

UNITED NATIONS HUMAN RIGHTS ETHICS

For The Greater Success of the Greatest Number

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Note.

This volume makes no claim in any way to represent the views of the United Nations or any of its affiliated agencies.

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PREFACE

This is a book that offers a new way to look core issues in the field of ethics. However, it is not a book aimed merely at informing academic debates. Rather, it is intended to be a practical guide for people involved as educators, policy makers and lawyers. Yet, of the three readerships, the primary audience is human rights educators. After all, ethical theory is incomplete without a successful method of human rights education. None can be implemented without such a method. Hence the second to last chapter is devoted to human rights education. Half my undergraduate philosophy majors became lawyers. I want human rights educators addressing people on the ground to be a key part of my audience.

The problem with the Universal Declaration of Human Rights is that it only declares human rights and does not support them with reasons. Indeed, people who are disappointed with the record of the United Nations in preventing all the regional wars and high crimes against humanity since 1945 are a further audience. Human rights education was handed to the international human rights law profession in part because thinkers like Jacques Maritain, a moral philosopher on the drafting committee, said everyone agrees with human rights until one asks why. Lawyers know how to prosecute human right crimes, but are not trained to reduce human rights crimes as educators. We must not forget that the first person to speak of human rights was not a lawyer, but was Jean-Jacques Rousseau in 1762 in *Le Contrat Social*.

Many teachers of college- or university-level elementary ethics may agree with my criticisms of the way the elementary ethics courses are taught in the US and other countries in the West. Such courses are taught as a survey of 2500 years of normative ethical theories, but without coming to any conclusion as to what the *true* ethical theory might be, a stance quite at odds with the claims of universality made on behalf of human rights by the United Nations. Another important audience for this book is people who are deeply concerned by the resurgence of ethical political nationalism since 2015, and by the simultaneous decline of the post-World War II consensus on human rights.

The book title, *UN Human Rights Ethics: For the Greatest Success for the Greatest Number*, shows I have no interest in a personalized ethical theory. This is not just another textbook on ethics. Rather, I am interested in fostering a global consensus on the fundamentals of ethical knowledge, and so regaining respect for ethics as a form of knowledge. The subtitle, has been added to complement the possibly pompous-sounding main title and to convey popular appeal. This Forward is limited to a presentation of the book's organization.

For an ethical theory not to be utopian or purely ideal, an accessible path of steps toward its general realization is needed. A global popular culture of human rights-based ethics is further than ever since 1948 from existing. Yet an ethics of moral progress towards its existence by on-going research can come into existence as a global project. Why should this path not be taken, and if so why not under the auspices of the UNESCO? For UNESCO to sponsor international research into the Universal Declaration as the global standard of normative ethics is one way of giving UNESCO new relevance?

Part One of this book, following two introductory chapters, presents popular ethical theories that have rarely inspired recognized philosophers to sustain them with reasoning after their popular success. Part Two examines Immanuel Kant's ethics that made a significant impression academically, but that enjoyed limited subsequent popular support. Part Three examines theories with past or present popular appeal that have also inspired significant academic support in philosophy. Part Four supports the rights-based ethical theory that became popular after World War Two.

Parts One through Three develop a negative case for the human rights standard in ethics by explaining why other norms should be set aside. Part Four gives a positive case for the standard, pointing to merits of that norm apart from the demerits of other theories. The need for ethical theory to be more accessible has been felt since 2015, the year in which the popular following which the human rights norm had in ethics after the War lost ground to ethical political nationalism. One cause is that the human rights standard has not been understandably explained to the educated public. If the reasoning for a rights-based ethics theory is sound, better human rights moral education becomes possible. That can promote moral progress.

Parts One through Four analyze normative ethical theory concretely into alternative particular normative ethical theories. Major ethical theories first emerged naturally in the human career as people looked for and find new ways of responding to new social and environmental conditions. Some ethical theories—since the professionalization of philosophy in the eighteenth century—have arisen as single-authored theories in rivalry with colleagues in moral philosophy of a given generation. Some of these theories gain temporary prominence among colleagues in the profession and then are forgotten except by historians of moral philosophy. A few single-authored ethical theories escape confinement among contemporaries and influence the university-educated public and leaders of society of more than one generation.

The most prominent of all professional ethical theories that went beyond rivalry with contemporaries of the same generation was single-authored by Immanuel Kant. Kant responded not

just to living contemporaries but to the whole history of modern philosophy that began in the previous century. Responding to the division in modern philosophy between Continental rationalism and British empiricism, he sought to overcome the divide by distinguishing both an empirical self and a rational self in an encompassing view of individual human nature. His single-authored ethical theory is subject to alternative particular interpretations, but is not a naturally arising generic moral theory in the general public. Yet it offers material for the careers to professional philosophers who try to legitimate or critique it in one way or another.

