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 it would be wiser to get more specific: What about the origins of the values contained in "the minimal global ethic"? This is a set of prohibitions, present in all the world's cultures, that speaks against such utterly base acts as murder, torture, slavery, and other forms of gross cruelty. The philosophers who recognize it have been careful to emphasize its minimalism – that is, they distinguish its values from the many not included within it. In fact, the ethic is compatible with a wide diversity of cultures because it speaks against only the most unconscionable acts. But while articulating a bare minimum, its global scope means that it can serve as an effective response to advocates of boundless moral relativism.

So the ethic is shared, albeit in varying degrees, by all who have ever inhabited the earth. Putting it this way ensures that we apprehend it as indeed a "global," rather than "universal," set of maxims.[1] That said, it has been and always will be understood somewhat differently by everyone, which is one reason why I won't try to articulate it in very much detail here. 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. This is so both because its values cannot trump others they may come into conflict with (which is why societies may have practices that continue to violate it), and because there will always be cases of *internal* conflict, situations where some of its values come into conflict with others, or even with themselves. Whether external or internal, moreover, these conflicts often resist reconciliation, which is to say that there will be times when the best we can do is to struggle for an accommodation, for making balanced compromises.

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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).

My main aim in this essay is to present a philosophical account of the ethic, 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 a global patriotism. That said, I also caution against relying on it too heavily.

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. I do, however, want to say something about the 1968 UNESCO publication *Birthright of Man*, 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, meant to lend support to the Declaration.

The ethic as I conceive of it has a narrower scope than the Declaration, however. This is both in terms of 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. That said, as I read *Birthright of Man*, it actually lends more support to the ethic than it does to the Declaration. This is because it demonstrates that many of the Declaration's rights cannot appeal for justification to *all* the civilizations that have ever appeared in the world. For example, the 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" get support from texts that, without exception, date from the late nineteenth century.[3] *Birthright of Man*, then, lends weight to the complaint that the Declaration is no more than a contemporary Western, and so ethnocentric, document. I don't believe the same could be said of the minimal global ethic, however.

Regardless, back to philosophy. My argument is that there have been essentially two distinct processes responsible for the ethic's development: *creation* and *interpretation*.[4] In using these terms, I mean to invoke the commonplace 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 – which includes philosophers, scientists both natural and human, nonfiction writers of various sorts, and so on – often engage in

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

[3] See ibid., pp. 145–49, 361–77.

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

endeavours that may result in works of significant originality, yet they come from interpretation rather than creation.

Much more can be said about these two processes. For now, I merely want to suggest that they lend support to, and indeed produce, the ethic *whenever* and *wherever* they have been engaged in, though as we'll see they also sometimes come into conflict with it. In any case, this means that my account of the ethic's origins is not meant to be a "cultural diffusionist" one, suggesting that the ethic began in one culture and spread to others. As will become clear, I believe the ethic is global in a much stronger sense: it is truly indigenous to all of the world's cultures.

One final claim before we begin. Although the accounts below will be limited to creation and interpretation, I don't wish to imply that either is self-sufficient, that they could have brought the ethic about without there being some good – some ethical meaning – *already* there to begin with. That is, neither is able to do what it does *ex nihilo*. This should be obvious in the case of interpretation, which consists of reworking or rearticulating some already-present meaning, but it is also true of creation, especially when we conceive of it, as I suggest we do, as a matter of "inspired interpretation." Creation *ex nihilo* has an important place in certain religious traditions, where it's considered a capacity of the divine, but the creation humans engage in is obviously different.[5] And while recognizing this should help us avoid the "naturalistic fallacy," that of deriving an "ought" from a (natural) "is," we can only do so by sidestepping larger questions about the ultimate origin of meaning, ethical or otherwise. But we wouldn't be the first, nor surely the last, to do that.[6]

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. But 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. He begins with the following suggestion:

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

[6] 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).

Consider a man who enjoys pushing pins into people. Though he's aware that it causes them harm, that 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?[7]

Berlin poses a few more questions to the 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.[8]

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.[9]

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

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

[9] Ibid., p. 223.

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 their search for a balanced accommodation, and this means engaging in what Hampshire calls "the adversarial mode of argument." Every rational person is capable of it, he believes, and indeed their willingness to argue in this way is a reflection of their respect for what I'm calling the minimal global ethic. Hampshire's conception of the ethic is thus strictly procedural, in contrast to Berlin's more substantial view. 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.[10]

Michael Walzer, who probably wouldn't disagree with either Berlin or Hampshire, nevertheless 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. As the product of years of trial and error, the ethic came into being gradually, acquiring force, as Hume once said, "by a slow progression and by our repeated experience of the inconvenience of violating it."[11] Hume's "our" here, as quoted by Walzer, refers to everyone, and Walzer has made a point to invoke the ethic whenever others have charged his political thought with being too relativistic given his support for local over global conceptions of justice. 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 by considering the fact of our embodiment. As everyone knows, the body has certain needs, attractions, aversions, strengths and

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[10] 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."

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

vulnerabilities. These influence our interpretations and, as a result, they've come to have moral import. Interpretations involving the body are thus at least partly constitutive of the ethic, since the body, like the ethic, is a global constant.[12] Interpretations that don't directly involve the body, by contrast, have contributed to the diversity of cultures in the world (though they have also affected the various elaborations of the ethic, since it's in no way insulated from the different values outside of it).

My argument for all of this is based on humour. Evidently, while I enjoy humour like anyone else, I also take it very seriously. And since my conception of it is admittedly idiosyncratic, I'll begin by explaining how I understand it and why I consider it a form of interpretation. Then I will show how it lends support to the ethic.

