On the Minimal Global Ethic

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Introduction

Where do values come from? I'm tempted to say "the stork," and leave it at that, but perhaps a wiser tack would be to narrow the question somewhat and ask about the origins of those values contained in "the minimal global ethic." This is a set of prohibitions, present in all the world's cultures, that speaks against utterly base acts such as murder, torture, slavery, and other forms of gross cruelty. Those philosophers who recognize it have been careful to emphasize its minimalism, which is to say that they've distinguished its values from the many not included within it. In fact, the ethic is compatible with a wide diversity of cultures, since it speaks against only a very small set of the most unconscionable acts. But while articulating a bare minimum, its global scope means that it can serve as an effective response to those who would advocate a boundless moral relativism.

Not that we should conceive of the ethic as in any sense independent of the various cultures within which it is situated, as if it could stand apart from them, like an island amidst the rivers that are their histories. For the ethic is shared by all who have ever inhabited the earth, though by putting it in this way it should be clear that it is indeed a "global," as distinct from "universal," set of maxims.[1] That said, it has been and always will be understood somewhat differently by everyone. This is one reason why I won't try to articulate it in very much detail here, since doing so would wrongly prejudice certain conceptions of it. The ethic should also not be considered unified in a systematic or any other sense, since it doesn't constitute a fully coherent set of rules or procedures – articulable, say, as a theory of justice that may be neutrally applied. This is so both because its values cannot be said to trump others with which they may come into conflict (this

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[1] The ethic, in other words, is not a "thin" or abstract doctrine embedded amidst the world's cultures, as with Michael Walzer's claim that it exemplifies a "low-flying universalism." Walzer, "Universalism and Jewish Values," *Carnegie Council for Ethics in International Affairs*, 15 May 2001. Nor is it a "high-flying" universal doctrine of the kind defended by theoretical cosmopolitans such as Charles Beitz, Simon Caney, Charles Jones, and Thomas Pogge. They may be said to share something with Boethius's character Philosophy in *The Consolation of Philosophy*, at least when it comes to her claim that God would have "the human race stand above all earthly things" (II.v.27).

accounts for why societies can have practices that continue to violate it), and because there will always be cases of *internal* conflict, situations in which some of its values come into conflict with some of its others, or even with themselves. And whether external or internal, these conflicts will often not admit of reconciliation, which is to say that there will be times when the best we can do is to struggle for an accommodation and so make balanced compromises.

My main aim in this essay is to present a philosophical account of the ethic, of both its origins and nature. In the first two sections, I describe two of its sources. In the third, I examine the question of the ethic and conflict. And in the concluding section, I suggest that the ethic can serve as the basis for what we might call a "global patriotism." That said, I also caution against relying on it too much.

Note that, while the arguments below are meant to be compatible with anthropological accounts, I won't be referring to the anthropological literature very much here. I do want to say something about the 1968 UNESCO publication *Birthright of Man*, however, which marked the twentieth anniversary of the United Nations Universal Declaration of Human Rights.[2] The book is essentially a compendium of quotations, fables, parables, and declarations, drawn from a wide variety of traditions and periods, which are seen to lend support to the Declaration.

The ethic as I conceive of it has a narrower scope than the Declaration. This is so in terms of both form, since it's not wedded to any particular language such as rights-talk, and content, since it stands for much less than does the Declaration. As I read *Birthright of Man*, moreover, it actually lends more support to the ethic than it does to the Declaration. This is because it makes evident that many of the Declaration's rights cannot appeal for justification to *all* the civilizations that have ever appeared in the world. For example, those civil rights associated with respect for the individual evidently derive from Western sources alone, while the rights associated with the category "political rights and economic conditions," are shown to get support from texts that, without exception, date from the late nineteenth century.[3] *Birthright of Man*, then, may be said to lend weight to the well-known complaint that the Declaration is merely a contemporary Western, and so ethnocentric, document. I believe the same cannot be said of the minimal global ethic, however.

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[2] Jeanne Hersch, ed., *Birthright of Man* (New York: UNESCO, 1969).

[3] See ibid., pp. 145–49, 361–77.

Regardless, back to philosophy. My argument, in essence, is that there have been essentially two distinct processes responsible for the ethic's development: *creation* and *interpretation*.[4] With these two terms, I mean to invoke nothing more than the commonplaces that artists create and critics interpret. Of course, others do these things as well: prophets, mystics, and charismatic leaders of various sorts are among those said to employ creativity of one kind or another, while the rest of us – by which I mean to include philosophers, scientists both natural and human, nonfiction writers of various sorts, and so on – are often understood to be engaged in endeavours that, while sometimes resulting in works of significant originality, nevertheless consist of interpretation rather than creation.

Much more needs to be said about these two. At this point, however, I merely want to suggest that they lend support to, and indeed are productive of, the ethic *whenever* and *wherever* they have been engaged in, though as we'll see they have also sometimes come into conflict with it. So my account of the ethic's origins is not meant to be a "cultural diffusionist" one, according to which the ethic is something that began in one culture and then spread to others. For as will become clear, I believe that the ethic is global in a much stronger sense than this, since it is truly is indigenous to all of the world's cultures.

One final claim before we begin. Although the accounts below shall be limited to creation and interpretation, I don't wish to imply that either is in any sense self-sufficient, as though they could have brought it about without there being some good – some ethical meaning – *already* there to begin with. Otherwise put, neither is able to do what it does *ex nihilo*. This should be obvious in the case of interpretation, which after all consists of reworking or rearticulating some already-present meaning. But it is also true of creation, especially when we conceive of it, as I shall suggest we do, as a matter of "inspired interpretation."[5] Creation *ex nihilo* has an important place in certain religious traditions where it's considered a capacity of the divine,[6] but the creations we humans engage in are different. And while recognizing this should help us to avoid the "naturalistic fallacy," that of deriving an "ought" from a (natural) "is," we can admittedly do so only by

[4] I first distinguished between them in *From Pluralist to Patriotic Politics: Putting Practice First* (Oxford: Oxford University Press, 2000), pp. 105–108.

[5] The paradoxical quality of this formulation is intentional.

[6] See, for example, Jonathan A. Goldstein, "The Origins of the Doctrine of Creation *Ex Nihilo*," *Journal of Jewish Studies* 35, (1984): 127–35.

sidestepping the larger question about the ultimate origin of meaning, ethical or otherwise. But then we wouldn't be the first, nor surely the last, to do that.[7]

Interpretation: Slapstick

I begin with interpretation, if only because I expect that what I have to say about it will be less controversial than my claims about creation. Before advancing my own argument, I want to summarize three more-or-less complementary interpretive accounts. The first is from Isaiah Berlin, whose takes an essentially psychological approach. It begins with the following suggestion: Consider a man who's in the habit of pushing pins into people. Though he's aware that doing so causes them harm, this is of no interest to him. Moreover,

> I ask him whether the fact that he causes pain to other people does not seem to him to be relevant to the question of whether it is desirable to drive pins into people or not. He says he cannot see what I am driving at – what possible difference can pain caused to others or the absence of it make to the desirability of obtaining pleasure in the way that he seeks to obtain it?[8]

Berlin then poses a few more questions to our pin-pusher, coming (finally) "to suspect that he is in some way deranged." Berlin has reached this conclusion because

> a man who cannot see that the suffering of pain is an issue of major importance in human life – that it matters at all – who cannot see why anyone should wish to know – still less mind – whether pain is caused or not, provided he does not suffer it himself, is virtually beyond the reach of communication from the world occupied by me and my fellow men.[9]

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[7] The best-known precedent for this strategy is probably that of Johann Gottfried von Herder, who famously avoided the question about the origin of language (and so, by extension, of meaning) while still managing to win a prestigious contest for the best paper on the subject. See his "Essay on the Origin of Language (1772)," trans. Alexander Gode, in Herder and Jean-Jacques Rousseau, *On the Origin of Language* (Chicago: University of Chicago Press, 1966).

[8] Berlin, "Rationality of Value Judgements," in Carl J. Friedrich, ed., *Nomos VII: Rational Decision* (New York: Atherton Press, 1964), p. 222.

[9] Ibid., pp. 222, 223.

Berlin continues:

> This seems to me to show that recognition of some values – however general and however few – enter into the normal definition of what constitutes a sane human being. We may find that these ends do not remain constant if we look far enough in time and space; yet this does not alter the fact that beings totally lacking in such ends can scarcely be described as human; still less as rational. In this sense, the pursuit of, or failure to pursue, certain ends can be regarded as evidence of – and in extreme cases part of the definition of – irrationality.[10]

To Berlin, then, recognizing something like the minimal global ethic is a necessary condition of sanity.

Stuart Hampshire, for his part, begins by affirming the value pluralism that he shares with Berlin. This is the moral and political philosophy according to which there exists a plurality of not-always-reconcilable values in the world. Accepting it, Hampshire suggests, should lead us to respect cultural differences, since cultures are but groupings of these not-always-reconcilable values. And when they conflict, those loyal to them ought to negotiate rather than use force. They should make concessions in the search for a balanced accommodation, and this means engaging in what Hampshire calls "the adversarial mode of argument." Everyone rational is capable of it, he believes, and indeed their willingness to argue in this way may be said to reflect respect for what I'm calling the minimal global ethic. Hampshire's conception of the ethic is thus a strictly procedural one, in contrast to Berlin's more substantial view. Because where Berlin conceives of the ethic as embracing values such as the avoidance of human suffering, Hampshire's claim is that, regardless of the substance of anyone's position, they ought to be willing to negotiate in good faith.[11]

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[10] Ibid., p. 223.

[11] See Hampshire, *Innocence and Experience* (London: Penguin, 1989), pp. 72–78; or his *Justice Is Conflict* (Princeton: Princeton University Press, 2000). Bernard Williams's position is similar. In "Human Rights and Relativism," in *In the Beginning Was the Deed: Realism and Moralism in Political Argument*, ed. Geoffrey Hawthorn (Princeton: Princeton University Press, 2005), p. 63, he argues that if a regime is to be legitimate, those in power must be able to offer some kind of justifying explanation or legitimation, and "our conceptions of human rights are connected with what we count as such a legitimation."

Michael Walzer, while probably not disagreeing with either Berlin or Hampshire, invokes instead a pragmatic form of rationality to account for the ethic. To Walzer, the ethic's prohibitions constitute a series of "tentative and intermittent conclusions" that have arisen in all of the world's cultures. The product of years of trial and error, the ethic came into being gradually, acquiring force, as Hume once described, "by a slow progression and by our repeated experience of the inconvenience of violating it."[12] Hume's "our," quoted by Walzer, refers to everyone, and Walzer has been sure to invoke the ethic whenever others have charged that, given his well-known support for local over global conceptions of justice, his political thought is too relativistic. Because while the ethic is internal to cultures, it is, again, internal to all of them.

My own account of the ethic's interpretive origins begins with our embodied nature. The body, it will surprise no one, brings with it certain needs, attractions, aversions, strengths and vulnerabilities. These have repeatedly influenced our interpretations and, as a result, they've come to have a moral import. Interpretations involving the body can thus be seen as at least partly constitutive of the ethic, since the body is, like the ethic, a global constant.[13] Interpretations that don't directly involve the body, by contrast, are the ones that have contributed to the diversity of cultures in the world, though this has also affected their conceptions of the ethic, since it's surely affected by the different values outside of it.

My argument for all this is based on none other than humour. Evidently, while I enjoy humour like anyone else, I also take it very seriously. And given that I've a perhaps idiosyncratic conception of it, I shall begin by presenting this conception as well as by explaining why I consider it a form of interpretation. Only then will I show how it lends support to the ethic.

In the philosophy of humour, two accounts have dominated. The older one sees it in a rather adversarial light: humour arises from the assertion of one's *superiority* to another or to oneself in a former situation. This is the approach defended by Plato, Aristotle, Cicero, Hobbes, and Bergson, although it's perhaps best summed up by Sophocles when he has Athena rhetorically ask whether

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[12] Quoted in Walzer, *Interpretation and Social Criticism* (Cambridge, MA: Harvard University Press, 1987), p. 24.

[13] As will become evident, there's a sense in which my argument can be considered the reverse of the transcendental one advanced by Maurice Merleau-Ponty in his *The Phenomenology of Perception*, trans. Donald A. Landes (New York: Routledge, 2010 [1945]), part 1. There, Merleau-Ponty asserts that, given our mode of perception, we are necessarily embodied agents. My argument moves in the opposite direction: given the fact of our embodied agency, we have all come to perceive, whatever else we perceive, certain ethical meanings.

its "not the sweetest laughter to laugh at one's enemies?"[14] Aristotle has pointed out that there are limits to humour's derisiveness, however, since it must invoke "some defect or ugliness which is not painful or destructive."[15] Otherwise, the matter won't be considered funny but will approach tragedy instead. Both Aristotle and Cicero, moreover, also mention the role of *surprising incongruity* in humour, and it is central to the second dominant account of it, the one defended by Hutcheson, Kant, Schopenhauer, and Kierkegaard. To them, what amuses is not so much a feeling of superiority as a sudden and unexpected contradiction.[16]

The limitations of these approaches should become apparent the moment we notice the numerous cases to which they don't apply. Think of the many instances of amusing wordplay in which feelings of superiority appear to play no role, or of the multiple incongruities – the instruments out of tune, the irrelevant points made within an argument, and so on – that are just not funny. While I think my own account manages to be relevant to all cases of humour, I should specify that it's not a "theory," that is, not a systematic articulation of the necessary and sufficient conditions for something to be funny.[17] Rather, it is a practical interpretation, meaning that it remains subject to the unique sensibilities of all who may find something funny. It also exists strictly in given contexts, which is to say that nothing is amusing "in itself," that is, without having being interpreted by people as such. That's why the "same" thing can be humorous to some but not to others, just as the "same" joke told in different ways will always have varying degrees of success.[18]

My account may be considered the product of a combination-through-transformation of the two dominant approaches. One could even say that it's the result of their integration or reconciliation, as if their advocates had participated in a successful conversation. Moreover, it assumes a Heideggerian conception of human agency, according to which most of our practices

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[14] See John Morreall, ed., *The Philosophy of Laughter and Humor* (Albany: SUNY Press, 1987), chs. 1–4, 15; and Sophocles, *Ajax*, ed. and trans. A.F. Garvie (Oxford: Oxbow Books, 1998), line 79.