A naturally arising general moral theory in the public domain divides into contrasting types. Such theories in non-theoretical form have arisen among people long before the existence of philosophy. None has first arisen on the level of abstract theory, although philosophers eventually articulate some of them on that level. They do not arise in a random order, but respond to the need for the guidance of conduct in a new natural and social environments.

Introduction

THE POST-WAR DECLINE IN THE POPULARITY OF HUMAN RIGHTS

For many decades after the discovery of Hitler's death camps it was hard to open a newspaper and not find an article assuming human rights as the standard of right and wrong. After all, in 1948 the United Nations had proclaimed them as an expression of the conscience of humanity. They had become the moral rhetoric of post-War era. Their violation, especially when they reached the level of crimes against humanity, aroused the compassion of uncounted millions. Yet this was also an era in which two Western Allies who won the war, the UK and France, made the global legitimacy of the Universal Declaration suspect by maintaining the world's two largest colonial empires. Britain's wartime leader, Winston Churchill declared that he had not become Prime Minister to preside over the fall of the British Empire – yet it fell anyway. At least, by and large, the British colonies became independent without the bloodshed perpetrated by France in Indochina and Algeria in the run up to De Gaulle's return to power in 1958 as part of the intentional disposal of the empire to cultivate partnership with Germany in a new Europe.

The colonial era was essentially over by 1960. Yet in Vietnam, Iraq, and Afghanistan the United States stepped in to replace the British and French in a quasi-imperial role. The United States did not pursue empire in name, but presented itself as leader of the Free World, acting to promote civil rights world-wide on the Western model of free markets and the forms of free democratic elections, all under the auspices of the Western-sponsored international community.

Indeed, by the close of the Twentieth Century, with the United States enjoying undisputed global preeminence after the fall of the Soviet Union, Francis Fukuyama became only the last in a long line of thinkers to mistakenly suppose that the end of history—which Hegel had believed was at hand after the French Revolution (even breathlessly describing how at one point he saw Napoleon, the “world spirit”, ride past) had arrived.¹ Yet despite the promise of the French revolutionaries of freedom, equality and brotherhood for all, universal human rights have never existed and are not likely to exist in any future we can see today. Nor are human rights fully implemented today even in any one country. Not even in France, “liberty, equality, and fraternity” remain only ideals. There is a similar gap between public declarations and political reality in the United States where, despite the image of Martin Luther King, Jr., on postage stamps and his name on bridges, everyday racism remains endemic.

Western nations often acted contrary to the human rights they professed. Indeed, their use of the United Nations to promote the moral language of human rights worldwide appeared to some

more authoritarian non-Western governments to be a form of Western cultural imperialism, undermining the values of non-European peoples still bound to their communal local customs, not to individual rights. However, the lack of universal individual human rights in the customary law of peoples was evident in Africa as well as Asia. However, human rights violations in the non-Western world cannot all be attributed to Western neocolonial influence, since some violations are clearly indigenous. For example, some male tribal elders in the bushes of Burkina Faso continued to sponsor female genital mutilation. As long as Western industrial and economic might was maintained, individual human rights remained globally popular as a moral ideal, and legal recognition of them continued in most nations, including ones defeated by the Allies in World War Two. Exceptionally, support for individual human rights was not formalized in oil-rich Saudi Arabia and other countries under Islamic Sharia law.

Even so, the popularity of human rights after 1945 depended on no academical validation resembling anything in the sciences. There was no professional consensus among moral philosophers globally to sustain the popularity of human rights with arguments. The popularity was instead due to compassion at the sight of so many millions of individuals who had suffered physically and emotionally from Axis dictatorships. Compassion in the face of such untold atrocities continued to sustain sympathy with those whose abused continued under by corrupt local authorities and through the disruption of local non-Western local farming and social life by the invasion of Western multi-national corporations.

Yet compassion is a feeling that ebbs and flows. People surrounded by too much suffering, or too many poor immigrant refugees, begin to suffer compassion fatigue. The admission of economic migrants must be carefully dosed if it is to remain at socially palatable. As memory of the Holocaust fades into the past, the appeal to the conscience of humanity in the Universal Declaration of Human Rights ceases to weigh as heavily.

