assumption of **normative anti-relativism in metaethics**, some moral norms are valid regardless of personal preferences. According to the premise of normative relativism, moral norms and assessments are valid because someone maintains them. Normative **relativists** believe that human acts (decisions or emotions) specify the criteria of moral assessments: “Moral relativism is the view that moral judgments are true or false only relative to some particular standpoint (for instance, that

⁵ We do not consider metaphysical theories (which can get the name of relativism) that show how goods or values exist in relation to human acts. We focus on the normative version of anti-relativism and relativism.

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of a culture or a historical period) and that no standpoint is uniquely privileged over all others” (Westacott, 2012).

Consequently, an ethical relativist denies that there is any one correct moral evaluation and he/she holds that there is no rational way of justifying one moral evaluation against another (Brandt, 1967, p. 75). This standpoint implies that conflicting moral judgments may be equally and simultaneously valid (true, right, sound). (Beauchamp, 2009; Brandt, 1967, p. 67; Campbell, 2015)

To justify ethical relativism, its proponents point to the fundamental disagreement between people about criteria of moral assessments. Relativists explain this disagreement by assuming that “moral claims contain an essential indexical element, such that the truth of any such claim requires relativisation to some individual or group” (Joyce, 2015).

Metaphysical relativism in metaethics can be more or less radical regarding applicability of moral norms. The position can account to ethical particularism or generalism in metaethics:

Ethical relativists can take the position of either ethical particularism or generalism: Moral particularism at its most trenchant, is the claim that there are no defensible moral principles, that moral thought does not consist in the application of moral principles to cases, and that the morally perfect person should not be conceived as the person of principle ... Ethical generalism is the view that the rationality of moral thought and judgement depends on a suitable provision of moral principles. (Dancy, 2013).

Therefore, if John maintains the position of particularism, he does not mean that lying is wrong in all possible situations. He should try to convince Mary that lying is wrong in a particular situation. For example, he can take the position of act utilitarianism to show that lying is wrong when it has bad consequences. If he takes the position of generalism he will try to convince her not to do it in all situations. For example, he can take the position of rule utilitarianism to convince Mary, that the norm of truthfulness is more socially useful than the rule of lying. However, he needs to present some evidence for this argument. To do this, he has to make use of some sources of moral knowledge, which implies the position of epistemological realism in metaethics.

According to ethical relativists, human acts (like emotions or decisions) specify criteria of moral assessment. Theories of ethical relativism differ regarding the question *Whose and what acts specify criteria of moral evaluation?* For example, Władysław Tatarkiewicz (1919, p. 22) notes that ethical relativist theories differ in their claims concerning whose opinions, decisions or feelings count for the validity of moral criteria. According to **individual ethical relativism** “If someone thinks it is right (wrong) to do A, then it is right (wrong) for him to do A.” (Brandt, 1967, p. 76). **Group (sociological) ethical relativism** is “a metaethical thesis that the truth or justification of moral judgments is not absolute, but relative to some group of persons” (Gowans, 2012). It implies that:

If the moral principles recognized in the society of which X is a member imply that it is wrong to do A in certain circumstances C then it is wrong for X to do A in C. This principle says, in effect, that a person ought to act in conformity with the moral standards of his group. (Brandt, 1967, p. 76)

Universal ethical relativists assume that some moral principles and norms outline necessary (*a priori*) relations that occur between a person and her acts; these relations imply some intersubjective criteria of moral assessment. For example, Kant shows that the categorical imperative outlines the

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universal (*a priori*) prerequisites for rational decisions. (Gowans, 2012; Hill, 2007; Tatarkiewicz, 1919, p. 22; Westacott, 2012).

Relativistic theories differ in their answer to the question *What kind of human acts specify criteria of moral assessment?* **Emotivist relativists** believe that emotions do it. **Decisionist relativists** maintain that human decisions specify criteria for moral evaluations.

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For Review and Discussion:

1. What are the differences between moral realism and anti-realism? How do they approach normative ethics differently?
2. What is the difference between moral relativism and moral objectivism? How do they approach normative ethics differently?
3. What role should our intuitions play in doing ethics? What is the impact of your view for how we should structure our societal laws?