Two accounts have dominated the philosophy of humour. The older 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 approach is defended by Plato, Aristotle, Cicero, Hobbes, and Bergson, yet it's perhaps best summed up by Sophocles when he has Athena ask rhetorically whether its "not the sweetest laughter to laugh at one's enemies?"[13] Aristotle points out that there are limits to derisiveness in humour, however, since it must invoke "some defect or ugliness which is not painful or destructive."[14] Otherwise the matter won't be considered funny but will approach tragedy. Both Aristotle and Cicero, moreover, mention the role of *surprising incongruity* in humour, and this is central to the second dominant account, 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.[15]

Yet the limitations of these approaches becomes apparent as soon as we notice the numerous cases to which they don't apply. Think of the many instances of amusing wordplay where feelings of superiority appear to play no role, or of the many incongruities – instruments out of tune, or

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[12] 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.

[13] 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.

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

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

irrelevant points made within an argument, and so on – that are just not funny. I believe my account of humour is relevant to all cases, but 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.[16] Rather, it is a practical interpretation; 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 find varying degrees of success.[17]

My account is the product of a combination-through-transformation of the two dominant approaches. One could even say it's the result of their integration or reconciliation, as if advocates for each had developed it together while in conversation. Moreover, it assumes a Heideggerian conception of human agency, one according to which our practices tend to be carried out prereflectively, habitually, in complete harmony with the environment; for this reason, they may be said to constitute the background to our everyday lives.[18] And the background is something we share with others: being-in-the-world is also always a being-with.[19] That's why the background contains the "pre-judices" that serve as the basis of what's often called common sense.[20]

The moment there's a conflict, however, something will "show up" from the background.[21] This suggests that, before that point, whatever was embedded in it was, in a sense, imperceptible, constituting a fully integrated part of a whole that is, after all, in the background. Think of the chair you're presumably sitting on right now without really noticing it – before I pointed it out, that is. This might seem like a banal truism, yet it is an example that points to Heidegger's tremendous philosophical originality. His famous thesis that philosophers since Plato have forgotten "the

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[16] 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.

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

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

[19] See ibid., § 25–26.

[20] 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.

[21] See Heidegger, § 15–18.

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, and neglecting the dependence of our thinking selves on the background, they've neglected much of what it means "to be."[22]

On to my hermeneutical account of humour. Imagine someone walking down the street. She does so habitually, prereflectively, and so fully immersed in the practical background. Despite this, we may also say that she's expressing an interpretation, that of how she believes it best to reach her destination.[23] And should she find it necessary to negotiate an obstacle encountered along the way, this too would be interpretive, albeit in a fully reflective sense. Say she runs into a construction site and so must take a detour. This she does, and it goes without saying that there's nothing particularly funny about it.

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

Just as with the construction site, the fall interrupted her prereflective agency. The difference is that, instead of making a detour, this time she directs her attention to the interruption itself. Whence the central claim I want to make about humour: things are humorous when there's a conflict with the background and our attention fixes on the conflict rather than on some other matter. Think of the "straight man" in a comedy duo: he represents the background, "what we do around here," and so his reactions to his partner serve to highlight the latter's violations of it. Or consider the boy who teases the schoolmate who's 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; it took someone literally pointing his finger at the haircut's failure to respect the parts of the background relevant to hairstyles to make everyone crack up. (Even my teacher, Mr. Woods, did so.)

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[22] 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.

[23] 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.

All of this suggests that Bergson's idea of the place of the "ridiculous" in humour should be extended. Bergson sees humour as the product of absurd mechanical behaviour that produces a "shock" or "jolt" by failing to harmonize with the flow of everyday life.[24] 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, but it will do so only if we are compelled 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 granted a superior, indeed trumping, status vis-à-vis whatever challenges it – at least at first. That's why the challenger is considered potentially amusing and worthy of laughter.

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, is also an advocate of the incongruity account). The great emphasis they put 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."[25] Because talk of transformation into nothing dovetails with the notion that any challenge to the background will always, at least at first, be overcome, since our initial reaction is, again, to favour the background and negate the challenge to it.

Moreover, as Hegel points out, there's an essential connection between such an "it is as nothing" attitude and comedy.[26] This, I would add, is due to the attitude being a form of disinterestedness, one that grants access to the aesthetic as distinct from practical dimension of

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

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

[26] 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.

reality. When someone takes offense at off-colour humour, however, they are rejecting precisely that attitude, since they do not see the humour as being without practical significance. They refuse to fix their attention only on the joke's challenge to the prereflective background, with the result that they take it seriously rather than humorously. This leads them to ask how to meet the challenge and, since no part of it deserves the trumping status that's initially awarded to the background, it is always possible that there will be no way to address the issue without loss.[27] Say the fall on the sidewalk caused an injury. This would interfere with our pedestrian or any onlookers focusing on how the fall challenges the background, ensuring that they won't find it amusing. All this accounts for why it's easier to find things funny when all is generally going well and we're in a good mood, since this is precisely when we have the luxury to fixate disinterestedly on challenges to the background.

Another example: say someone with a reputation for playing practical jokes pulls out what appears to be a gun at a dinner party. Everyone's first thought will likely be that it's another one of their jokes, since it obviously challenges the background practice of how one is supposed to behave at parties. The moment they realize the gun is real, however, any sense of amusement will vanish: everyone will be concerned with the threat to their lives rather than the background. So we have reason once again to invoke Aristotle's point that something humorous must be relatively painless – at least to the degree that, as Kierkegaard says, we can be "justified in ignoring the pain, because it is non-essential."[28] Say the gun is clearly a water pistol: now what's threatened is not anyone's life but their dry clothing, and this makes it much less likely that their attention will be drawn away from the challenge to the background.