[15] Aristotle, *Poetics* 1449a; see also *Nichomachean Ethics* 1128a4–8.

[16] See Morreall, ed., chs. 6, 8–9, 11.

[17] I'm tempted to say that my account consists of necessary but not sufficient conditions, but this would still mislead, since any necessary condition can itself be defined only with necessary but not sufficient conditions, and so on. So we must ultimately rely on the context, which is why I'm uncomfortable with the very idea of independently distinct, abstract conditions or criteria when it comes to defining such phenomena.

[18] On the latter point, see Jason Rutter, "Rhetoric in Stand-Up Comedy: Exploring Performer-Audience Interaction," *Stylistyka* 10, (2001): 307–25.

are carried out prereflectively, habitually, in complete harmony with the environment; it's for this reason that they may be said to constitute the background to our everyday lives.[19] And the background is something we share with others: being-in-the-world is always also a being-with.[20] That's why the background may be said to contain the "pre-judices" that serve as the basis of common sense.[21]

The moment there's a conflict, however, something will "show up" from out of the background.[22] This suggests that, before that point, whatever remained embedded in it was, in a sense, imperceptible to us, constituting a fully integrated part of a whole that is, after all, in the background. Think of the chair on which you're presumably sitting right now – before I just pointed it out, that is. This might seem a but banal truism, yet it and other examples like it point to Heidegger's tremendous philosophical originality. His famous thesis that philosophers since Plato have forgotten "the question of Being" is based in part on his belief that they begin thinking about things one step too late, which is to say without recognizing that they only appear to us because they have emerged from the background. In neglecting this, including the dependence of our thinking selves on that background, they've neglected much of what it means "to be."[23]

On, then, to my hermeneutical account of humour. Imagine someone walking down a street. She does so habitually, prereflectively, hence fully immersed in the practical background. There's also a sense in which we may say that she's expressing an interpretation of how she believes it best to reach her destination.[24] And should she find it necessary negotiate an obstacle encountered along the way, this too would be interpretive, albeit in a fully reflective sense. Say she encountered

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[19] See Martin Heidegger, *Being and Time*, trans. John Macquarrie and Edward Robinson (New York: Harper & Row, 1962), § 14.

[20] See ibid., § 25–26.

[21] See Hans-Georg Gadamer, *Truth and Method*, trans. Joel Weinsheimer and Donald G. Marshall (New York: Crossroad, 1989, 2nd ed.) part II.II.1 for a discussion of "enabling" prejudices, and part I.I.1.B.ii on common sense.

[22] See Heidegger, § 15–18.

[23] Unfortunately, Heidegger came to associate this thesis about the forgetfulness of Being with a metaphysical form of antisemitism. See my "Antisemitism and the Aesthetic," *The Philosophical Forum* 52, no. 3 (Fall 2021): 189–210.

[24] On practice as interpretive, see, for example, Charles Taylor, "Action as Expression," in Cora Diamond and Jenny Teichman, eds., *Intention and Intentionality: Essays in Honour of G.E.M. Anscombe* (Brighton: Harvester Press, 1979); and Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame, IN: University of Notre Dame Press, 2007, 3rd ed.), ch. 14.

a construction site and so had to take detour. This she does, and it goes without saying that there's nothing particularly funny about it.

But say that, rather than reaching any construction site, she slips on a banana peel and falls on her behind. Now this *is* funny, both to everyone who witnessed her fall as well as to herself. Why?

Just like the construction site, the fall interrupted her prereflective agency. But the difference is that, instead of coming up with a detour, she directed her attention at the interruption itself. Whence the central claim I want to make about humour: things are humorous when there's been a conflict with the background and our attention remains fixed on the conflict rather than on some other matter. Think of the role of the "straight man" in a comedy duo: he represents the background, "what we do around here," and so his nonplussed reactions to his partner serve only to emphasize the latter's violation of it. Or consider the schoolboy who, in front of everyone, teases the pupil who made the ill-advised decision to attend school with a terrible haircut (that was me). Just showing up might not have been enough to induce anyone to laughter; no, it takes someone literally to point his finger at the haircut's failure to respect those parts of the background relevant to hairstyles in order to induce everyone to laugh. (Even my teacher Mr. Woods did so.)

All this suggests that Bergson's idea of the place of the "ridiculous" in humour needs to be extended. Bergson sees humour as the product of absurd mechanical behaviour that produces a "shock" or "jolt" in failing to harmonize with the flow of everyday life.[25] However, my claim is that *any* kind of behaviour or meaningful entity that challenges the prereflective background has the potential to amuse in this way, and that it will do so only if it leads us to fix our attention on it.

It should be evident that, so far, this approach shares a great deal with the incongruity account of humour. But it would be inadequate as it stands if I didn't also include a feature derived from the superiority account: the background, being simply what "one does," is always at least at first granted a superior, indeed trumping, status vis-à-vis whatever challenges it. That's why the challenger is potentially amusing and so worthy of being laughed at.

Not that we should overlook the distinction between humour and laughter, since not everything humorous produces laughter, and not all laughter results from humour (think of tickling). This is the main reason why I'm dissatisfied with the third classic account of humour, the "relief thesis" defended by, among others, Spencer, Freud, and Kant (who, as mentioned above,

[25] See Bergson, *Laughter: An Essay on the Meaning of the Comic*, trans. Cloudesley Brereton and Fred Rothwell (Los Angeles: Green Integer, 1999 [1900]).

is also an advocate of the incongruity account). Because the great emphasis it puts on physiology suggests that the relief thesis is more applicable to laughter than to humour per se. That said, Kant makes a point relevant to my hermeneutical account when he remarks that laughter arises "from the sudden transformation of a heightened expectation into nothing."[26] Because talk of transformation into nothing dovetails with the notion that any challenge to the background is always, at least at first, going to be overcome, since our initial reaction is, again, to favour the background and so to negate any challenge to it.

Moreover, as Hegel pointed out, there's an essential connection between such an "it is as nothing" attitude and comedy[27] – to which I would add that this is due to the attitude being a form of disinterestedness that grants access to the aesthetic, as distinct from practical, dimension of reality. When someone takes offense at off-colour humour, however, they will reject precisely that attitude, since they simply do not see the humour as being without practical significance. And so they refuse to fix their attention on no more than its challenge to the prereflective background, with the result that they take it seriously rather than humorously. This leads them to ask the question of how to meet the challenge and, since no part of it deserves the trumping status that's initially awarded to the background, it's always possible that there will be no way to address the issue without loss.[28] Say the fall on the sidewalk caused an injury. This would have interfered with our pedestrian focusing on how her fall challenged the background, ensuring that she didn't find it amusing. Even if the pain was not too great, she would probably be more interested in evaluating her injury. So we can see why it's easier to find things funny when they're generally going well, putting us in a good mood, since that is precisely when we have the luxury to fixate disinterestedly on challenges to the background.

Another example: say someone pulls out what appears to be a gun at a dinner party. The first thought of everyone present will be that it's surely a joke, since it the act obviously challenges the

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[26] *Critique of the Power of Judgment*, ed. Paul Guyer, trans. Guyer and Eric Matthews (Cambridge: Cambridge University Press, 2000 [1790]), 5:332.

[27] See Hegel, *Aesthetics: Lectures on Fine Art*, vol. 2, trans. T.M. Knox (Oxford: Oxford University Press, 1975), pp. 1199–1202, 1220; as well as William Desmond, *Beyond Hegel and Dialectic: Speculation, Cult, and Comedy* (Albany: SUNY Press, 1992), chs. 5–6; and Stephen C. Law, "Hegel and the Spirit of Comedy: *Der Geist der stets verneint*," in William Maker, ed., *Hegel and Aesthetics* (Albany: SUNY Press, 2000), pp. 116–17.

[28] This, I would claim, is why works such as Ronald Dworkin's *Taking Rights Seriously* (New York: Bloomsbury, 1997, new ed.), which call for granting rights a "trumping" status, actually fail to take them seriously. Because conflicts involving rights are serious rather than humorous precisely because no part of them automatically overrides any other.

background practice of how one is supposed to behave at parties. The moment they realize the gun is real, however, then any sense of amusement will vanish: everyone will be concerned instead with the threat to their lives instead of to any background. So we have reason to once again invoke Aristotle's point that something humorous must be relatively painless – at least to the degree that, as Kierkegaard pointed out, we can be "justified in ignoring the pain, because it is non-essential."[29] Say the gun was clearly a water pistol: now what's threatened is not anyone's life but the concern with remaining dry, and this makes it much less likely that people's attention will be drawn away from any challenge to the background.

That said, even events in which someone loses their life can be considered funny (no matter how much it is in poor taste to do so). It all depends on our ability to remain focused on the challenge to the background. This is easier to do if one isn't close to the victim, of course, whether physically or personally. Think of those popular, but mean-spirited, Darwin Awards, which commemorate "those individuals who ensure the long-term survival of our species by removing themselves from the gene pool in a sublimely idiotic fashion."[30] There was a 1996 nominee called "Lawyer Aloft":

> Police said a lawyer demonstrating the safety of windows in a downtown Toronto skyscraper crashed through a pane with his shoulder and plunged 24 floors to his death. A police spokesman said Garry Hoy, 39, fell into the courtyard of the Toronto Dominion Bank Tower early Friday evening as he was explaining the strength of the building's windows to visiting law students. Hoy previously had conducted demonstrations of window strength according to police reports.[31]

Unfortunately for the victim, his being a lawyer (not among the most highly regarded of professions) only makes "ignoring the pain" that much easier, thereby facilitating a focus on the

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[29] Kierkegaard, *Concluding Unscientific Postscript*, in Morreall, ed., *Philosophy of Laughter and Humor*, p. 85 n. 3.

[30] From the cover of Wendy Northcutt's *The Darwin Awards: Evolution in Action* (New York: Plume, 2002).

[31] "Lawyer Aloft," *1993 Darwin Awards* (darwinawards.com, 1994–2020).

challenge to the background practice of how people ought to act around the windows of office buildings.[32]

I believe my approach helps account for several aspects of humour that are dealt with rather poorly by the dominant accounts. First, there's the matter of why it's necessary to "get" a joke or whatever is humorous. For the trumping background is, initially, always implicit. There's a good joke-within-a-joke about this:

> A man told this joke to a group of acquaintances, including an Englishman: A man walked into a saloon, sat at the bar, and ordered a martini. When the drink had been put in front of him, before he could touch it, a monkey that had been sitting on the bar a few yards away walked over to the drink, straddled it, and bent until his genitals were in the drink. In horror, the patron turned to the bartender and exclaimed, "Did you see that?"
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> "Oh yes," replied the bartender, "that was one of the worst things I've seen in this bar."
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> "Well, what are you going to do about it?" demanded the patron.
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> "I'm afraid I can't do anything," said the bartender, "the monkey belongs to the piano player."
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> The patron immediately approached the piano and said to the piano player, "Do you know your monkey dipped his balls in my martini?"
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> "No," said the piano player, "but if you can hum a few bars I'll pick it up."
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> When the joke was finished, all laughed except the Englishman. When he was asked why he didn't like the joke, he replied that he had not understood it. It was then explained to him that the expression "Do you know...?" has a special significance for piano-lounge players, and then he laughed considerably.
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> "So now that you understand it, you think it's pretty good, eh?" he was asked.
>
> "Oh my, yes," he replied, "but you do have to know the tune."[33]

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[32] Even friends or relatives of the victim can, however fleetingly, find such incidents funny, since there may be moments when their attention is focused on the conflict with the background rather than on their loss.

[33] A slightly amended version of a joke contained in Ted Cohen, *Jokes: Philosophical Thoughts on Joking Matters* (Chicago: University of Chicago Press, 1999), p. 5.

As this joke implies, no explanation of a joke – which we can now identify as the rendering explicit of those parts of the background that are being directly challenged – can ever really be funny. Because humour relies on there being a conflict with something that is by nature implicit. Hence E.B. White's insightful observation: "Humour can be dissected, as a frog can, but the thing dies in the process"[34] (not that the relatively recent practice of dissecting already-dead frogs is much funnier – at least for the frogs).

Second, there's the matter of humour's powers of attraction. It is because the background is something shared with others that we can see why the sight of two or more people laughing together indicates that they share a certain sensibility. Hutcheson goes further: "laughter is none of the smallest bonds to common friendship."[35] The appeal of this sharing may also account for the power of jokes that target minorities – once we recognize how "making fun of X" consists of striking it against the prereflective background, that is, of highlighting its differences from what the majority takes for granted as normal.[36] Humour's attractions are surely also responsible for laughter's contagious quality,[37] not to mention those humorous vicious circles that drive "giggle fits," i.e. when people laugh with growing intensity at least partly because they're aware that it's increasingly inappropriate to do so (given the background to the context they're in, be it a library, or a classroom, and so on).