Recent years have seen the popular appeal of human rights as a moral imperative challenged even in its Western homeland. Presidential elections in the United States, the referendum in Britain to leave the European Union, and the rise of nationalistic political parties in the Continental European Union (including a Neo Nazi party in the German parliament) have made this apparent. If popular adherence to human rights norms is to return and endure, compassion, it seems, is no longer enough.

Given this, the inadequacy of compassion as a base on which human rights can solely stand, reason is crucial as a second source of authority. It is indeed only a return to the original grounding of human rights in the eighteenth century Enlightenment. The seventeenth century Age of Reason,

illustrated by the genius of a Leibniz or Newton, was popularized in the eighteenth century Age of Enlightenment. This period, in turn, inspired the French Revolution. Yet after the Revolution's political fallout in the Reign of Terror, followed by Napoleonic authoritarianism, the legacy of the Age of Enlightenment was far from being a general respect for human rights. Instead, we might recall from Aristotle that human nature is two-sided—one foot in heaven with the gods and but the other foot firmly on earth with the animals. One result is that if reason alone tries to take charge alone in the face of established social disorder, passions violently can arise to protect that very disorder.

Since neither compassion nor reason alone can be relied on to sustain public support of the human rights, its maintenance depends on the cooperation of both sides of human nature. To succeed, human rights education must address the people of each nation as a whole, and each in a different way depending on its history and culture. The United Nations never directly assumed full responsibility for this kind of human rights moral education. The responsibility was instead largely delegated to its member states and to non-governmental organizations. States delegated responsibility to regional inter-governmental human rights organizations like the Council of Europe, to religious organizations, to for-profit private companies, to charitable nonprofits, to philanthropic individuals and foundations, and to the family. Yet the delegation of authority always risks its loss dilution.

With regard to that last social institution, the family, caring for one's children is its natural function, central to an institution as old as the species. It is one that existed long before the expansion of commerce made possible the very idea of human rights. Because moral education starts early in the life of a child, any support offered by parents is vital. At least in non-totalitarian states, parents remain free to decide what early childhood character training they provide. UN member states are unable to invasively obligate parents to assume responsibility for moral human rights or civics education. A member state under the rule of law has the authority to promote moral and civics education that the family could never have provided until its prehistorical sovereignty yielded at the onset of world history to the higher sovereignty of the state.

Individual family members, employees and all citizens in Europe can appeal to the European Court of Human Rights in Strasbourg. This court, operating under the European Convention on Human Rights as administered by the Council of Europe, has not merely protected publicly recognized legal human rights, as is the normal function of a court. It has also promoted human rights by engaging in the moral education of European citizens and nations by progressive

interpretations of the European Convention. Thanks to the accumulation of the Court's case-law, the European Convention has become a dynamic instrument in response to new challenges in the promotion of human rights and democracy in Europe. Take, for example, Article Six, the right to a fair trial. It is the Convention provision that has required most protection. Alongside, the Court has also promoted new understandings of human rights on various social issues such as abortion, assisted suicide, body searches, domestic slavery, adoption by homosexuals, the rights of transexuals, various forms domestic or private slavery, religious symbols at school, the protection of journalists' sources, and environmental issues. As a result of the Court's landmark decisions, headmasters in England were no longer allowed to use corporal punishment!

However, in step with attitudes generally towards previously unassailable notions of human rights, more recently public confidence in the Court has declined. It is worth noting that, by contrast to the headmasters case, prisoners in the United Kingdom continue to lack the right to vote despite a Court verdict. Unlike the United States Supreme Court, compliance with European Court verdicts is in principle legally binding but usually voluntary in practice, since no European police force or army enforces them.²

For most of its decades-old history, the success of the Court has depended on a post-1945 consensus supporting a new European moral and legal order designed to prevent World War II atrocities from ever recurring. For many years Russia was alone among Council of Europe member states by not implementing Court decisions. Then, in the 1970s, the Greek military junta in the 1970's stood out as the major of case of non-compliance. But today, Hungary, Poland, and other states joined the United Kingdom in defying or threatening to defy judgments by the European Court. The UK's vote to leave the leave the European Union bore overtones of racism due to the reaction of more purely English towns north of London to the EU free labor market permitting one's neighbors to be Polish immigrants.

The European Convention, which took effect in 1953, is part of EU constitutional law, since all EU member states belong to the Council of Europe with forty-seven member nations. However, inadequate moral and civics education under national ministries of education has induced European Human Rights Court judges to take initiatives in this area.