That said, even events that cause someone to lose their life can be considered funny (though it is, of course, in poor taste to do so). It all depends on our ability to remain focused on the challenge to the background. To be sure, this is easier when one isn't close to the victim, whether physically or personally. Think of the popular, though mean-spirited, Darwin Awards, which commemorate "those individuals who ensure the long-term survival of our species by removing

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[27] 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.

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

themselves from the gene pool in a sublimely idiotic fashion."[29] In 1996, there was a 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.[30]

Unfortunately for him, the victim being a lawyer (not among the most highly regarded of professions) makes "ignoring the pain" that much easier, facilitating a focus on the challenge to the background practice of how people ought to act around the windows of office buildings.[31]

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:
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> A man walked into a saloon, sat at the bar, and ordered a martini. When it was put in front of him, and before he could touch it, a monkey that had been sitting on the bar a few yards away walked over, straddled the glass, and bent his knees until his genitals were immersed in the drink. Shocked, the patron turned to the bartender and exclaimed, "Did you see that?"
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> "Oh yes," replied the bartender, "That's one of the worst things I've seen in this bar."
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> "Well what are you going to do about it?" the patron demanded.

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

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

[31] 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.

> "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, everyone laughed except the Englishman. The others asked why he didn't like the joke, and he replied that he didn't understand it. Someone explained that the expression "Do you know...?" has special significance for piano-lounge players, and then the Englishman laughed.
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> "Now that you understand it, it's pretty good, eh?" he was asked.
>
> "Oh my, yes," he replied, "But you do have to know the tune."[32]

As the joke implies, no explanation of a joke – that is, rendering explicit the parts of the background that are being directly challenged it – can ever really be funny. For humour relies, again, on a conflict with something that is by nature implicit. Hence E.B. White's observation: "Humour can be dissected, as a frog can, but the thing dies in the process."[33]

Second, there's the matter of humour's powers of attraction. It is because the background is something shared with others that two or more people laughing together indicates that they share a certain sensibility. Hutcheson goes even further: "laughter is none of the smallest bonds to common friendship."[34] 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 and, in this way, highlighting its differences from what the majority takes for granted as normal.[35] Humour's attractions are likewise surely responsible for the contagious quality of laughter,[36] not to mention the vicious circles that drive "giggle fits," i.e. when people

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[32] 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.

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

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

[35] 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.

[36] 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

laugh with growing intensity at least partly because it's increasingly inappropriate to do so (given the background to the context they're in, be it a library, classroom, and so on).

Third, my account helps explain why it's become popular for some contemporary comedians to draw attention to seemingly insignificant contradictions present within our shared background practices.[37] Because the background as a whole, while largely harmonious, is nonetheless never so free of conflict or tensions that we could describe it as a "unity." Still, its conflicts are, at least initially, minor enough that its overall integrity is never really 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. There's the relatively conservative Old Comedy, from Aristophanes through to Shaw, Beckett, early Chaplin, which are usually unwilling to go beyond the positing of humorous challenges to the background.[38] And there's the progressive New Comedy, as in the works of Menander through to Shakespeare, Molière, and many a Hollywood movie, where the plot does go further, reaching reconciliation at the end of a teleological journey.[39]

In both forms, the humour is based on conflicts, and one of the antagonists is always something prereflectively shared by all. That, 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 follows conflict; it leads him to conclude that, since the mid-twentieth century, we should declare "the death of comedy." That he asks whether comedy can "survive without a wedding"[40] is revealing, since it suggests that his conception is limited to New Comedy,

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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.

[37] 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).

[38] I would add the Kids in the Hall to this list. They 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.

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

and explains why, for him, the rise of the Theatre of the Absurd heralds the death of the genre. Putting aside the matter of whether genres can ever really "die," I have to wonder how Segal can acknowledge the many stories being recounted on stage and screen – stories that succeed in making people laugh – and 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 that this occurs because when the same conflict with the background is asserted and reasserted, the reflexive tendency to grant trumping status to the background will weaken, and the conflict will instead become something to ponder. After all, there's nothing funny about a fully explicit, reflective interpretation. Alternatively, overused humour can become stale because the conflict it posits fades into and becomes part of the background.[41] This is similar to the successful reconciliation of conflict that we find at the end of New Comedies. When interpretations lead to understanding, the matter begins to seem less interesting, and once again fades into the background. Because as with anything whose features are highly integrated or reconciled, that is where it "belongs."

Unlike the flat-footed repetition of a joke, however, such reconciliations bring something like 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 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.[42] This is distinct from the aesthetic pleasure produced by savouring, though the two kinds can certainly be combined.[43] Nevertheless, as Montaigne suggested, in setting up a conflict to be

[41] The joke, in other words, has become kitsch. I think what we call kitsch largely depends on there being something that should have naturally faded into the background but has been artificially kept from doing so. That is, kitsch is a matter of treating the no longer interesting or attractive as interesting or attractive. This conception is compatible with Milan Kundera's *The Unbearable Lightness of Being*, trans. Michael Henry Heim (New York: Harper & Row, 1984), p. 248 According to it, kitsch consists of the denial of unacceptable realities in the world given its "basic faith" in "a *categorical agreement with being*." For paying heed to something kitsch is an implicit denial that other things are more worthy of our attention, which is to say 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), which to say kitsch that knows it's kitsch and even trumpets it.

[42] 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.

[43] 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,

(potentially) reconciled by an interpretation, humour may be connected with wisdom.[44] And at least as regards certain practical situations, this is not far from George Grant's declaration that "the purpose of the art of comedy is to bring together justice and felicity."[45]

Now that I've invoked the connection between humour and justice, it's time for the 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 known as slapstick.[46] The former is relative to culture: as Hutcheson 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."[47] Slapstick, however, has a global reach, both temporally and geographically. Regarding time, we could invoke a Victorian commentator's observation: "A pun tells only once, but it is not so with a poke in the eye."[48] Unlike intellectual humour, that is, there's something timeless about slapstick. Whence Alan Dale's point, from 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*.[49]

Regarding slapstick's geographic reach, it appears to traverse borders with much greater ease than intellectual humour. As Tony Staveacre observes, it's been found among the Hopi Indians of

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however, the song becomes boring because "understood" and so no longer challenging. Thus does it fade into the prereflective background and descend the charts.