Third, my account helps us to understand why it's become popular for some contemporary comedians to draw attention to unnoticed, seemingly insignificant contradictions present within our shared background practices.[38] For this goes with the idea that the background as a whole, while largely harmonious, is nonetheless never so free of conflict or tensions that we could describe

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[34] White, "Preface," to E.B. and Katherine S. White, eds., *A Subtreasury of American Humor* (New York: Coward-McCann, 1941), p. xvii.

[35] See Hutcheson, *Reflections upon Laughter*, in Morreall, ed., p. 36.

[36] For example, the Sambo stereotype of African Americans depended on white Americans having certain shared beliefs and attitudes. See Joseph Boskin, "The Complicity of Humor: The Life and Death of Sambo," in Morreall, ed.

[37] See Robert R. Provine, "Contagious Laughter: Laughter Is a Sufficient Stimulus for Laughter and Smiles," *Bulletin of the Psychonomic Society* 30, no. 1 (1992): 1–4. The detective novelist Raymond Chandler used to play the following practical joke on moviegoers: he and a friend would go to a cinema showing a melodrama, take seats on opposite sides of the room, and then, at a prearranged moment, laugh hysterically at a tragic scene. Often, they succeeded in getting many others in the audience to laugh along with them. See Tom Hiney, *Raymond Chandler: A Biography* (New York: Atlantic Monthly Press, 1997), p. 38.

[38] It's not for nothing that the popular American television program *Seinfeld* (1989–1998) came to be known as "a show about nothing." See Jorge J.E. Gracia, "The Secret of *Seinfeld*'s Humor: The Significance of the Insignificant," in William Irwin, ed., *Seinfeld and Philosophy: A Book about Everything and Nothing* (La Salle, IL: Open Court, 1999).

it as a "unity." That said, its conflicts are, at least initially, still minor enough that its overall integrity is never really put in question. Otherwise, they would've shown up of their own accord rather than needing a comedian to escort them to the foreground.

Fourth, there's the question of humour's place in the comic arts. According to Northrop Frye, theatre and cinema have witnessed essentially two comedic genres.[39] There's the relatively conservative Old Comedy, from Aristophanes through to Shaw, Beckett, early Chaplin, and today's Kids in the Hall, which are usually unwilling to go beyond the positing of humorous challenges to the background.[40] And there's the progressive New Comedy, as in the works of Menander through to Shakespeare, Molière, and many a Hollywood movie, in which the plot does go further, reaching a reconciliation at the end of a teleological journey.

In both forms, the humour is based on the conflicts, and one of the antagonists is always something prereflectively shared by all. This, again, is why we assume that whatever conflicts with it is, at least initially, in the wrong. Erich Segal misses precisely this point when he associates humour with the reconciliation that may follow a conflict; this leads him to conclude that, since the mid-twentieth century, we should be declaring "the death of comedy." That he would pose the question of whether comedy can "survive without a wedding"[41] is revealing, since it suggests that his conception has become limited to New Comedy and thereby explains why he thinks the rise of the Theatre of the Absurd heralds the death of the genre. But even putting aside the matter of whether genres can ever really "die," I have to wonder about how Segal can acknowledge the many stories being recounted on stages and screens today – stories that obviously succeed in making people laugh – and yet still see them as something other than comedies.

Fifth and finally, there's the issue of why repeating something humorous tends to make it less and less funny. It seems to me that this is because if the same conflict with the background is asserted often enough, then the reflexive granting of a trumping status to the latter will weaken and the conflict will instead become something to ponder. And there's nothing funny about interpreting in an explicit, reflective way. Alternatively, overused humour can become stale

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[39] See Northrop Frye, "Romance as Masque," in *Spiritus Mundi: Essays on Literature, Myth, and Society* (Bloomington: Indiana University Press, 1976), pp. 148–56.

[40] The Kids in the Hall even have a sketch about their brand of humour that shows it to be associated with a form of Old Comedy, given that it ends with a resolution so illogical as to be no resolution at all: "Sketch Comedy," in *The Kids in the Hall* (New York: Broadway Video, 1989), series 1, episode 2.

[41] Segal, *The Death of Comedy* (Cambridge, MA: Harvard University Press, 2001), p. 420.

because the conflict it posits can itself fade into and so become part of the background.[42] This is similar to what results from the successful reconciliation of the conflict that we find at the close of New Comedies. Because when interpretations lead to understanding, then it won't be long before the matter begins to seem less interesting to us, and so once again fades into the background. After all, just like with anything whose features are highly integrated or reconciled, that's where it "belongs."

Unlike with the repetition route, however, such reconciliations will bring pleasure, albeit of a practical rather than aesthetic sort. Recall Plato's reference to the pleasures of learning (*Rep.* 585A), or the tutor Tranio's advice to his student in Shakespeare's *Taming of the Shrew*: "No profit grows where no pleasure ta'en" (I.i.39). It has also been argued that Aristotle's "catharsis" is best translated as "clarification," which suggests that cathartic pleasure comes not from purging oneself of emotional tension so much as from gaining clarity about the matter in question.[43] So this is distinct from the aesthetic pleasure that comes from savouring, though the two kinds can be combined.[44] Nevertheless, it's in setting up a conflict to be (potentially) reconciled by an interpretation that humour may be connected with wisdom, as Montaigne suggested.[45] And at least as regards certain practical situations, it is not far from this to George Grant's declaration that "the purpose of the art of comedy is to bring together justice and felicity."[46]

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[42] The joke, in other words, has become kitsch. I think what we call kitsch is largely based on an item that should have naturally faded into the background being artificially kept from doing so. Otherwise put, kitsch is a matter of treating the no longer interesting or attractive as interesting or attractive. This conception of it is compatible with Milan Kundera's in *The Unbearable Lightness of Being*, trans. Michael Henry Heim (New York: Harper & Row, 1984), p. 248, according to which kitsch consists of the denial of unacceptable realities in the world given its "basic faith" in "a *categorical agreement with being*." Because to pay heed to something kitsch is implicitly to deny that there are other things more worthy of our attention, that is, conflicts, genuine problems. I think my account is superior to Kundera's, however, since it's compatible with the existence of ironic kitsch such as most forms of camp, kitsch that knows it's kitsch and even trumpets this.

[43] See Isaiah Smithson, "The Moral View of Aristotle's *Poetics*," *Journal of the History of Ideas* 44, no. 1 (Jan.-Mar. 1983): 3–17, pp. 13–17. For an account of practical reasoning in ethics along these lines, see my *From Pluralist to Patriotic Politics*, ch. 3.

[44] As when we appreciate pop music, for example. New hits climb the charts because they challenge listeners with unfamiliar sounds or lyrics, resonating with them in ways that are attractive both aesthetically and practically. In time, however, the song becomes boring because "understood" and so no longer challenging. Thus does it fade into the prereflective background and descend the charts.

[45] Michel de Montaigne, "Of the Education of Children," in *The Complete Essays of Montaigne*, trans. Donald M. Frame (Stanford: Stanford University Press, 1958), p. 119: "The surest sign of wisdom is constant cheerfulness . . . she makes it her business to calm tempests of the soul and to teach hungers and fevers to laugh, not by some imaginary epicycles, but by natural and palpable reasons."

[46] Grant, "Preface," in *Technology and Empire: Perspectives on North America* (Toronto: Anansi, 1969), p. 11. See also Sammy Basu, "Dialogical Ethics and the Virtue of Humor," *Journal of Political Philosophy* 7, no. 4 (1999): 378–403;

Talk of humour and justice means that the time has come for my argument that humour is a source of the minimal global ethic. I begin with the classic distinction between two basic forms of humour: the relatively sophisticated because intellectual type; and the lowbrow because physical type that's come to be known as slapstick.[47] The former is relative to culture: as Hutcheson once declared, "What is counted ridiculous in one age or nation, may not be so in another." Or as Peter L. Berger puts it, paraphrasing one of Pascal's *pensées*, "What is funny on one side of the Pyrenees is not funny on the other."[48] But slapstick has a global reach, both temporally and geographically. Regarding time, we could invoke that Victorian commentator's observation: "A pun tells only once, but it is not so with a poke in the eye."[49] Because unlike with intellectual humour, there seems to be something timeless about slapstick. Whence Alan Dale's point, made at the beginning of his *Comedy Is a Man in Trouble: Slapstick in American Movies*, that every major type of film clown he writes about can also be found in Kenneth McLeish's book, *Theater of Aristophanes*.[50]

Regarding slapstick's geographic reach, it appears to be able to traverse borders far more than intellectual humour. As Tony Staveacre observes, it's been found among the Hopi Indians of the American Southwest; the *gimis* of the eastern highlands of Papua New Guinea; the troupes of clowns and acrobats in Greece of the seventh century BCE; Hindu epics with the jester Vidusaka, whose name means "one given to abuse"; Balinese dance-drama; the *mimus* clown character of the Romans as well as their interpretive dance known as the *pantomimes*; the Italian mime of the fourth century CE; and the second of the two comic types in traditional Chinese theatre (not the *wen ch'ou*, where words are used, but the *wu ch'ou*, where they aren't).[51]

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as well as my discussion of comedy in *From Pluralist to Patriotic Politics*, ch. 4.

[47] See George Meredith's 1877 lecture, "An Essay on Comedy," in Wylie Sypher, ed., *Comedy* (Baltimore: John Hopkins University Press, 1956).

[48] Hutcheson, *Reflections upon Laughter*, 34; and Berger, *Redeeming Laughter: The Comic Dimension of Human Experience* (New York: Walter de Gruyter, 1997), p. 14. As Berger points out on p. 31 of his book, it's because "the comic always depends on the specific life-world within which it occurs" that "the best Jewish jokes fall flat in China." See also the British Association for the Advancement of Science, *Laughlab: The Scientific Quest for the World's Funniest Joke* (Toronto: Random House, 2002).

[49] Quoted in Tony Staveacre, *Slapstick! The Illustrated Story of Knockabout Comedy* (North Ryde, NSW: Angus & Robertson, 1987), p. 5.

[50] See Alan Dale, *Comedy Is a Man in Trouble: Slapstick in American Movies* (Minneapolis: University of Minnesota Press, 2000), p. 1.

[51] See Staveacre, *Slapstick!*, pp. 10–13, where we also learn that the Italian mime was a masked player who carried a knucklebone or what looked like a small cosh as a weapon, a kind of baton that has undergone numerous transformations: into a turtle-shell rattle, a bladder on a stick, a sock full of dried peas, a hinged wooden sword, a red-hot poker, a truncheon, a feather-duster, a "tickling stick," and so on. And as Dale, p. 1, points out, this is what in the

All this should be expected given the above hermeneutical account of humour. For slapstick's ability to amuse derives from a conflict involving the body, more specifically, between the background practices that relate to the body and the actions of a given embodied agent. My reasoning is as follows. The human body has, biologically speaking, roughly the same properties everywhere – including the same limitations, vulnerabilities, susceptibility to slippery banana peels, and so on. Moreover, it goes without saying that numerous practices have arisen around it, practices which are driven by interpretations that are influenced by its properties. So given that these practices have been with us for a very long time, they've become habitual, prereflective, hence the bases of a global practical background. And in the case above of our pedestrian, we need merely to recall that included in all of the world's cultures is the prereflective practice according to which ambulatory persons should be able to walk along without slipping and falling. To slip and fall, then, is to violate that practice and thereby become cross-culturally amusing.

No such global commonalities exist when it comes to the myriad and diverse practices invoked by the more intellectualist forms of humour, however. These arise from conflicts between the varying aspects of a given society's practical background and innumerable other matters. And because they're different in different societies, intellectual humour has no common theme to compare with slapstick's consistent basis in the fact that, while there exists a wide diversity of cultures, everyone is incarnate.

This has ethical import. Alongside walking, there are, of course, are many other prereflective practices that involve the body, some of which are upheld by the minimal global ethic: nourishment, avoiding pain, sheer physical survival, and so on. It's because these have a practical and not only natural significance that they serve as the bases of meaningful cultural practices. Think of dining, hygiene, and health care: while carried out differently in different cultures, they all share certain somatic aims.[52] This allows us to align them with slapstick as distinct from intellectualist humour, since each expresses a certain minimum of ethical meanings, that is, values or goods shared by all of the world's cultures.

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twentieth-century was called the "slapstick," those double-paddles used by circus clowns to beat each other, with the loud crack when they were crashed together serving as a dependable source of laughter and applause.

[52] See, for example, Sidney W. Mintz and Christine M. Du Bois, "The Anthropology of Food and Eating," *Annual Review of Anthropology* 31, no. 1 (Oct. 2002): 99–119; Valerie Curtis and Adam Biran, "Dirt, Disgust, and Disease: Is Hygiene in Our Genes?" *Perspectives in Biology and Medicine* 44, no. 1 (Winter 2001): 17–31; and Shigehisa Kuriyama, *The Expressiveness of the Body and the Divergence of Greek and Chinese Medicine* (New York: Zone Books, 1999).