Essentially, all human rights in the European Convention coincide with rights in the United Nations Universal Declaration. However, the European Convention goes far beyond the US Constitution in the protection of economic rights. Where The United Nations' Universal Declaration

declares universal ideal rights that are not, however, legally binding on UN member states, landmark case law by the European human rights Court that has attempted to implement the Universal Declaration through the European Convention, has led to changes in positive domestic law in European nations. This has applied in the areas of civil rights, due process legal-access rights, and democratic political rights throughout all Europe, (Note though that the European Committee of Social Rights in Luxembourg is responsible for monitoring progress in economic rights rather than the Strasbourg Court.)

The UN and regional international human rights courts and commissions attempt to protect rights by treaty law. But protection of rights by intended coercive legal measures has limited educational value in promoting respect for human rights. Instead, European Court action can result in a public backlash fueled by inflammatory speeches in the public and inaccurate reporting. In part Brexit was a case of just such an English backlash as to what was seen as an over-reaching European human rights court in Strasbourg. In other cases the reporting has been accurate, but a substantive disagreement between the Court and a state party to the European Human Rights Convention remained. An example has been the Court verdict protecting the right to vote of prisoners in the UK, but not enforced by British authorities.

The Court's way of promoting constitutional rights is at least to embarrass noncompliant nations. Yet even if nations can be made to comply, little is accomplished to lead the populations of member states to greater respect for human rights as moral rights. By contrast, moral education by teaching human rights-based ethics as understood in this book is intended to empower people in a potentially transformative way. It seeks to use understandable arguments to persuade people of the personal benefits from exercising and respecting rights. Court verdicts are of course applied against accused states regardless of whether the accused are persuaded.

However, it should be recognized that the European Court itself has shown some appreciation of the limits of using a court designed for the legal protection of rights as a vehicle for promoting rights not yet generally recognized. To explain, "moral" can be used in two senses. Article 29 of the UN Universal Declaration states:

"In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of *morality*, public order and the general welfare in a democratic society." (Emphasis added.)

Herein lies a kind of philosophical paradox. If the Universal Declaration provides the norm for a well-founded human-rights based ethical theory, it cannot itself be limited by “morality” because the Declaration itself is presented as the standard of morality. However, instead of referring to the norms of a justified ethical theory, “morality” may only mean the “morals”, “mores”, or “moral customs” of a people. The European human rights Court recognizes that some accommodation of its application to existing local “morals” may be needed in legal verdicts and in the limits of their ability to morally educate. Moral progress may be possible only by slow progressive steps.

When the European Court does seek to promote human rights by case law, the judges themselves have stressed lenience except in the case of non-suspendible (meaning “non-derogable”) rights like the right to life or the right not to be tortured. The Court demonstrates restraint by showing what it calls a “margin of appreciation” in facing imperfect local morals. Additionally, it denies any pan-European concept of morals. What is a legally unacceptable obscenity in one locality may be an entirely acceptable exercise of freedom of expression in another. In fact, freedom of expression is, I will argue, both the most encompassing of human rights and yet, in certain situations, subject to limitation in the name of public order to avoid offense to local morals. Such offense can provoke violent reactions, jeopardizing the right to security and dialogical freedom of expression itself. This principle of the margin of appreciation requires judiciousness. Thus a public exercise of free expression in one locality may be condemned by the Court without being condemned elsewhere because the social context is different. Respect for free expression is the central human right in dialogue in search for the truth on which both successful personal action and successful public policy depend.

What psychologists call positive reinforcement reinforces desired behavior by rewarding it. This helps make behavior habitual, internalizing it to become part of your character. Good conduct can then be relied on by individual self-regulation instead of by more undependable enforcement by Court penalties or the threat of them. The subtitle of this book, for the greater success for the greatest number, implies personal benefits stemming from exercising rights in the Universal Declaration along with respect for them in mutual subsistence.

Yet the European Court’s margin of appreciation also includes appreciation of a red line not to be crossed in violating rights. For example, the growth in the representation of neo-Nazi parties in Europe since 2015 has led the German government, by its own post-War constitution, to place any such a party under surveillance, and thus under restriction should such a party exceed limitations proscribed by the European Convention. The German authorities thus help reduce caseload of the Strasbourg Court. Alas, if the morals of a sufficiently

long list of non-compliant European communities violated non-suspendible human rights like the right to life or not to be tortured, a breakdown of the pan-European post-World War II moral consensus would make the Court's unviable no matter how ethically legitimate its verdicts remained.