[44] 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."

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

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

[47] 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).

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

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

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).[50]

All of this is consistent with the hermeneutical account of humour offered above. For the ability of slapstick to amuse derives from a conflict involving the body – more specifically, between the background practices that relate to the body, on the one hand, and the actions of a given embodied agent, on the other. The human body has, biologically speaking, roughly the same properties everywhere – the same limitations, vulnerabilities, susceptibility to slippery banana peels, and so on. Moreover, numerous practices have arisen around it, practices driven by interpretations that are influenced by its properties. And since these practices have been with us for a very long time, they've become habitual, prereflective, thereby forming a global practical background. In the case of our pedestrian above, 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 actually slip and fall, then, is to violate that practice and so to make oneself amusing, indeed cross-culturally so.

No such global commonalities exist when it comes to the myriad and diverse practices invoked by more intellectualist forms of humour. These arise from conflicts between 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, every one of them contains people who are incarnate.

This has ethical import. Alongside walking, there 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 is because these have a practical and not only natural

[50] 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. As Dale, p. 1, points out, this is what in the twentieth-century was called the "slapstick," double-paddles used by circus clowns to beat each other, the loud crack they made when crashed together serving as a dependable source of laughter and applause.

significance that they serve as the basis of meaningful cultural practices. Think of dining, hygiene, and health care: while carried out differently in different cultures, they all share certain somatic aims.[51] This allows us to align them with slapstick as distinct from intellectualist humour, since each expresses a certain minimum of ethical meanings, which is to say values or goods shared by all of the world's cultures.

One might, however, object by pointing to an apparent contradiction between (i) the idea that new meanings can come from 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 reconciliation – but not of the values in conflict. Rather, what slapstick asks us to accept and so reconcile ourselves to is certain irreconcilables, namely those deriving from our embodied nature. That's why slapstick supports the minimal global ethic: its basic message thus contrasts with, for instance, those of mystical traditions that would have us *transcend* the body, or those of sports that celebrate *mastery over* the body. For slapstick implies that we should *accept* the body.[52]

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 the vulnerabilities that we all share (to falling down, say, losing an equal measure of dignity in the process). As such, it acts as a kind of leveller, opposing any and all forms of pretentiousness. That's why we may conclude that slapstick is an enjoyable way of both producing and being reminded of these values – certainly more than the many dour and, I would claim, ultimately counter-productive lists of human rights that can be found in charters, schedules, and declarations the world over.[53]

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[51] 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).

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

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

Creation: Rabbinic Jewish Revelation

Humour derives from not only interpretation but also creation, as Freud suggested when he called attention to the parallels between wit and dreams.[54] 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 we travel from the background and so any potentially humorous conflict with it. Rather than approaching the background at an oblique angle, timed just right, colliding with it directly from the absurd generates not humour but unease, alienation. This is often missed by those who draw attention to the tradition of "folly" and its connection to transcendence to claim a religious dimension for the comic.[55] 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.[56]

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 was 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

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

[55] 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.

[56] Indeed, if fools transcend the world too much, they will be too far from society's background to conflict with it. Mikhail Bakhtin is thus 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.

> 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.[57]

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

I also think we should see inspiration as having a transcendent source. This obviously controversial claim is not something I will argue for directly, however; I can only hope that it will become plausible given the discussion that follows. It must nevertheless be said that my approach doesn't leave a lot of room for the idea that creators are able to create wholly self-sufficiently, which is to say without recourse to an external source of some sort. This contrasts with, say, the Nietzschean conception according to which creation is fundamentally a matter of the will.[58] 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, there's its inability to recognize that critics often apprehend the meaning of artworks more readily than their creators.[59] And second, it fails to give due regard to the sense, oft-reported by creators, that their creations (and not just their talents) are gifts, which is why we tend to describe great artists as "gifted."[60]

So, whereas interpretation is strictly a matter of *logos* (reason/speech), 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 also involving a degree of interpretation, is nevertheless distinct in also drawing on a source that originates from *beyond* any interpretable thing. That's why, even though a creation may loosely be said to have been 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 interpretations, at least, the interpreter and interpreted claim a more or less symmetrical

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[57] Baudelaire, "Le Peintre de la vie moderne (1863)," in *Écrits sur l'art*, ed. F. Moulinat (Paris: Librairie générale française, 1992), p. 371 (my translation).

[58] 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.

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

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

relationship – a necessity if there's to be a "dialogue" between them.[61] With creation, by contrast, the inspiration is often said to have a kind of "power over" the creator. This is 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 creators are inspired, they will have the sense that they're the ones being "looked at," not the other way around; the struggle, in other words, is for "receiving" the look. This is very different from interpreters who must, as in conversation, both listen and speak in turn if they're to "make sense," to say something coherent about and achieve a better understanding of, whatever they are interpreting. And while dialogical interpretation encourages us to reach for aural metaphors to describe the process,[62] with creation it makes more sense to invoke ocular metaphors: we refer to inspirations as being like "light," and to those receiving them as "visionaries."[63]

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 will 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, as they tend to do more than emphasize a visionary communion, or even unification, with the divine via a state of ecstasy; they also often combine this communion with a theosophy based on esoteric knowledge of the Godhead.[64] But since I conceive of this as a form of "mythical" creativity distinct from the mystical, I'm going to simplify the matter somewhat and write as if Jewish mysticism were strictly ecstatic.