One might object by pointing to an apparent contradiction between (i) the idea that new meanings can come from the transformations that lead to the progressive reconciliation of conflict; and (ii) that humour arises from a conflict which, at least at first, is merely asserted rather than reconciled. How, then, can (ii) be a source of normative meaning? My answer is that slapstick's conflicts do require a reconciliation – not of the values in conflict, however, but in the sense that we must accept, and so reconcile ourselves to, certain irreconcilables, namely those deriving from our embodied nature. That's why slapstick supports the minimal global ethic, since its basic message contrasts with, say, those of mystical traditions that would have us *transcend* the body, or those of sports that celebrated our *mastery over* the body. Because slapstick implies that we should *accept* the body.[53]

This supports two kinds of values, both of which are present in the ethic. First, there are those which underlie "body-friendly" moral injunctions such as that persons shouldn't be starved, tortured, or killed. And second, there's a certain minimal egalitarianism, since slapstick reminds us of vulnerabilities that we all share (to falling down, say, and losing an equal measures of dignity in the process). As such, it acts as a kind of leveller, opposing any and all forms of pretentiousness. And that's why we may conclude that slapstick is as enjoyable way of both producing and being reminded of these values – certainly more so than are the many dour and, I would claim, counter-productive lists of human rights that can be found in charters, schedules, and declarations the world over.[54]

Creation: Revelation in Rabbinic Judaism

Humour derives from not only interpretation but also creation, as Freud suggested when he called attention to the parallels between wit and dreams.[55] After all, are not the comic arts essentially fictional stories? There's a limit to comedy's creativity, however, since the more imaginative, indeed absurd, the story, and the longer it's kept up, the further will one travel from the background and so from any potentially humorous conflict with it. Instead of approaching the background at an oblique angle, and timed in just the right way, colliding with it directly from the absurd

[53] See Dale, *Comedy Is a Man in Trouble*, p. 14.

[54] See my "The Ironic Tragedy of Human Rights," in *Patriotic Elaborations*.

[55] See Freud, *Jokes and Their Relation to the Unconscious*, trans. James Strachey (Penguin: Harmondsworth, 1991).

generates not humour but unease, alienation. This tends to be missed by all who have drawn attention to the tradition of "folly" and its connection to transcendence in order to claim a religious dimension for the comic.[56] Because while King Lear's daughter Regan may have been right to declare that "jesters do oft prove prophets" (v.iii.72), when they do so, it turns out, they don't tend to be particularly funny.[57]

The link between transcendence and creativity is strong, however. To appreciate it, we must first recognize that what makes creation distinct from interpretation is the addition of an "inspiration." Baudelaire has been particularly eloquent about the duality here:

> The beautiful is always, inevitably, of a double composition, although the impression it produces may be one; for even though it may be difficult to distinguish the various elements of the beautiful within the unity of the impression it gives, this invalidates nothing of the necessity of their being a variety in its composition. The beautiful consists invariably of an eternal element – and to a degree of which it is excessively difficult to determine – and a relative element, a contextual one, consisting, one might say, be it one after the other or all together, of a context's era, fashion, morality, or passion. Without this second element, which serves as something like an amusing envelope or a titillating, appetizing, divine cake, the first would be indigestible, incomprehensible, nonadapted, and thus inappropriate to human nature. I defy anyone to discover an unspecified sample of beauty that does not contain these two elements.[58]

As I read this passage, Baudelaire's first element is what I would call inspiration, whereas his second consists of interpretation.

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[56] See, for example, Berger, *Redeeming Laughter*, chs. 12–14; Karl-Josef Kushel, *Laughter: A Theological Essay*, trans. John Bowden (London: SCM Press, 1994), ch. 3; and Harvey Cox, *Feast of Fools* (Cambridge, MA: Harvard University Press, 1969), ch. 10.

[57] Indeed, if fools transcends the world too much, they will be too distant society's background to conflict with it. So Mikhail Bakhtin is right to place them squarely within the carnivals of medieval folk culture, where "the people do not exclude themselves from the wholeness of the world." Bakhtin, *Rabelais and His World*, trans. Hélène Iswolsky (Cambridge, MA: MIT Press, 1968), p. 12. Still, it's because of their still-distant perspectives on the world and its people that, as John Donne put it, "*fools* are the most laughed at, and laugh the least themselves of any." Donne, "Paradox X: That a Wise Man Is Known by Much Laughing," in *Complete Poetry and Selected Prose*, ed. Charles M. Coffin (New York: Random House, 1952), pp. 286–87.

[58] Baudelaire, "Le Peintre de la vie moderne," in *Écrits sur l'art*, ed. F. Moulinat (Paris: Librairie générale française, 1992), p. 371 (my translation).

I also think we should see that inspiration as having a transcendent source. This obviously controversial claim is not something I will argue for directly, however, so much as hope that it'll appear plausible given the discussion that follows. That would then leave less room for the view of creation that sees the creators as able to do what they do wholly self-sufficiently, that is, without having to rely on an external source. I'm referring to the Nietzschean conception according to which creation is fundamentally a matter of the will.[59] Rather than offer an extended critique of it here, however, I'll merely suggest its inadequacy by invoking its failure to account for two things. First, the fact that critics are often better judges of the meaning of artworks than are their creators.[60] And second, the oft-reported sense on the part of the creators that their creations (and not just their talents) are gifts, which is why we tend to describe the more successful artists as "gifted."[61]

So whereas interpretation is strictly a matter of *logos* (reason/speech), of an attempt to articulate something experienced, something immanent – that is, a text or text-analogue that has "shown up" as a phenomenon accessible to ordinary perception – creation, while always also involving some degree of interpretation, is nevertheless distinct in drawing on a source that originates from *beyond* any interpretable thing. That's why, even though a creation may be inspired by such a thing, we do not say that it's essentially *about* that thing.

There is also an important difference in the power dynamics between the two. With practical interpretation, at least, the interpreter and interpreted can claim a more or less symmetrical relationship, a necessity if there's to be a "dialogue" between them.[62] With creation, by contrast, the inspiration is often said to have a kind of "power over" the creator. This makes for a reversal of the asymmetry characteristic of research in the natural sciences, where the aim is to "capture" nature in one's theoretical sights. Because when a creator is inspired, he or she will have the sense that they're the one being "looked at," not the other way around; the struggle, in other words, is for "receiving" that look. This is very different from interpreters who must, as though in conversation, both listen and speak in turn if they're to "make sense" of, to say something coherent

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[59] See, for example, Nietzsche, *Beyond Good and Evil: Prelude to a Philosophy of the Future*, eds. Rolf-Peter Horstmann and Judith Norman, trans. Norman (Cambridge: Cambridge University Press, 2002 [1886]), nos. 203, 211, 257, 259–61, 269; and *The Will to Power: Selections from the Notebooks of the 1880s*, ed. R. Kevin Hill, trans. Hill and Michael A. Scarpitti (London: Penguin Books, 2017), bk. 3, ch. 4.

[60] See Northrop Frye, *Anatomy of Criticism: Four Essays* (Princeton: Princeton University Press, 1957), p. 5.

[61] See Lewis Hyde, *The Gift: How the Creative Spirit Transforms the World* (Edinburgh: Canongate, 2006, 2nd ed.).

[62] See Martin Buber, "Dialogue," in *In Between Man and Man*, trans. Ronald Gregor Smith (Boston: Beacon, 1947).

about and so achieve a better understanding of, whatever they are interpreting. And whereas dialogical interpretation encourages us to reach for aural metaphors to describe the process,[63] with creation, as hinted at above, it makes more sense to invoke ocular metaphors, as with the tendency to refer to inspirations as like "light," and to those receiving them as "visionaries."[64]

Of the many forms of creation, I call the one I want to focus on here "revelatory." As the term implies, it has religious roots, and indeed I plan to explore the version that's been central to Rabbinic Judaism: what the rabbis call *hiddush*. I shall contrast it with another form of religiously-rooted creativity, namely mysticism. Most forms of Jewish mysticism are different from those of other religious traditions, however, since the former tend to do more than emphasize a visionary communion, or even unification, with the divine via a state of ecstasy; rather, they also often combine this with a theosophy which is based on esoteric knowledge of the Godhead.[65] But since I conceive of the latter as a form of "mythical" creativity distinct from the mystical, I'm going to distort somewhat in order to simplify the matter and so write as if Jewish mysticism was strictly ecstatic.

One might say that, in religious Judaism as a whole, mysticism and revelation constitute the two chief creative ways by which persons can achieve proximity to the divine. Each is, in a sense, a mirror image of the other, since they both "move" in opposite directions. With mysticism, the division between heaven and earth, sacred and profane, is overcome by a lone individual who, seeking ecstasy, ascends from the human, social world in order to "see" the light emanating directly from God. That this is done by the mind's eye (or should that be the soul's?) as distinct from our physical eyes is suggested by the etymology of "mystic," which derives from the Greek *muein* and means "to close one's eyes." So we've a reason to distinguish between mystical vision and the ordinary, sensory and so interpretive sort that we use to observe phenomena. The same should be said of revelatory visions, though they purportedly result from the descent of God's spirit (the *Shekhinah*) so that it may dwell among the members of a society. Moses' purported journey up Mount Sinai to encounter God "from heaven" (Exod. 20:22) may thus be considered a

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[63] Hence Gadamer, *Truth and Method*, p. 420: "The primacy of hearing is the basis of the hermeneutical phenomenon."

[64] Consider just the title of Barry Wallenstein and Robert Burr's edited collection of the drafts of a number of famous poems, *Visions and Revisions: The Poet's Process* (Peterborough, ON: Broadview Press, 2002).

[65] See Elliot R. Wolfson, "Jewish Mysticism: A Philosophical Overview," in Daniel H. Frank and Oliver Leaman, eds., *History of Jewish Philosophy* (New York: Routledge, 1997).

paradigmatic case of mysticism, while his entering the Tent of Meeting just outside the Israelites' camp to engage with Him "face to face" following His descent via a pillar of cloud (Exod. 33:7–11) should be read as a tale of revelation.[66]

To religious Jews, Moses' mystical encounters with God, as well as those of the prophets who followed him, are the chief sources of the inspirations behind the Bible, conceived as a product of creation and so, I would say, as a work of art.[67] During Judaism's Biblical era, the Bible's precepts were first interpreted by the Levitical or Mushite priests, and then by the Aaronide priests who came to oversee the operations of the Temple in Jerusalem.[68] In 70 CE, however, the Temple was destroyed for the second and final time, and the Jews of Israel were scattered throughout the Diaspora. And during this post-Biblical or Rabbinic age, it is said that the "gift" of the prophets was passed on to the sages, the rabbis of the Talmud.[69] As I interpret the claim, it is that the mystical creativity of prophecy was replaced by revelation, which enabled the faith to endure despite the loss of the Temple. For the locus of sanctity had moved from within the Temple to the streets and homes of everyday Jewish life.

Revelation in Judaism has taken two principal forms. First, there's the one associated with Talmudic "study." I put this word in scare quotes because, though it's often said to consist of the exegesis of Torah, this shouldn't be conceived along the lines of interpretation as described above.[70] For the aim is surely not to "make sense" of the written text, to rearticulate it into a more coherent and so understandable form by integrating or reconciling any contradictions that have shown up. On the contrary, not only is the text seen to be riddled with paradoxical inconsistencies, but it's considered no less perfect because of this.[71] For the many gaps of meaning arising from

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[66] Religious Jewish thinkers who (appear to) reject mysticism have suggested that, instead of any ascension from earth, the Sinai encounter witnessed God lowering the heavens to the top of the mountain. For support, they might cite the *Mekhilta de-Rabbi Ishmael: Tractate Bahodesh* 4.45–58.

[67] "So Moshe spoke in the ears of the entire assembly of Israel the words of this song." Deuteronomy 31:30, in *The Five Books of Moses: Genesis, Exodus, Leviticus, Numbers, Deuteronomy*, trans. Everett Fox (New York: Schocken, 1997) (שיר can be translated as "poem" as well as "song"). Subsequent quotations of the Hebrew Bible are all from this translation. See also the *Babylonian Talmud: Tractate Nedarim* 38a.

[68] See, for example, Mark Leuchter, "How All Kohanim Became Sons of Aaron," *TheTorah.com,* 7 April 2022.

[69] See the *Babylonian Talmud: Tractate Bava Batra* 12a–b.

[70] An error that, for example, Gerald L. Bruns makes in his *Hermeneutics Ancient and Modern* (New Haven: Yale University Press, 1992), ch. 5.

[71] See the *Babylonian Talmud: Tractate Sanhedrin* 99a. The Bible's perfection is also an implication of God's declaration that "You are not to add to the word that I am commanding you, and you are not to subtract from it" (Deut. 4:2).

the contradictions are conceived as openings through which the Divine presence may flow, spaces which make way for the inspirations behind the creation of a new Oral Law, distinct from the Written. So these are truly radical gaps that, we may say, go all the way through, piercing being and thereby providing access to the transcendent.

In order to do justice the presence of these gaps in the text, and indeed make new ones, Rabbinic Jews engage in "study" that consists of highly adversarial debate (*makhlokot*). The aim, again, is not integration or reconciliation but rather an *increase* in the distance between interlocutors (the root of *makhlokot*, חלק, means "to divide"), the hope being that the wider the gaps, the greater the invitation to the Divine to descend, enter the world, and inspire. These openings, then, consists of nothing, indeed of a less than nothing that has been described as "A nothingness more essential than Nothingness itself, the emptiness of the in-between, an interval that is ever deepened and, as it deepens, swells up – the nothingness as work and movement."[72] That's why the Talmudist aims, if anything, to do a kind of violence to the text, to "rub it in such a way that blood spurts out,"[73] since only this can hope to bring the inspirations that drive what we might call the "epiphanies" of revelatory creation.

Where these revelatory epiphanies have their origins in the space *between* their creators and the text, those of mysticism are best understood as relying upon gaps *within* the self, dividing it.[74] Whence the following parable:

> A story is told about a rabbi who once entered heaven in his dream. He was permitted to approach the temple in Paradise where the great sages of the Talmud, the Tannaim, were spending their eternal lives. He saw that they were just sitting around tables studying the Talmud. The disappointed rabbi wondered, "Is this all there is to Paradise?" But suddenly he heard a voice: "You are mistaken. The Tannaim are not in Paradise. Paradise is in the Tannaim."[75]

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[72] Maurice Blanchot, quoted in Marc-Alain Ouaknin, *The Burnt Book: Reading the Talmud*, trans. Llewellyn Brown (Princeton : Princeton University Press, 1995), p. 87; see also p. 283; as well as my "Gaps: When Not Even Nothing Is There," *Comparative Philosophy* 12, no. 1 (Jan. 2021): 31–55.