One might say that, in religious Judaism as a whole, mysticism and revelation are the chief creative ways that persons achieve proximity to the divine. Each is, in a sense, a mirror image of the other, since they "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 to "see" the light emanating directly from God. That this is done by

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

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

[63] 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).

[64] 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).

the mind's eye (or perhaps 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." Thus do we distinguish between mystical vision and the ordinary, sensory, interpretive kind that we use to observe wholly worldly phenomena. The same can be said of revelatory visions, though they purportedly follow the descent of God's spirit (the *Shekhinah*) to dwell among the members of a society. So Moses' journey up Mount Sinai to encounter God "from heaven" (Exod. 20:22) may be considered a 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) is a tale of revelation.[65]

To religious Jews, Moses' mystical encounters with God, as well as those of the prophets who came after him, are the chief sources of the inspirations behind the Bible, conceived as a product of creation and so, I would say, a work of art.[66] 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 oversaw the operations of the Temple in Jerusalem.[67] In 70 CE, however, the Temple was destroyed for the second and final time, and the Jews of Israel were scattered throughout the Diaspora. 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.[68] Now 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. Thus did the locus of sanctity move from the Temple to the streets and homes of everyday Jewish life.

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[65] Some 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 migh cite the *Mekhilta de-Rabbi Ishmael: Tractate Bahodesh* 4.45–58.

[66] Something like this position was first advance by Philo of Alexandria (c. 20 BCE– c. 50 CE). It has been rejected relatively recently by Abraham J. Heschel, though Heschel's account appears confused, presumably because he fails to appreciate that understanding is an event that implicates the whole self and not only consciousness. That is to say, not only ecstatics but also prophets (Heschel's distinction) achieve something other than understanding. See his *The Prophets: Volume II* (New York: Harper & Row, 1962), chs. 8–14. I imagine this is why only Philo would be comfortable citing this line from Deuteronomy 31:30: "So Moshe spoke in the ears of the entire assembly of Israel the words of this song." From *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.

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

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

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, while it is often said to consist of the exegesis of Torah, this shouldn't be conceived along the lines of interpretation as described above.[69] Its aim is not to "make sense" of the written text, to rearticulate it into a more coherent and understandable form by integrating or reconciling the contradictions that have shown up. On the contrary, not only is the text seen to be riddled with paradoxical inconsistencies, but it is considered no less perfect because of this.[70] The many gaps in meaning arising from the contradictions are conceived as openings through which the Divine presence may flow, spaces which make way for the inspirations behind a new Oral Law, distinct from the Written. These are truly radical gaps that, we may say, go all the way through, piercing being and providing access to the transcendent.

In order to do justice to the presence of such 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 is that the wider the gaps, the greater the invitation to the Divine to descend, enter the world, and inspire. These openings, then, consist of nothing; indeed, 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."[71] That's why the Talmudist aims to do a kind of violence to the text, to "rub it in such a way that blood spurts out,"[72] since this is the only way to bring the inspirations that drive what we might call the "epiphanies" of revelatory creation.

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[69] An error that, for example, Gerald L. Bruns makes in his *Hermeneutics Ancient and Modern* (New Haven: Yale University Press, 1992), ch. 5. Bruns, incidentally, associates Levinasian ethics with "prophetic experience" in his "On the Coherence of Hermeneutics and Ethics: An Essay on Gadamer and Levinas," in Bruce Krajewski, ed., *Gadamer's Repercussions: Reconsidering Philosophical Hermeneutics* (Berkeley: University of California Press, 2004), p. 33; see also pp. 44–45.

[70] 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).

[71] 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.

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

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.[73] 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."[74]

In mysticism, the larger the gaps, the less self – and so the more ecstasy, and the further removed will the mystic be from the life of the socio-political animal (*zoon politikon*), as Aristotle famously described us. In Rabbinic Judaism, however, transcendence of our earthly existence cannot precede our natural deaths, since Jews must heed God's warning that "You cannot see my face, for no human can see me and live!" (Exod. 33:20). Social life may nevertheless still be lived creatively. 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.[75] Both are said to arise from 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.[76] This is the time of practical history and beings-in-the-world; by its measure, the events of Sinai are long past, archaeologists and

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

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

[75] 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.

[76] 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.

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 inspirations are essential to creations assumes that it's possible to transcend profane time via a rupture within it, a *moment* in which the different time dimensions intersect, where all epiphanies take place simultaneously, within an "infinite now."[77] That creation involves a combination of the two time dimensions suggests, again, the idea of inspired interpretation. It's like "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."[78]

Still, it was only when Oral Law was 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 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.[79]

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

Halakhah works in the following way: Normally, people strive to live in harmony with the flow of society's practices; as Heidegger says, we aim to "dwell" on this earth, to be "at home" in

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[77] 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 Gord 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.

[78] From the album *Harmonium* (Montreal: PolyGram, 1974); my translation of "Pour un instant, j'ai oublié mon nom / Ça m'a permis enfin d'écrire cette chanson / . . . J'ai perdu mon temps à gagner du temps."

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

the world.[80] *Halakhah*, however, is all about disrupting this, at least to a point. As Joseph Soloveitchik explains, the *halakhot* constitute "fixed statutes and firm principles" that are meant to be implemented "without any compromises or concessions."[81] They thus serve as obstacles to the run of everyday life – standing 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 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 can explain. The matter is quite different when it comes to those *halakhot* that are *mishpatim*, such as the eminently understandable injunction "Thou shalt not kill." Yet these, too, are rules that must never be bent.

According to Soloveitchik, *everything* about daily life, all the phenomena one may encounter, can be subject to *halakhah*.[82] 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?[83]

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

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

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

[82] Ibid., 22.