[73] Emmanuel Levinas, "The Temptation of Temptation," in *Nine Talmudic Readings*, trans. Annette Aronowicz (Bloomington, IN: Indiana University Press, 1990), p. 46.

[74] R.D. Laing alludes to a relation between the divided self and creativity in his *The Divided Self* (Harmondsworth: Penguin, 1969), pp. 27, 89.

[75] Abraham Joshua Heschel, *The Sabbath: Its Meaning for Modern Man* (New York: Farrar, Straus & Co., 1952),

Otherwise put, in mysticism, the larger the gaps, the less self – and so the more ecstasy, hence the further will the mystic travel from the life of the socio-political animal (*zoon politikon*), as Aristotle described us. To Rabbinic Judaism, however, any transcending of our earthly existence should await our natural deaths, since Jews should heed God's warning that "You cannot see my face, for no human can see me and live!" (Exod. 33:20). That said, social life may still be lived creatively, and this brings us to the second form of revelatory creation, the one based on the application of the Oral Law that, as we've seen, was created by the first.

Before discussing it, however, I want to remark on how the Oral Law purportedly shares Sinaitic origins with the Biblical Written Law.[76] Because both are said to arise from within the same transcendent temporal dimension, one that contrasts with horizontal profane time where, as Bergson described, the past flows into the present and the present into the future.[77] This is the time of practical history and beings-in-the-world; by its measure, the events of Sinai are long past, archaeologists and historians of religion having dated them to sometime between 1400–1250 BCE. So any new Oral Law must have been created much later. However, the idea that inspiration is essential to creation assumes that it's possible to transcend profane time via a rupture within it, a *moment* in which the different time dimensions intersect, one where all epiphanies take place simultaneously, within an "infinite now."[78] That creation involves a combination of the two time dimensions suggests, again, that it's a matter of inspired interpretation, an idea that receives support from "Pour un instant," the classic song by the 1970s Québécois progressive rock band Harmonium: "For an instant I forgot my name / allowing me to write this song at last / . . . I lost my time to gain some time."[79]

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p. 75.

[76] See, for example, Levinas, "Revelation in the Jewish Tradition," in *Beyond the Verse: Talmudic Readings and Lectures*, trans. Gary D. Mole (Bloomington: Indiana University Press, 1994), p. 135.

[77] See Bergson, *Time and Free Will: An Essay on the Immediate Data of Consciousness* trans. F.L. Pogson (London: George Allen & Unwin, 1910), ch. 2. Though Heidegger refers to his version of this as an "ecstatic" temporality, it too "stands outside" (the Greek root meaning) in a strictly horizontal sense, which is why Heidegger's *Dasein* is essentially worldly. See *Being and Time*, esp. § 65.

[78] See, for example, Eric Auerbach, *Mimesis: The Representation of Reality in Western Literature*, trans. Willard R. Trask (Princeton: Princeton University Press, 1953), pp. 73–76; Walter Benjamin, "Theses on the Philosophy of History," in *Illuminations: Essays and Reflections*, ed. Hannah Arendt (New York: Schocken, 1968), pp. 262–63; Søren Kierkegaard, *The Concept of Anxiety*, trans. Reidar Thomte (Princeton: Princeton University Press, 1980), pp. 82–84; and Gordon Downie's poem "The Never-Ending Present," in *Coke Machine Glow* (Toronto: Random House, 2001), p. 58. "Moment" in this sense is qualitatively different from what Hegel or Heidegger meant by the term, their *Augenblick* being fully immanent to a unified whole.

[79] From the album *Harmonium* (Montreal: PolyGram, 1974); my translation of "Pour un instant, j'ai oublié mon

Still, it was only when Oral Law itself came to be written down, a process that began in the third century CE, that we got the Talmud, a collection of texts which evince their own share of contradictions and so potential openings to the infinite now. As Adin Steinsaltz describes it, the Talmud

> is a conglomerate of law, legend, and philosophy, a blend of unique logic and shrewd pragmatism, of history and science, anecdotes and humour. It is *a collection of paradoxes*: its framework is orderly and logical, every word and term subjected to meticulous editing, completed centuries after the actual works of compositions came to an end; yet it is still based on free association, on a harnessing together of diverse ideas reminiscent of the modern stream-of-consciousness novel.[80]

Moreover, it is the laws of which the Talmud is the main source, the *halakhot*, that serve as the basis of the second form of revelatory creation in Rabbinic Judaism.

Halakhah works in the following way. Normally, people strive to live their lives in harmony with the flow of social practices; as Heidegger describes, we aim to "dwell" on this earth, to be "at home" in the world.[81] *Halakhah*, however, is all about disrupting this, at least to a point. As Joseph Soloveitchik explains, the *halakhot* constitute "fixed statues and firm principles" that are meant to be implemented "without any compromises or concessions."[82] For this reason, they serve as obstacles to the run of everyday life – standing, we might say, like boulders around which the river of practices must flow. Circumnavigation is necessary not only because of their inflexibility, which ensures that they cannot be transformed and so reconciled interpretively, but also because many are also *hukkim*, which is to say rules for which no reasonable justification may be given. Why is mixing meat and milk unkosher? "Because that is God's will" is all that any rabbi will be able to say. The matter's quite different when it comes to those *halakhot* that are *mishpatim*, such as the

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nom / Ça m'a permis enfin d'écrire cette chanson / . . . J'ai perdu mon temps à gagner du temps."

[80] Adin Steinsaltz, *The Essential Talmud* (New York: Basic Books, 1976), p. 4 (my italics).

[81] See Heidegger, "Building Dwelling Thinking," in *Basic Writings*, ed. David Farrell Krell (New York: HarperCollins, 2008, rev. exp. ed.).

[82] Soloveitchik, *Halakhic Man*, trans. Lawrence Kaplan (Philadelphia: Jewish Publication Society, 1983), pp. 19, 90.

eminently understandable injunction "Thou shalt not kill." Yet these too remain rules that should never be bent.

According to Soloveitchik, *everything* about daily life, including all the phenomena that one may encounter, can be made subject to *halakhah*.[83] While this strikes me as an exaggeration, it is true that its laws cover an extremely wide range. Consider:

> When halakhic man comes across a spring bubbling quietly, he already possesses a fixed, a priori relationship with this real phenomenon: the complex of laws regarding the halakhic construct of a spring. The spring is fit for the immersion of a *zav* (a man with a discharge); it may serve as a *mei hatat* (waters of expiation); it purifies with flowing water; it does not require a fixed quantity of forty *se'ahs*; etc. When halakhic man approaches a real spring, he gazes at it and carefully examines its nature. He possesses, a priori, ideal principles and precepts which establish the character of the spring as a halakhic construct, and he uses the statutes for the purpose of determining normative law: does the real spring correspond to the requirements of the ideal Halakhah or not?[84]

Or when it comes to (physiological) life, *halakhah*

> determines the character of all of the animal functions of man – eating, sex, and all the bodily necessities – by means of halakhic principles and standards: the bulk of an olive (*ke-zayit*), the bulk of a date (*ke-kotevet*), the time required to eat a half-loaf meal (*kedai akhilat peras*), the time required to drink a quarter log *(revi'it)*, eating in a normal or nonnormal manner, the beginning of intercourse, the conclusion of intercourse, normal intercourse and unnatural intercourse, etc., etc. Halakhah concerns itself with the normal as well as abnormal functioning of the organism, with the total biological functioning of the organism: the laws of menstruation, the man or woman suffering from a discharge, the mode of determining the onset of menstruation, virginal

[83] Ibid., 22.

[84] Ibid., 20.

> blood, pregnancy, the various stages in the birth process, the various physical signs that make animals or birds fit or unfit for consumption, etc., etc.[85]

All these rules cannot but interfere with the flow of everyday life. They are obstacles not only to its practice but also, as we see from the reductions involved in the halakhic approach to the spring above, to our perception of it. So there's something inherently alienating about *halakhah*, especially when it comes to *hukkim*. Halakhic rules thus tend to be what I've elsewhere described as "regulative" rather than "expressive," since the need to obey them whether or not they're understood means that they cannot be said to express one's identity.[86]

But this is as it is meant to be. For it's nothing other than the disruptions produced by the application of *halakhah* to practice that make way for the specifically halakhic form of revelatory creativity, which comes from "the lowering of transcendence into the midst of our turbid, coarse, material world."[87] By conforming to *halakhah*, the Jew establishes finite fields of space and time, both of which are bounded by the rules in question. When these come up against the flow of everyday practice, we get a rupture – once again, a radical gap – that, just as with Talmudic revelation, is said to make way for the Divine. The hope is that the *Shekhinah* will descend, contract its infinity in order to fit through the gap, and then come into contact with those nearby, gracing them with holy inspiration.[88] As Soloveitchik sums all this up: "The realization of the Halakhah = contraction = holiness = creation."[89]

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[85] Ibid., p. 22.

[86] See, once again, Taylor's "Action as Expression." For the distinction between regulative and expressive rules, see my *Shall We Dance? A Patriotic Politics for Canada*, chs. 1–2. *Halakhah*'s highly regulative nature is behind why Soloveitchik is able to point out, on p. 59 of *Halakhic Man*, that "many halakhic authorities have even sanctioned, after the fact, a mechanical performance of a commandment, one lacking in intention." One is reminded here of the classic Christian charge against the Pharisees.

[87] Soloveitchik, p. 108; see also p. 153 n. 80.

[88] See ibid., pp. 106, 108, 121–23.

[89] Ibid., p. 109. On p. 122, Soloveitchik says this consists of "the realization of the eternal Halakhah in the very midst of the temporal, fleeting world, the 'contraction' of the glory of the infinite God in the very core of concrete reality, the descent of an everlasting existence into a reality circumscribed by the moment." Much earlier, during the twelfth century, the Spanish physician, poet, and philosopher Judah Halevi put the matter as follows: "In this way [the pious man] connects his mind with the Divine Influence by various means, some of which are prescribed in the written Law, others in tradition." Halevi, *The Kuzari: An Argument for the Faith of Israel*, trans. Hartwig Hirschfeld (New York: Schocken, 1964), p. 147.

But what, specifically, justifies the reference to creativity here? What gets created? To answer, we must disabuse ourselves of the assumption that creation produces only textual, plastic, or other such artworks. Because *actions*, too, can be created. Whence Soloveitchik's claim that conforming to halakhic rules changes the world, turning it from one of "chaos and void" into "a perfect and beautiful reality."[90] And in this way, the Jew contributes to God's act of creation.

Soloveitchik has an overly monistic conception of how this is done, however, one that strikes me as utopian given its failure to be true to the Oral Law's fragmentary nature.[91] That's why I think we should conceive of what's created differently. Because if, rather than bringing us to some unified reality, *halakhah* tears into the flowing practices of everyday life, then it makes sense to conceive of the *Shekhinah* as emerging through the gaps and infusing traces of the eternal now into ordinary historical time. This is how historical time becomes "energized," and the practices in the vicinity transformed. The epiphany, then, manifests via a disruptive activity that, at least initially, cannot be said to contribute to practical harmony and so to any oneness. However, the following step – one suggested by the unique way the Israelites accepted the Covenant: "All that YHWH has spoken, we will do and we will hearken!" (Exod. 24:7) – consists of *interpreting* these actions with the aim of hearing them, that is, of reaching an understanding that makes possible the circumventing of the halakhic obstruction. And doing this *can* contribute to the harmony of the whole of practices; indeed, it may do so to a greater degree than would have been possible without the halakhic obstruction in the first place. The more integrated that whole, moreover, the closer (though only this) will it be to being unified and so holy like God. For as Moses declared, "YHWH our God, YHWH (is) One!" (Deut. 6:4), and as He enjoined the Israelites, "Holy are you to be, for holy am I, YHWH your God!" (Lev. 19:2; see also Deut. 10:12, 13:5, 28:9).

Nowadays, the revelatory creativity generated by both *makhlokot* and *halakhah* is (or at least should be) central to the activities of Orthodox and ultra-Orthodox Jews. Simply put: they are like performance artists. Consider the observance of the Sabbath, which celebrates God's creation of the world. During this period, they conform to a certain conception of the commandment to rest,

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[90] Soloveitchik, p. 106.

[91] Its fragmentation, however, was ostensibly removed by the formulation of unified halakhic codes between the eighth and sixteenth centuries, the most important of which being *The Code of Maimonides* (Mishneh Torah), 13 vols. (New Haven: Yale University Press, 1949–79). Maimonides' influence on Soloveitchik is, I suggest, responsible for the utopianism I've identified, Maimonides having combined Rabbinic Judaism with the monistic, theoretical philosophy of Aristotle.

to do no work nor light or extinguish any fire (and so, it's been determined, to refrain from manipulating electrical devices). What results, I suggest, are actions that should be conceived of as creative, or at least potentially so. This is also true of non-actions, as with the parable of the Jew who took the Sabbath commandments to mean that he should rest from even the *thought* of labour:

> A pious man once took a stroll in his vineyard on the Sabbath. He saw a break in the fence, and then determined to mend it when the Sabbath would be over. At the expiration of the Sabbath he decided: since the thought of repairing the fence occurred to me on the Sabbath I shall never repair it.[92]

From that day on, the break in the fence can be said to represent a creative act (albeit a passive one). As can all actions arising from the need to be true to the *halakhah* in light of technological developments. Think of the "Sabbath elevator," which is programmed to stop at each floor automatically, hence without the need for pushing any of its buttons. I remember how, as a child growing up in a Toronto high-rise apartment building, one that contained not a few elderly Orthodox Jewish residents, I used to be fascinated by that elevator. Occasionally, I would even accompany its riders, watching as they stood motionless while it stopped at every floor, opened, paused, and then closed its door, again and again, until it would finally reach their destination, sometimes very high up.

Creation: Modernism

Revelatory creativity is not limited to Judaism. Far from it. After all, as Leonard Cohen sings, "There is a crack in everything / that's how the light gets in."[93] In fact, I think revelation is central to the creations of (high) Modernism (by "high" I mean to exclude, say, Futurism, Dadaism, and most versions of Postmodernism). Not that there aren't clear differences between Modernism and Rabbinic Judaism, the most obvious of which is that the creators of the former usually doesn't begin by drawing on sacred, "cracked" texts (Joyce's *Ulysses* being perhaps the most obvious exception). So Modernist artists often need to engage in more mystical pursuits alongside the

[92] As recounted in Heschel, *The Sabbath*, p. 32.

[93] Leonard Cohen, "Anthem," from the album *The Future* (Toronto: Sony Music Entertainment, 1992).

revelatory.[94] The similarities between the two are striking, however. For instance, just as Modernists tend to emphasize the artwork over the artist,[95] Rabbinic Jews, as we've seen, stress the creations that originate in revelation over the intentions of those doing the creating. And just as Modernism's rejection of the Enlightenment parallels the Rabbinic Jew's opposition to Greek theoretical philosophy, the Modernist is also hostile to Romanticism in a way that recalls the Rabbinic Jew's denunciation of the magic of early Hasidism.[96] Both Rabbinic Judaism and Modernism also exhibit similar attitudes towards life and nature: where the Rabbinic Jew sees daily life as requiring sanctification, Modernists, though initially sharing in the Romantic's perceived need for a recovery of lived experience from the alienating effects of the Enlightenment, came to see life as requiring redemption via epiphanic transformation.[97] Finally, both Rabbinic Judaism and Modernism exhibit elitist and egalitarian tendencies. The greatness of the Talmudic sage has its parallel in the glorification of the antibourgeois Modernist artist and critic (among them Pound, Eliot, and Clement Greenberg), just as the call for every Jew to conform to the *halakhah* is echoed by, say, Baudelaire and Cage's praise of the art of everyday modern life.[98]

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[94] See, for example, George Cattaui, *Orphisme et prophétie chez les poètes français, 1850–1950* (Paris: Plon, 1965). Or on mysticism in the accounts of creativity present in Virginia Woolf's *To the Lighthouse* and Jean-Paul Sartre's *La Nausée*, see Karen Luscombe, *The Epiphanic Self* (Oxford University D.Phil. thesis, forthcoming).

[95] See, for example, M.H. Abrams, "Coleridge, Baudelaire, and Modernist Poetics," in *The Correspondent Breeze: Essays on English Romanticism* (New York: Norton, 1984), p. 132.

[96] A denouncing that was surely encouraged by early Hasidism's combination of mysticism and magic. See Moshe Idel, *Hasidism: Between Ecstasy and Magic*. Rabbinic Judaism's antipathy to magic can be considered as yet another case of monotheism's (over-)hostility to paganism, as with the ancient Israelites' rejection of Astartist nature cults. See Peter L. Berger, "Cakes for the Queen of Heaven: 2,500 Years of Religious Ecstasy," in *Facing up to Modernity: Excursions in Society, Politics, and Religion* (New York: Basic Books, 1977). Astartist creativity, which I interpret as mythical, is based on the weak form of transcendence that comes, for instance, from participating in orgiastic festivals.

[97] Again, this is so only of the high Modernists. Many others call for the disintegration, rather than redemption, of natural life. See M.H. Abrams, *Natural Supernaturalism: Tradition and Revolution in Romantic Literature* (New York: Norton, 1971), pp. 422–27.

[98] See "On the Heroism of Modern Life," in *Art in Paris, 1845-1862: Salons and Other Exhibitions Reviewed by Charles Baudelaire*, ed. and trans. Jonathan Mayne (London: Phaidon, 1965), pp. 116–20; and John Cage, "Composition as Process," in *Silence: Lectures and Writings* (Cambridge, MA: MIT Press, 1961), esp. pp. 44–47. Of course, there are tensions between these qualities. For example, there's a tradition of Rabbinic stories, endorsed by many of the sages themselves, in which ordinary persons ignorant of the Bible are portrayed as able to teach the sages about virtue. See Ephraim E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. Israel Abrahams (Cambridge, MA: Harvard University Press, 1979, 2nd ed.), pp. 639–42. Similarly, who if not the bourgeois masses could provide the Modernists with the success, in the form of both fame and monetary reward, that they felt they so richly deserved? Their attitude to the bourgeoisie can thus only be described as ambivalent. See Jerrold Seigel, *Bohemian Paris: Culture, Politics, and the Boundaries of Bourgeois Life, 1830–1930* (New York: Viking, 1986), part 1.

But it is with the conception of what it means to create that any comparison between the two must ultimately stand or fall. And my claim is that Modernist artworks exhibit the very same gaps in their fields of meaning that we find with Talmudic texts and halakhic observance. Just like Rabbinic Jews, then, Modernists hope that their works will be approached with the openness that makes what I've been calling revelatory creativity possible. As Roger Shattuck describes, criticism in all the Modernist arts has settled on the term "juxtaposition" to explain how they manifest their epiphanies.[99] By bringing together contradictory items – whether words, sentences, sounds, images, and so on – gaps are revealed or established that make way for epiphanies because of the inspirations that may come through them. Here, for example, is Mallarmé on poetry, echoing the Talmud in his claim that gap-inducing juxtapositions extend to the very page on which a poem is written: "The intellectual armature of the / poem conceals itself and – takes place – holds in the space that / isolates the stanzas / and among the blankness of the white paper; a significant silence that it / is no less lovely to compose than / verse."[100] And here is M.H. Abrams on Poe positing "the existence of two worlds, terrestrial and supernal, and attributed to poetry the struggle 'to grasp *now*, wholly, here on earth . . . those divine and rapturous joys' which appertain only to the realm of 'supernal Loveliness' and 'eternity.'"[101] Finally, here is Theodor W. Adorno who, despite adhering to a non-epiphanic conception of Modernism, nevertheless declares that the work of art is at its greatest when "contradiction vibrates though its most remote mediations."[102] Recognizing that such works "contain" gaps, Adorno misses only that these are what make the works capable of inspiring, of providing access to something *beyond* them, a light shining from outside the world. Transcendence.

Just as with *makhlokot* and *halakhah*, this is only possible because some violence has been done in order to bring about the necessary openings in being. Consider Mallarmé's quest for the utterly self-sufficient or "auto-telic" work – the work, as he put it, of "nothing." As Abrams describes, to Mallarmé "poetry achieves its purity by devouring and wearing away the reality it

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[99] Roger Shattuck, *The Banquet Years: The Origins of the Avant-Garde in France* (New York: Vintage, 1968, rev. ed.), p. 332.

[100] Quoted in Jacques Derrida, *Dissemination*, trans. Barbara Johnston (Chicago: University of Chicago Press, 1981), p. 230.

[101] Abrams, "Coleridge, Baudelaire and Modernist Poetics," p. 121.

[102] Adorno, "Is Art Lighthearted?" in *Notes to Literature*, vol. 2, ed. Rolf Tiedemann, trans. Shierry Weber Nicholsen (New York: Columbia University Press, 1992), p. 249.

has no recourse except to employ as its initial material." This explains "his ingenious tactics of negating, eliminating, absenting, disembodying, refining to the verge of nonentity the objects of this world."[103] And it explains how his creativity requires making already-present gaps in meaning even larger so that they are capable of "swallowing" the meaning's fields, leaving nothing behind – a creativity, in effect, that strives for inspiration without the interpretation, that is, for the *ex nihilo*. Although less extreme, I think this is also how we should conceive of the works of Pound and the other Imagists, which have parallels in much nonrepresentational visual art. Because the point of all these cracks, spaces, holes, and nothings is, again, not that they be overcome through interpretation, but rather that we use them to access the inspiring energy, that "force like electricity,"[104] which flows through them. Because of their fragmented nature we, unlike their creators, have no need of mysticism to bring about an epiphany; all that's required is an openness, a willingness to "plug into" the work by approaching it as artists rather than critics. And it's not as if there's no precedent for this sort of thing within the history of art; on the contrary.[105] Still, Modernist works call for it to a degree unmatched, I would claim, since the Talmud.

If this is correct, then we need to amend critic Joseph Frank's non-epiphanic conception of Modernist literature. Frank argues that readers are meant to achieve momentary flashes of insight by perceiving the texts spatially rather than chronologically, which is more natural given the narrative form. They do so, he explains, by fusing a work's disparate, juxtaposed parts together into a unity, by linking or connecting them into a whole that allows us to understand, apprehend, and so grasp them.[106] But the assumption here is that the reader is an interpreter, when the point, again, is creation rather than interpretation. To be sure, Frank is right to see Modernist technique as aiming for the cultivation of "holes," but he goes astray when he claims that the holes are, in

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[103] Ibid., pp. 138, 140.

[104] Ezra Pound, quoted in Hugh Kenner, *The Pound Era* (Berkeley: University of California Press, 1971), p. 160.

[105] For example, George Steiner in his *Real Presences* (Chicago: University of Chicago Press, 1989), ch. 1 § 4, refers to an impressive number of artworks said to have been inspired by other artworks. Steiner himself fails to distinguish enough between works created in this way and works of criticism, however, since on p. 13 he describes the former as achieving "the closest of critical readings." But if I'm right that creation is a matter of inspired interpretation, then while some degree of criticism, and so interpretation, is indeed present in all creativity, inspiration also constitutes a necessary condition. And since that is what artists aim to be true to, they differ from critics in going *through* and *beyond* any artwork – a move that would be fatal to good criticism.

[106] Joseph Frank, "Spatial Form in Modern Literature," in *The Widening Gyre: Crisis and Mastery in Modern Literature* (New Brunswick, NJ: Rutgers University Press, 1963). George Poulet, *L'Espace proustien* (Paris: Gallimard, 1963), reads Proust along what can only be described as these rather postmodernist lines, given his conception of Proust's writings as affirming a unity of juxtaposed pluralities.

keeping with a recent metaphysical account, "made" of space and so constitute immaterial bodies that are as much a part of this world as any other immanent, everyday entity.[107] Because that's precisely *not* the kind of thing, or rather no-thing, that I've been arguing is central to the Modernist endeavour. What's required instead is, if anything, "holes in holes"[108] – holes, that is, which cut deep enough to go all the way through, changing the topology. Only this way can they open up to a transcendent source of creative energy.

This is why, as even Frank admits, the aim of a Proust consists in having the reader relate to his text just as the author does, which in turn mirrors the impact of the events of *À la recherche du temps perdu* on its narrator.[109] In fact, it's just because Modernist works call on those encountering them to re-create rather than interpret them that we can understand the feelings of guilt sometimes expressed by critics when they remark on the "parasitical" nature of their craft. It's the measure of Hugh Kenner's greatness that, when faced with a work such as Pound's *Cantos*, he thus responds not with standard interpretive criticism but with *The Pound Era*, a text that has undeniably fictional aspects. Because only this way can he maintain fidelity to a Modernism that is, and always has been, Rabbinic.

So far, we've explored how Modernist creations share much with the origins of Talmudic Oral Law. But there's also a parallel with *halakhah*. To recall, *halakhah* works by the imposition of rigid rules on the flow of everyday practices, doing violence to them in order to tear open gaps that make way for holiness. Unlike *l'art pour l'art* Modernism, which would separate art from society and so favours the artist who "turns back into himself completely and confronts the objective world without going through any of the forms of History or social life,"[110] there's also a more egalitarian form of it that shares in *halakhah*'s emphasis on the everyday. Some sociologists have transposed Bergson's notion of "spatialization" from an emphasis on modalities of the mind to seeing it as

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[107] See Roberto Casati and Achille C. Varzi, *Holes and Other Superficialities* (Cambridge, MA: MIT Press, 1994), esp. p. 185.

[108] Leonard Cohen's reference to a "hole in the air," in "Democracy" from the album *The Future*, approaches this but still doesn't quite hit the mark. It's certainly closer than Casati and Varzi's "immaterial body" account, however, as should be clear from their proposition, on p. 106 of their book, that "every hole is a hole in (or through) something, and we of course suppose that this something is not itself a hole (or a part of a hole)." For given the notation in which Hxy = x is a hole in (or through) y, as well as Casati and Varzi's ontological definition according to which Hx = $_{df}\exists y$Hxy (pp. 192–93), the kind of hole I'm invoking would violate their axiom H$xy \rightarrow \neg$Hy.

[109] See Frank, "Spatial Form in Modern Literature," pp. 22, 24.

[110] Roland Barthes, *Le Dégré zero de l'écriture* (Paris: Seuil, 1953), p. 76 (my translation).

present among modern social practices. Spatialization breaks up the flow, or *durée*, of everyday organic time by imposing a rationalized "empty time" (Walter Benjamin's expression) that puts it on par with decontextualized, divisible and so calculable space.[111] This does a kind of violence everyday practice, compromising its integrity by parcelling it out in a way similar what's done by inflexible halakhic rules. There are a number of modern social forces could be said to have this spatializing effect, but I want to cite just two here: first, certain capitalist practices; and second, the impositions of neutralist liberalism.