[83] Ibid., 20.

> 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 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.[84]

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. *Halakhah* is inherently alienating, especially when it comes to *hukkim*. Halakhic rules thus tend to be "regulative" rather than "expressive," since the need to obey them with or without understanding them means that they cannot express our identities.[85]

But this is as it is meant to be. For it is the very disruptions produced by the application of *halakhah* to practice that make way for the specifically halakhic form of revelatory creativity, that which comes from "the lowering of transcendence into the midst of our turbid, coarse, material world."[86] By conforming to *halakhah*, the Jew establishes finite fields of space and time, both 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, like Talmudic revelation, is said to make way for the Divine. The hope is that the *Shekhinah* will descend, contract its infinity to fit through the gap,

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[84] Ibid., p. 22.

[85] 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.

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

and come into contact with those nearby, gracing them with holy inspiration.[87] As Soloveitchik sums it up: "The realization of the Halakhah = contraction = holiness = creation."[88]

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 "chaos and void" into "a perfect and beautiful reality."[89] In this way, the Jew contributes to God's act of creation.

However, Soloveitchik seems to me to have an overly monistic conception of how this is done, one that appears utopian given its failure to be true to the Oral Law's fragmentary nature.[90] That's why I think we should conceive of what's created differently. If *halakhah* tears into the flowing practices of everyday life rather than bringing us to a unified reality, 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 contribute to practical harmony and oneness. But the following step – suggested by the rabbinic reading of 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 circumvention of the halakhic obstruction. Now this circumvention *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. Moreover, the more integrated the whole, the

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[87] See ibid., pp. 106, 108, 121–23.

[88] 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.

[89] Soloveitchik, p. 106.

[90] 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.

closer it will 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. They are like performance artists. Consider their 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, to do no work nor light or extinguish any fire (and so, it has been determined, to refrain from manipulating electrical devices). The 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.[91]

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 around technological developments responding to the need to be true to the *halakhah*. Think of the "Sabbath elevator," which is programmed to stop at each floor automatically, eliminating the need to push buttons. I remember how fascinated I was by that elevator as a child growing up in a Toronto high-rise with not a few elderly Orthodox Jewish neighbours. Occasionally, I would accompany its riders, watching as they stood motionlessly while it stopped at every floor, opened, paused, and closed, again and again, until it finally reached their destination, sometimes very high up. Is there not a sense in which they can be considered artists?

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

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."[92] 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 being that Modernist creators usually don't begin by drawing on sacred, "cracked" texts (Joyce's *Ulysses* being perhaps the most obvious exception). Often, Modernists need to engage in more mystical pursuits alongside the revelatory.[93] Yet the similarities between the two are striking. For instance, just as Modernists tend to emphasize the artwork over the artist,[94] Rabbinic Jews, as we've seen, stress the creations that originate in revelation over the intentions of those who created them. 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.[95] Rabbinic Judaism and Modernism also exhibit similar attitudes towards life and nature: where Rabbinic Jews see daily life as requiring sanctification, Modernists came to see it as in need of redemption via epiphanic transformation.[96] 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,

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

[93] 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).

[94] 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.

[95] A denunciation 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 conceive as mythical, is based on the weak form of transcendence that comes from participating in orgiastic festivals, for instance.

[96] Note that, initially, Modernists tended to share in the Romantic's perceived need for a recovery of lived experience from the alienating effects of the Enlightenment. Also, the belief that daily life needs to be redeemed came to be held only by the high Modernists; many others called 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.

Eliot, and Clement Greenberg), while the call for every Jew to conform to the *halakhah* is echoed by, say, Baudelaire's and Cage's praise of the art of everyday modern life.[97]

But a comparison between the two must ultimately stand or fall on the conception of what it means to create. And my claim is that Modernist artworks exhibit the same gaps in their fields of meaning that we find with Talmudic texts and halakhic observance. Just as Rabbinic Jews do, Modernists hope their works will be approached with the openness that makes revelatory creativity possible. As Roger Shattuck says, criticism in the Modernist arts has settled on the term "juxtaposition" to explain how they manifest their epiphanies.[98] By bringing together contradictory items – words, sentences, sounds, images, and so on – gaps are either revealed or established in ways that encourage 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.[99]

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.'"[100] Finally, here is Theodor W. Adorno who, while adhering to a non-epiphanic conception of

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[97] 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.

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

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

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

Modernism, nevertheless declares that the work of art is at its greatest when "contradiction vibrates though its most remote mediations."[101] 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*, a light shining from outside the world. Transcendence.

As with *makhlokot* and *halakhah*, this transcendence is only possible because some violence has been done to bring about the necessary openings. 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 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."[102] And it explains how his creativity requires making already-present gaps in meaning even larger so that they can "swallow" the meaning's fields, leaving nothing behind – a creativity, in effect, which strives for inspiration without interpretation, that is, for the *ex nihilo*. Although they are 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 for them to be overcome through interpretation but, instead, for us to use them in order to access an inspiring energy, a "force like electricity"[103] that flows through them. And because of the works' fragmented nature, readers are unlike their creators in that they have no need for mysticism to bring about an epiphany; all that's required is an openness, a willingness to "plug into" the work by approaching it as an artist oneself rather than as a critic. There are certainly precedents for this sort of thing within the history of art.[104] Still, Modernist works call for it to a degree unmatched, I would claim, since the Talmud.

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[101] 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.

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

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

[104] 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.