The most substantial accounts of spatialization in capitalism come to us from Marxist thinkers. Consider their idea of *reification*, the conversion of shared practices into separable, inert "things." To Marx, this results, above all, from the capitalist idea that labour has an abstract "exchange-value" capable of being converted into a commodities circulating in the market, fragmenting both subjects and objects during the production process.[112] As György Lukács has described, the subject is made into "a mechanical part incorporated into a mechanical system," while the objects produced undergo a form of rationalization that "declare[s] war on the organic manufacture of whole products."[113] This

> transform[s] the basic categories of man's immediate attitude to the world: it reduces space and time to a common denominator and degrades time to the dimension of space . . . Thus time sheds its qualitative, variable, flowing nature; it freezes into an exactly delimited, quantifiable continuum filled with quantifiable 'things' (the reified, mechanically objectified 'performance' of the worker, wholly separated from his total human personality): in short, it becomes space.[114]

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[111] See Bergson, *Time and Free Will*, ch. 2; and part 1 of the introduction to his *La Pensée et le mouvant*, in *Œuvres*, ed. André Robinet (Paris: Presses Universitaires de France, 1959).

[112] See Marx, *Capital: A Critique of Political Economy*, vol. I, trans. Ben Fowkes (New York: Random House, 1976), chs. 1–3.

[113] Lukács, "Reification and the Consciousness of the Proletariat," in *History and Class Consciousness: Studies in Marxist Dialectics*, trans. Rodney Livingstone (Cambridge, MA: MIT Press, 1971), pp. 89, 88. Not that Marxists such as Lukács were right to think that bureaucratic socialism, as was present in the Soviet Union, is free of spatialization. See David Gross, "Time, Space and Modern Culture," *Telos*, no. 50 (Winter 1981–82): 59–78, p. 72. Gross himself calls for locating, and then widening, the "fissures" produced by spatialization in order that the flow of *durée* time may be allowed to enter into them. Such "disruptive elements," he claims, allow "a time dimension [to] penetrate a spatial one" (pp. 77, 78). But I would contend that, in the best case, the extension of spaces makes way, not for historical, interpretive time to flow into them, but for creative inspiration.

[114] Lukács, pp. 89, 90.

Capitalist spatialization is also accounted for by Marx and Engels's theory of commercial crises, which "by their periodical return put on trial, each time more threateningly, the existence of the entire bourgeois society."[115] How are they overcome?

> On the one hand, by enforced destruction of a mass of productive forces; on the other, by the conquest of new markets, and by the more thorough exploitation of the old ones. That is to say, by paving the way for more extensive and more destructive crises, and by diminishing the means whereby crises are prevented.[116]

Marx and Engel's awareness of the violence here clearly demonstrates their grasp of the role that these crises play in capitalist innovation.

Not that they conceive of this in terms of revelatory creativity. Still, notice how, to a commentator such as Marshall Berman, the process is associated with the idea that the system forces open "empty spaces" within itself:

> The crises can annihilate people and companies that are, by the market's definitions, relatively weak and inefficient; they can open up empty spaces for new investment and redevelopment; they can force the bourgeoisie to innovate, expand and combine more intensively and ingeniously than ever.[117]

This account seems to me superior to that of "postindustrial" sociologists such as Daniel Bell. Bell conceives of the bourgeois world as undergirded by a unified "rational cosmology" which exhibits, not gouging and dividing spatialization, but "an ordered relationship of space and time."[118] And while Charles Spinosa, Fernando Flores, and Hubert L. Dreyfus would reject Bell's de facto

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[115] Marx and Friedrich Engels, *The Communist Manifesto*, ed. Joseph Katz, trans. Samuel Moore (New York: Washington Square Press, 1964 [1848]), p. 67.

[116] Ibid., p. 68.

[117] Marshall Berman, *All That Is Solid Melts into Air: The Experience of Modernity* (Harmondsworth: Penguin, 1988), p. 103. See also Joseph Schumpeter's discussion of "creative destruction" in his *Capitalism, Socialism and Democracy* (London: Unwin Paperbacks, 1987, 6th ed.), pp. 82–85. For a pro-capitalist take on this gap-making aspect of capitalist innovation, see Philip Fisher, *Still the New World: American Literature in a Culture of Creative Destruction* (Cambridge, MA: Harvard University Press, 2000), esp. ch. 1.

[118] Bell, *The Cultural Contradictions of Capitalism* (London: Heinemann, 1979, 2nd ed.), pp. xxii n. 8.

awarding of sovereignty to empty spatialized time, they make the mistake of following Heidegger and conceiving of the innovation of capitalist entrepreneurs as consisting of no more than a series of "skills."[119] Because skills are interpretive rather than creative and, as we've seen, interpretation is all about integrating and reconciling rather than separating.[120] As a result, the essential role of gaps in this creativity get missed. Not by Adorno, however, who, as one commentator describes,

> perceives the *dissonances* in the monotony of the whole and how these *tear* the whole *asunder*, ambivalently threatening destruction *and* enticing us with unconstrained fulfilment. However much society has really become what Adorno terms a "system," nevertheless its metaphysical "conclusive" integration into an unalterable totality, and Adorno insists on this fact, is mere appearance. It is merely an overarching context of illusion, a spell, one which can and must dissolve, and which is already shot through with cracks, and is riddled with holes through which occasionally a weak Messianic light of utopia can fall onto the seemingly administered world.[121]

As for neutralist liberal spatialization, John Rawls and Ronald Dworkin have issued well-known calls for the American courts to rule on the basis of their respective theories of justice.[122] To the extent that these have been heeded, I think we can speak of a spatialization effect. Because those such Rawls and Dworkin do not recognize their theories for what they are: works of utopian fiction.[123] That is, while they may certainly facilitate social criticism,[124] it would be wrong to

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[119] See Spinosa, Flores, and Dreyfus, *Disclosing New Worlds: Entrepreneurship, Democratic Action, and the Cultivation of Solidarity* (Cambridge, MA: MIT Press, 1997), ch. 2.

[120] Dreyfus, again drawing on Heidegger, also mistakenly identifies artistic creation as an interpretive skill in his *What Computers* Still *Can't Do: A Critique of Artificial Intelligence* (Cambridge, MA: MIT Press, 1992, 3rd ed.), pp. 276–77, 340–41 n. 2. Heidegger advances a strictly immanent conception of creativity in his "The Origin of the Work of Art," in *Poetry, Language, Thought*, trans. Albert Hofstadter (New York: Harper & Row, 1971).

[121] Hauke Brunkhorst, *Adorno and Critical Theory* (Cardiff: University of Wales Press, 1999), p. 67. See, for example, Adorno, *Minima Moralia: Reflections from Damaged Life*, trans. E.F.N. Jephcott (London: Verso, 1974), nos. 50, 147, 153; and *The Adorno Reader*, ed. Brian O'Connor (Oxford: Blackwell, 2000), part 4.

[122] See, for example, Rawls, *Political Liberalism* (New York: Columbia University Press, 2005, exp. ed.), pp. 231–40; and Dworkin, "Hard Cases," in *Taking Rights Seriously*.

[123] Rawls did, however, describe his theory as "realistically utopian" in his *The Law of Peoples; with "The Idea of Public Reason Revisited"* (Cambridge, MA: Harvard University Press, 1999), p. 7.

[124] As Paul Ricœur writes in his *Lectures on Ideology and Utopia*, ed. George H. Taylor (New York: Columbia University Press, 1986), p. 16: "This development of new, alternative perspectives defines utopia's most basic function. May we not say then that the imagination itself – through its utopian function – has a *constitutive* role in helping us *rethink*

assume that they can provide direct, practical guidance, as if they contribute to the interpretive conversations that citizens can have about political justice. Because, instead, they encourage conflicting parties to plead before supreme court justices who are meant to *apply* the constitution that conforms to the theory. And since pleading is, like *makhlokot*, highly adversarial, it serves only to increase the distance between the parties – to say nothing of the fact that the court's rulings are meant to be backed up by the police. All of which is to say that neutralist liberal justice divides rather than reconciles.[125]

Modernist Creation As a Source of the Ethic

What does all this have to do with the minimal global ethic? To answer, we need to take the account of revelatory creation somewhat further. For it's not only fragmented Biblical and Talmudic texts, *halakhic* observances, and Modernist art and social practices that may serve as the loci of epiphanies, certain places, many recognized as sacred by the world's great religions, as well as objects can do so as well. And following Emmanuel Levinas, we may say the same of people, given their "faces."

When Levinas writes of the face, he's not referring to the phenomenological entity, that is, to the front of the human head as it appears to ordinary sense perception. Rather, he's invoking revelation. Because "what is produced here is not a reasoning, but the epiphany that occurs as a face," which is "not of the world."[126] And "In the other, there is a real presence of God . . . I'm not saying that the other is God, but that in his or her Face I hear the Word of God."[127] Moreover, "The idea of Infinity [in the face of the other] is *revealed*, in the strong sense of the term."[128] No surprise, then, that the encounter with the face involves the very same asymmetry of power that we've noted is characteristic of creativity: "Since the Other looks at me, I am responsible for him, without even

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the nature of our social life? Is not utopia – this leap outside – the way in which we radically rethink what is family, what is consumption, what is authority, what is religion, and so on? Does not the fantasy of an alternative society and its exteriorization 'nowhere' work as one of the most formidable contestations of what is?"

[125] The same is true of the retributive, rather than restorative, form of criminal justice associated with it. See my "The Scales of Injustice," *Windsor Yearbook of Access to Justice* 26, no. 1 (2008): 1–24.

[126] Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1969), pp. 196, 198.

[127] Levinas, "Philosophy, Justice, and Love," in *Entre-Nous: On Thinking-of-the-Other*, trans. Michael B. Smith and Barbara Harshav (New York: Columbia University Press, 1998), p. 110.

[128] Levinas, *Totality and Infinity*, p. 62.

having *taken* on responsibilities in his regard; his responsibility *is incumbent on me*"; and "There is a commandment in the appearance of the face, as if a master spoke to me."[129]

What I want to claim – and this is a crucial step in the argument – is that we may say the very same about encounters with all other epiphanic sites.[130] Consider Rilke, standing before a statue of Apollo: "For here there is no place that does not see you / You must change your life." Or here is Sylvia Plath, faced with some tulips: "Nobody watched me before, now I am watched. The tulips turn to me . . . The eyes of the tulips."[131] And so on.

What do these epiphanies have to "say" to those open to their revelation and so to connect with them creatively? I believe we can distinguish between two orders of messages. The first is sent at every revelatory moment, and we can get an idea of what it says when Levinas writes: "The first word: 'you shall not commit murder.'"[132] Extrapolating to all epiphanic sites, the idea is that each and every one of them consistently asserts that we should grant them certain a minimum of respect and so protect them. Moreover, because this is also so of people given their faces, we should recognize here an affirmation of the minimal global ethic.

Then there are the second-order messages more specific to given cases. Many of these still contribute to the ethic, though before offering an example I want to say something about the very idea of such revelations. It calls on us to give the element of interpretation present within all creation its due. Because while creators are, again, driven by the inspirational light that enters through gaps in the epiphanic site, their creations are shaped by who they are. Whence the Modernist idea, inherited from Romanticism, that every creation is marked by the artist's "personal index," since every creation is least partly a matter of "expression." It's for this reason that all artists need to develop "subtler languages" specific to them.[133] The idea has long been present in

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[129] Levinas, *Ethics and Infinity: Conversations with Philippe Nemo*, trans. Richard A. Cohen (Pittsburgh: Duquesne University Press, 1985), pp. 96, 89; see also *Totality and Infinity*, § III.B.7.

[130] I think Levinas would agree. For example, in *Ethics and Infinity*, p. 117, he states that "there is a participation in Holy Scripture in the national literatures, in Homer and Plato, in Racine and Victor Hugo, as in Pushkin, Dostoevsky or Goethe, as of course in Tolstoy or in Agnon." He once had a strikingly different view, however, according to which all art was reduced to pagan magic: "Reality and Its Shadow," in *Collected Philosophical Papers*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1987).

[131] Rilke, "The Archaic Torso of Apollo," in *The Selected Poetry of Rainer Maria Rilke*, ed. and trans. Stephen Mitchell (New York: Vintage, 1982), p. 61; Plath, "Tulips," in *Ariel* (New York: Harper and Row, 1965), p. 11.

[132] Levinas, *Totality and Infinity*, p. 199.

[133] See Earl Wasserman, *The Subtler Language: Critical Readings of Neoclassic and Romantic Poems* (Baltimore: John Hopkins University Press, 1968), ch. 1; and Taylor, *Sources of the Self: The Making of the Modern Identity*

Rabbinic Judaism, as we can see if we combine Rabbi Ishmael's principle (repeated eighteen times in the Talmud) that "the Torah spoke in the language of men" with the equally important claim that since all "faces are unlike each other [their] minds are unlike each other."[134] Whence the sixteenth-century Rabbi Hayyim Vital's claim that, since sixty myriads of Israelites heard the Torah at Sinai, we should speak of sixty myriads of Torah, each one having been marked by an individual's soul.[135] To the Rabbinic Jew, then, the idea that humans were created in God's image implies that we, too, are creators and so that, once again, we are partners in the making of the universe. And since everyone is unique, we should expect everyone to contribute to that project in their own unique way.[136]

Finally, I promised to provide an example of a second-order revelation that contributed, and continues to contribute, to the minimal global ethic. I would refer to none other than the principles derived from the "Noahide Laws" (Gen. 9:1–17), which consist of prohibitions on idolatry, cursing God, murder, adultery and sexual immorality, theft, eating the flesh taken from a living animal, as well as of the obligation to establish courts of justice.[137] All these surely constitute a specifically Jewish version of the ethic.