If this is correct, then we need to amend critic Joseph Frank's non-epiphanic conception of the reception of Modernist literature. Frank argues that readers are meant to achieve momentary flashes of insight by perceiving texts spatially rather than chronologically, which is more natural given the narrative form. The readers do so, he explains, by fusing the disparate, juxtaposed parts of a work into a unity, by linking or connecting them in a whole that allows them to be understood, apprehended.[105] However, the assumption here is that the reader is no more than an interpreter, when the point, again, is creation rather than interpretation. So while Frank is quite right to see Modernist technique as aiming for the cultivation of "holes," he goes astray when he claims that these holes are "made" of space and so constitute immaterial bodies that are as much a part of this world as any other immanent, everyday entity.[106] For this is 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 "holes in holes"[107] – 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 Frank admits, Proust's aim is to make the reader relate to his text just as the author does, which in turn mirrors the impact of the events in *À la recherche du temps perdu* on its narrator.[108] In fact, it is precisely 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 is the measure of Hugh Kenner's greatness that, when faced with a work such as Pound's *Cantos*, he responds not with standard interpretive criticism but with *The Pound Era*, a text that has undeniably fictional aspects. Only in this way can he maintain fidelity to a Modernism that is, and always has been, Rabbinic.

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[105] 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.

[106] As a recent metaphysical account of holes has it. See Roberto Casati and Achille C. Varzi, *Holes and Other Superficialities* (Cambridge, MA: MIT Press, 1994), esp. p. 185.

[107] 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.

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

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 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,"[109] there is also a more egalitarian form that shares the emphasis *halakhah* places on the everyday. Some sociologists have transposed Bergson's notion of "spatialization" from a focus on modalities of the mind to seeing it as 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 calculable space.[110] This does a kind of violence to everyday practice, compromising its integrity by parcelling it out in a way that's similar to what is done by inflexible halakhic rules. There are a number of modern social forces that have this spatializing effect, but I want to cite just two of them here: first, certain capitalist practices; and second, the impositions of neutralist liberalism.

The most sophisticated accounts of spatialization in capitalism come 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 in the production process.[111] 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."[112] This effectively transforms

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

[110] 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).

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

[112] 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 widening, the "fissures" produced by spatialization to allow the flow of *durée* time may 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

> 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."[113]

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."[114] 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.[115]

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.[116]

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flow into them, but for creative inspiration.

[113] Lukács, pp. 89–90.

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

[115] Ibid., p. 68.

[116] Marshall Berman, *All That Is Solid Melts into Air: The Experience of Modernity* (Harmondsworth: Penguin,

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."[117] And while Charles Spinosa, Fernando Flores, and Hubert L. Dreyfus would reject Bell's de facto 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."[118] Because skills are interpretive rather than creative and, as we've seen, interpretation is all about integrating and reconciling, not separating.[119] 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.[120]

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.

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

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

[119] 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).

[120] 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.

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.[121] To the extent that these have been heeded, I think we can speak of a spatialization effect. Because neutralist liberals fail to recognize their theories for what they ultimately are: works of utopian fiction.[122] That is, while they may facilitate social criticism,[123] it would be wrong to assume that they provide us with direct, practical guidance, as if they could contribute to the interpretive conversations citizens should be having about political justice. Rather, they tend to 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, this serves only to increase the distance between 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.[124]

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 serve as the loci of epiphanies; objects and certain places – many recognized as sacred by the world's great religions – 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

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[121] 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*.

[122] 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.

[123] 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* 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?"

[124] 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.

face," which is "not of the world."[125] 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."[126] Moreover, "The idea of Infinity [in the face of the other] is *revealed*, in the strong sense of the term."[127] No surprise, then, that the encounter with the face involves the 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 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."[128]

What I want to claim – and this is a crucial step in the argument – is that we may say the same about encounters with all other epiphanic sites.[129] 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 Sylvia Plath, faced with some tulips: "Nobody watched me before, now I am watched. The tulips turn to me . . . The eyes of the tulips."[130] And so on.

What do these epiphanies have to "say" to those open to their revelation and available 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's being communicated when Levinas writes: "The first word: 'you shall not commit murder.'"[131] Extrapolating to all epiphanic sites, the idea is that each and every one consistently asserts that we should grant them a minimum of respect and so protect them. Moreover, because this is also true of people, given their faces, we should recognize here an affirmation of the minimal global ethic.

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

[126] 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.

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

[128] 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.

[129] 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).

[130] 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.

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

Then there are the second-order messages more specific to given cases. Many of these contribute to the ethic, but before offering an example I want to say something about the very idea of such revelations, which calls on us to give the element of interpretation present within all creation its due. Because while creators are indeed driven by the inspirational light that enters through gaps in the epiphanic site, their creations end up 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 at least partly a matter of "expression." This is why artists develop "subtler languages" specific to them.[132] A similar idea has long been present in 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."[133] 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 having been marked by an individual's soul.[134] To the Rabbinic Jew, then, the idea that humans were created in God's image implies that we, too, are creators, hence partners in the creation of the universe. And because everyone is unique, we should expect everyone to contribute to that project in their own way.[135]

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 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, and the

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[132] 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* (Cambridge, MA: Harvard University Press, 1989), part 5.

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

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

[135] 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."

obligation to establish courts of justice.[136] Do not all of these constitute a specifically Jewish version of the ethic?

The Ethic and Conflict

There is no reason that such second-order revelations should not come into conflict with others, whether of the second order, or even of the first. After all, there is no reason to assume that all creations are compatible; indeed, as we've noted, conflicts between them are central to the Talmud. So one might 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 Kooning* (1953), which he produced by erasing one of William de Kooning's pencil drawings. Both actions appear to be cases of artists inspired to eradicate previously created works, and this violates the first-order responsibility to respect and preserve them.

What of conflicts between creative imperatives and interpretive ethics? The question poses itself when we consider cases where 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 for his unpublished writings; as did Philip Larkin; as did Rabbi Nachman of Bretslev, one of the greatest Hasidic storytellers. Thankfully, *The Aeneid* escaped, as did Faulkner's 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.[137] Yet the most famous is probably 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

[136] 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.