The Ethic and Conflict

There's no reason why such second-order revelations may not come into conflict with others, be they themselves of the second order, or even of the first. For there's no reason to assume that all creations are compatible; indeed, as we've noted, conflicts between them are central to the Talmud. Or think of Gogol's self-described inspired decision to destroy the manuscripts that made up the second part of his *Dead Souls*. Or of the controversy around Robert Rauschenberg's *Erased de*

(Cambridge, MA: Harvard University Press, 1989), part 5.

[134] *Babylonian Talmud: Tractate Berakhot* 31b, 58a.

[135] See Moshe Hallamish, *An Introduction to the Kabbalah*, trans. Ruther Bar-Ilan and Ora Wiskind-Elper (Albany: SUNY Press, 1999), pp. 4–6.

[136] See Hayyim de Volozhyn, *L'Ame de la vie (Nefesh Hahayyim)*, trans. Benjamin Gross (Paris: Éditions Verdier, 1986), IV.12–14; and Levinas, "Revelation in the Jewish Tradition," p. 133, where he asks rhetorically: "Is not the human being the unique 'terrain' in which exteriority can appear? Is not that personal – that is, the unique 'of itself' – necessary to the breach and the revelation taking place from outside? . . . [It is] as if every person, through his uniqueness, were the guarantee of the revelation of a unique aspect of truth, and some of its points would never have been revealed if some people had been absent from mankind."

[137] See the *Babylonian Talmud: Tractate Sanhedrin* 56a–b and *Tosefta Avodah Zarah* 9:4; as well as David Novak, *Natural Law in Judaism* (Cambridge: Cambridge University Press, 1998), esp. ch. 6.

Kooning (1953), which he produced by erasing one of William de Kooning's pencil drawings. Both of these appear to be cases of artists inspired to eradicate previously created works, and this violates the first-order responsibility to respect and so preserve them.

What of conflicts between creative imperatives and interpretive ethics? The question virtually poses itself when we consider those cases in which artists have asked others to destroy their creations. Virgil, for instance, issued just such instructions on his deathbed as regards *The Aneid*; William Faulkner did the same about his unpublished writings; as did Philip Larkin; as did Rabbi Nachman of Bretslev, one of the greatest Hasidic storytellers. Thankfully, *The Aneid* escaped, as did Faulkner and Larkin's works. Not so one of the Rabbi's, a text that has come to be known as *The Burnt Book* (*Sefer ha-nafrid*).

One could cite many other cases.[138] However, the most famous is probably the one arising from Max Brod's decision to ignore the following note:

> Dearest Max, my last request: Everything I leave behind me . . . in the way of diaries, manuscripts, letters (my own and others'), sketches, and so on, to be burned unread; also all writings and sketches which you or others may possess; and ask those others for them in my name. Letters which they do not want to hand over to you, they should at least promise faithfully to burn themselves.
>
> Yours, Franz Kafka[139]

Justifying his decision, Brod claimed than an earlier discussion between him and Kafka had led him to believe that Kafka didn't really mean what he wrote in the note.[140] Moreover, "the fact of the literary and ethical value of what I am publishing would have been enough to decide me to do

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[138] Some of which are fictional, as in Cervantes' *The Ingenious Hidalgo Don Quixote de la Mancha*, trans. John Rutherford (London: Penguin Books, 2000 [1605 and 1615]), part 1, chs. 12–14; and W. Somerset Maugham's *The Moon and Sixpence* (Harmondsworth: Penguin, 1919), § 57.

[139] Quoted in Max Brod, "Postscript to the First Edition," in Kafka, *The Trial*, trans. Willa and Edwin Muir (New York: Schocken, 1964 [1925]), pp. 265–66.

[140] Ibid., p. 267.

so, definitely, finally, and irresistibly."[141] Yet Brod still admits that the note "precipitated me into [a] difficult conflict of conscience."[142]

How to understand this? In referring to the literary *and* ethical value of Kafka's works, Brod seems to have assumed that the relevant creative and interpretive imperatives are compatible. "Literary value" invokes the first-order injunction against destroying such epiphanic sites, while "ethical value" refers to the work's potential contribution to moral understanding and social welfare.[143] We can also identify interpretive ethical imperatives that contradict these two, however. There is Broad's legal duty to respect an author's rights, not to mention his wishes since Brod was, after all, the executor to Kafka's will. But perhaps most significantly, there is Brod's obligation to what he himself describes as "22 years of an unclouded friendship."[144]

Milan Kundera has been acutely sensitive to Brod's dilemma. Though he at first described Brod's decision as an "act of rape," he also admits that, given that Kafka wrote "nothing greater" than the three novels that were among the material saved, he himself "would not have found the strength to carry out fully Kafka's 'testament.'"[145] The idea of a last testament has religious connotations, and indeed Kundera seems well-aware that there's something potentially sacred about a person's final request: "Obedience to a last wish is mysterious: it goes beyond all practical and rational thought."[146] I want to hazard a guess as to why this is so: created works exhibit a closure that's absent from interpreted works, since there is something about the creative process that allows artists to declare their creations "finished" in a way that's unavailable to critics. For when it comes to interpretation, it seems as if there's always something more to say, as well as a better way of saying it. That is why, as Gadamer declares, "Conclusive interpretation simply does not exist."[147]

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[141] Ibid., p. 269.

[142] Ibid., p. 267.

[143] Paul Edward Geller endorses Brod's decision on the basis of such considerations in "Toward an Overriding Norm in Copyright: Sign Wealth," *Revue internationale du droit d'auteur*, no. 159 (Jan. 1994): 3–109, p. 69; and "Must Copyright Be Forever Caught between Marketplace and Authorship Norms?" in Brad Sherman and Alain Strowel, eds., *Of Authors and Origins: Essays on Copyright Law* (Oxford: Oxford University Press, 1994).

[144] Brod, "Postscript to the First Edition," p. 268.

[145] Kundera, *Testaments Betrayed: An Essay in Nine Parts*, trans. Linda Asher (New York: HarperCollins, 1995), pp. 269, 276.

[146] Ibid., p. 279.

[147] "Epilogue to 'Who Am I and Who Are You?'," in *Gadamer on Celan: 'Who Am I and Who Are You?' and*

What, if anything, can we say about the reconcilability of conflicts between art and ethics, creation and interpretation? Of course, not everyone would put the matter this way. Gadamer, who assumes that hermeneutics is universal, appears to reject the distinction creation and interpretation.[148] And many who accept something like it can nevertheless be described as concurring with Kant and Schiller that each is fully compatible with the other; or with Levinas and Soloveitchik that we should reject the identification of ethics with interpretation; or with Nietzsche that we should call for an aestheticism that would takes us beyond good and evil.[149] I think it's best to take an intermediary position, however, one that conceives of the creative and the interpretive as being in constant, indeed often paradoxical, tension.

Think of Walter Pater on the good and the aesthetic, or of Kierkegaard on the good and the holy. In Pater's *Marius the Epicurean*, the aesthetic is presented as either the only genuine form of morality; as superior to "received morality"; or (and Pater himself worried about this a great deal) as pernicious for those who have "any natural tendency to impiety or vice."[150] As for Kierkegaard, only Abraham, the greatest of the "knights of faith," can be said to fully reconcile the good and the holy (at least in his own mind), since he saw no contradiction between his ethical responsibilities as a father and God's command that he sacrifice his son Isaac. To those of us who are incapable of Abraham's doubt-free faith, however, fulfilling that command can only be understood to *override* ethics.[151]

I think both Pater and Kierkegaard are right to suggest that there's a seemingly inextricable tension here. Yet perhaps these conflicts may bring their own gaps and so openings for a creativity

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Other Essays, eds. and trans. Richard Heinemann and Bruce Krajewski (Albany: SUNY Press, 1997), p. 146.

[148] See his *Truth and Method*, part 1, § 1 including his statement on p. 119 that "in a certain sense interpretation probably is re-creation," See also his "Composition and Interpretation," in *The Relevance of the Beautiful and Other Essays*, ed. Robert Bernasconi, trans. Nicholas Walker (Cambridge: Cambridge University Press, 1986), which, despite the essay's title, ends up collapsing the former into the latter.

[149] See Kant, *Critique of the Power of Judgement*, ed. Paul Guyer, trans. Guyer and Eric Matthews (Cambridge: Cambridge University Press, 2000 [1790]), § 59; Schiller, *On the Aesthetic Education of Man: In a Series of Letters*, trans. Reginald Snell (New York: Frederick Ungar, 1954 [1794]), nos. 13–16, 23–24; Levinas, *Totality and Infinity*, p. 199, where he declares that "the epiphany of the face is ethical"; and Soloveitchik, *Halakhic Man*, p. 54, where he says that Jews ought to equate righteousness with conforming to the *halakhah*; and Nietzsche, *Beyond Good and Evil*.

[150] See Pater, *Marius the Epicurean: His Sensation and Ideas* (London: Macmillan, 1891), p. 113; as well as the discussion in Frank Kermode, *Romantic Image* (New York: Routledge and Kegan Paul, 1957), pp. 19–22.

[151] And not "suspend" it, despite Kierkegaard's famous claim. See my "Kierkegaard's Deep Diversity: The One and the Many," in Mélissa Fox-Muraton, ed., *Kierkegaard and Issues in Contemporary Ethics* (Berlin and Boston: Walter de Gruyter GmbH, 2020).

that can help us resolve them; this way, transcendence might rebound back onto the good. I imagine this was, for example, Kierkegaard's hope when he decided to become a Christian instead of marrying his fiancée, thereby more strongly affirming life than if he'd opted to marry in the first place. However, this can only be a hope.

So the minimal global ethic, whether drawing on sources that are interpretive, creative, or both, can be involved in, and indeed generate, conflict. But while there seems to me to be little to say in general about even those strictly interpretive cases that do not reach beyond *logos*, we can still see the ethic as supportive of a "global patriotism." It calls on people from very different backgrounds to respond to their conflicts with conversations that aim for reconciliation and, in this way, affirm their shared common good.[152]

Conclusion

A few observations to conclude. The first recalls how philosophers such as Berlin, Hampshire, and Walzer may refer to something like the ethic when defending themselves against accusations of relativism. Because it does indeed seem to provide all of us with a basis for criticizing regimes that commit fundamentally abhorrent acts. Moreover, if the perpetrators don't change their behaviour, the ethic can also support intervention, the use of force against them.

The second observation notes how, when it comes to conflicts that have global relevance, far too many thinkers fail to call for a conversational response. Charles Taylor is an exception, though even he makes the mistake of arguing that we ought to negotiate a world consensus on certain basic norms *before* attempting genuine intercultural understanding.[153] The problem with this is that while negotiated truces, say, are often surely welcome, there's little point in trying to achieve a consensus on norms in this way. Because negotiation entails compromise, and any accommodations reached will invariably contain resentments and so have the potential to incite, not an openness to conversation, but future conflicts. Taylor also misleadingly calls for "bridging differences" between people that he portrays as beginning "worlds apart," given the "extreme

[152] See my "The Ironic Tragedy of Human Rights" (ch. 3 of this volume); and "Patriotism, Local and Global," in Mitja Sardoč, ed., *Handbook of Patriotism* (Berlin: Springer, 2020).

[153] See Taylor, "Conditions of an Unforced Consensus on Human Rights," in Joanne R. Bauer and Daniel A. Bell, eds., *The East Asian Challenge For Human Rights* (Cambridge: Cambridge University Press, 1999), pp. 137–38.

distance" between them.[154] But this only encourages the conception of intercultural conflict that sees it as a confrontation between originally separate entities. Samuel P. Huntington's famous thesis of the "clash of civilizations" is a case in point.[155] Instead, we need to begin by invoking the minimal global ethic as a platform upon which there can be, not negotiations, but conversations in which people the world over can discuss the meaning of their already-shared common good.[156]

Though while they do so, they should be invited to invoke their more local common goods as well, since these can contribute to the global version. Otherwise, they risk distracting from the genuine listening, the deep sensitivity to history and context, that conversation requires. This is one reason why I think the ancient Greeks were right never to have elaborated on the content of the minimal global ethic, since it must remain general rather than specific.[157] So while acknowledging its existence can, say, provide psychological support during the heat of argument, when we should expect to hear profound challenges to the justness of our cause, we cannot expect it to do much more than that. Rather, like so many other things that we use for support in life, it is most effective when it's able to remain in the background. Hopefully, the day will come when we can all agree to return it there.

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[154] Ibid., pp. 126, 143.

[155] See Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996).

[156] Taylor also makes the mistake of thinking that people can share practical norms independently of any meanings or understandings. In this, he adopts the division between practice and thought that's assumed by post-positivist epistemologies such as John Rawls'. (Taylor writes approvingly of Rawls' notion of "overlapping consensus" on p. 124 of his "Conditions of an Unforced Consensus on Human Rights.") Instead, Taylor should have recognized how this division is incompatible with his own hermeneutics. See my *From Pluralist to Patriotic Politics*, ch. 1. To his credit, however, Taylor avoids this misstep in his "Human Rights, Human Difference," *Compass* 12, no. 3 (July-Aug. 1994): 18–19.

[157] Ancient Greek laws of the kind defended by the ethic were to remain unwritten, as Jacqueline de Romilly points out in her *La Grèce antique contre la violence* (Paris: Fallois, 1999), pp. 148–59.