[137] 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.

> 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[138]

Justifying his decision, Brod claimed than an earlier discussion with Kafka had led him to believe that Kafka didn't really mean what he wrote in the note.[139] Moreover, "the fact of the literary and ethical value of what I am publishing would have been enough to decide me to do so, definitely, finally, and irresistibly."[140] However, Brod admits that the note "precipitated me into [a] difficult conflict of conscience."[141]

How to understand this? In referring to the literary *and* ethical value of Kafka's works, Brod appears to have assumed that the relevant creative and interpretive imperatives were 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.[142] Yet we can also identify interpretive ethical imperatives that contradict these two. There is Broad's legal duty to respect an author's rights, not to mention his wishes, since Brod was the executor to Kafka's will. And perhaps more significantly, there is Brod's obligation to what he himself describes as "22 years of an unclouded friendship."[143]

Milan Kundera has written sensitively of Brod's dilemma. Though he first describes Brod's decision as an "act of rape," he also admits that, since Kafka wrote "nothing greater" than the three novels that were among the material Brod saved, he himself "would not have found the strength to carry out fully Kafka's 'testament.'"[144] The idea of a last testament has religious connotations,

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[138] 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.

[139] Ibid., p. 267.

[140] Ibid., p. 269.

[141] Ibid., p. 267.

[142] 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).

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

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

and indeed Kundera is well aware of the potentially sacred nature of a person's final request: "Obedience to a last wish is mysterious: it goes beyond all practical and rational thought."[145] I will hazard a guess as to why: Created works exhibit a closure that's absent from interpreted works, since the creative process allows artists to declare their creations "finished" in a way that's unavailable to critics. When it comes to interpretation, there's always something more to say, as well as a better way of saying it. That's why, as Gadamer declares, "Conclusive interpretation simply does not exist."[146]

What, if anything, can we say about the reconcilability of conflicts between art and ethics, creation and interpretation? Not everyone would put the matter this way. Gadamer assumes that hermeneutics is universal and this, it appears, leads him to reject the distinction between creation and interpretation.[147] Moreover, many who accept such a distinction nevertheless concur with Kant and Schiller for whom each is fully compatible with the other; or with Levinas and Soloveitchik, who say that we should reject the identification of ethics with interpretation; or with Nietzsche, for whom we should adopt an aestheticism that takes us beyond good and evil.[148] I take an intermediary position, however, since I see 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,* th aesthetic is presented as either the only genuine form of morality – superior to "received morality" – or (and Pater worried about this a great deal) as pernicious for those with "any natural tendency to impiety or vice."[149] For Kierkegaard, only Abraham, the greatest of the "knights of faith," can be said to fully reconcile the good and the holy

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[145] Ibid., p. 279.

[146] "Epilogue to 'Who Am I and Who Are You?'," in *Gadamer on Celan: 'Who Am I and Who Are You?' and Other Essays,* eds. and trans. Richard Heinemann and Bruce Krajewski (Albany: SUNY Press, 1997), p. 146.

[147] 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.

[148] 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*.

[149] 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.

(at least in his own mind), because he recognized no contradiction between his ethical responsibilities as a father and God's command that he sacrifice his son. To those of us who are incapable of Abraham's doubt-free faith, however, fulfilling such a command could only be understood to *override* ethics.[150]

I think both Pater and Kierkegaard are right to suggest that there's a seemingly inextricable tension here. Yet perhaps these conflicts can bring their own gaps and openings for a creativity that could help us resolve them; this way, transcendence might redound to the good. For example, I imagine this was 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. This, however, can only be a hope.

So the minimal global ethic, whether it draws on sources that are interpretive, creative, or both, can be involved in, and indeed generate, conflict. Still, while little can be said 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 different backgrounds to respond to conflicts with conversations that aim for reconciliation and, in this way, affirm their shared common good.[151]

Conclusion

A couple of observations in conclusion. The first recalls how philosophers such as Berlin, Hampshire, and Walzer refer to something like the ethic when defending themselves against accusations of relativism. The ethic does indeed seem to provide us with a basis for criticizing regimes that commit fundamentally abhorrent acts. Moreover, if the perpetrators fail to change their behaviour, it also supports intervention, the use of force against them.

The second observation notes that, 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

[150] 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).

[151] See again my "The Ironic Tragedy of Human Rights," as well as my "Patriotism, Local and Global," in Mitja Sardoč, ed., *Handbook of Patriotism* (Berlin: Springer, 2020).

basic norms *before* attempting genuine intercultural understanding.[152] The problem with this is that while truces, for instance, are often 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 openness to conversation – but future conflicts. Taylor also misleadingly calls for "bridging differences" between people he portrays as being "worlds apart," given the "extreme distance" between them.[153] But this only encourages a conception of intercultural conflict as based on a confrontation between originally separate entities. Samuel P. Huntington's famous thesis of the "clash of civilizations" is a case in point.[154] Instead, we should begin by invoking the minimal global ethic as a platform where there can be, not negotiations, but conversations about the meaning of the already-shared common good of people the world over.[155]

While they engage in these conversations, they should be invited to invoke their more local common goods as well, since these contribute to the global version. Otherwise, they risk distraction 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 elaborate on the content of the minimal global ethic; it must remain general rather than specific.[156] Acknowledging its existence can provide psychological support in the heat of argument, but when we expect to be challenged on the justness of our cause we cannot expect it to do much more than that. Rather, like many other things we use for support in life, it is most effective when it remains in the background. Hopefully, the day will come when we can all agree to return it there.

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[152] 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.

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

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

[155] 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.

[156] 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.