The Universal Declaration of Human Rights is not itself a normative ethical theory. The moral philosophers on the drafting committee before its declaration knew nothing of a human rights-based normative ethics usable to justify its declared norms. They seem to have considered no version of the scientific discussion ethics of experimental hypothesis testing that already existed outside moral philosophy in the philosophy of science. Human rights-based discussion ethics already existed in Karl Popper's 1945 *The Open Society and Its Enemies*. Popper's formulation of human rights-based ethics would later play a role through the Open Society Institute in the fall of Soviet Union.

Apparently because Popper was prominent in the philosophy of science but not ethics, his human rights-based ethics did not get a hearing in the lead up to the Universal Declaration. If it had, the Declaration might not have stated ambiguously in Article 29 that its application is limited by "morality." If morality were understood as respect for human rights in an open society, Article 29 would oddly mean that the Declaration's application is limited by itself, and thus is unlimited. That its application is limited by public order is only as a reminder that protection of the particular right to security can at times take precedence over the general right of freedom of expression. A general human right cannot be exercised if its exercise would violate a particular non-suspendible right falling under the general right.

Dependence of Human Rights Education on Human Rights Ethical Theory. Positive reinforcement of respect for human rights rewarded by a personal benefit in exercising them could, occur if ethicists as facilitators of human rights moral education were elevated to equal standing with the international human rights lawyers. And so, the following chapters will argue for greater equality between these callings in the public mind. I prefer the word "ethicist" instead of "moral philosopher" because too often moral philosophy as a branch of philosophy has worked against moral education by reducing ethics to opinion and critical thinking in debates between mutually exclusive schools of thought. Critical thinking and ethics are separate disciplines with separate course descriptions.

Human rights could, however, recover their lost standing if the general public could be brought to see that all ethical theories but UN human rights-based ethics face unanswerable

objections. The type human rights ethics defended in the following chapters recognizes only one general human right—dialogical freedom of expression—with other more particular declared human rights falling under this one right. In this new human rights-based ethics, the general right of dialogical freedom of expression is exercised by exercising one or another particular human right, depending on the different opportunities of the different situations in which people find themselves. One and the same person, for example, exercises freedom of expression optimally in one situation by seeking legal help to counter the repression of equal freedom of expression, and in another situation by exercising the right to medical care on an equal level with other dialogue partners in negotiation or other discussion.

That human rights-based ethics is not globally implemented, that it is frequently violated, is a less valid objection once one reflects the no ethical theory is universally implemented. Ethical theories are about what people ought to do and about what they can in practice do, not about what they in fact do. Whether or not any one ethical theory is sound, the reality is that different people follow different paths lit by different ethical beacons. And yet current technology, unlike that of the ancient world, today makes the implementation of human rights possible.

If human rights existed, if they were globally implemented with only a minority of violators, a common human rights ethics and culture could be envisaged for people of different local cultures everywhere by a global social contract. In the more individualistic West, duty consciousness tends to create the irritation of obligations one prefers not have. People in the West need to see the advantage of habitual respect for human rights. Such respect is not an irksome duty. It consists in actively helping others succeed in the exercise of their human rights and in receiving thereby help due to the habitual gratitude of others.

The emergence of a general global human rights culture shared by different local cultures depends on a new kind of human rights education by trained ethicists. It also depends on world governance assuring not only the training of such ethicists, but also a necessary minimum of material resources available to all, and to the education of ethicists in particular.

Media exposure to human suffering is a requirement human rights education as long as so long as such education relies on compassion. If well-publicized atrocities no longer periodically recurred, a now dominant form of human rights education—the appeal to compassion aroused by temporary news coverage of one atrocity pushing other important news to the side—would disappear. Any mission to educate and implement human rights generally that depends on the continued non-existence of a global human rights human rights is paradoxical and incoherent.

For a version of human rights-based ethics to prevail, an educated influential majority of each nation's people must, by dialogue, reach a free consensus with eventual impact on government policy. This book is not doctrinaire, but is rather a proposal for further discussion. At root the ethical theory in this book is not original. Under other names and variations it is Socrates' search for wisdom, Charles Peirce's nineteenth century theory of fallibilism, Jurgen Habermas's discussion ethics, Chaim Perelman's ethics of addressing the universal audience, as well as by Karl Popper's ethics of the open society.³ Here is a family of ethical theories proposed by different individuals, even as it falls short by citing only Western thinkers.

Origin Of The Response To The Present Moral Crisis

This book is an introductory essay in ethical theory, not a typical textbook. Yet it is written by someone who has long used such textbooks. Unlike most textbooks, it does not survey ethical theories from a neutral perspective. In the Victorian age ethics textbooks could be didactic. Neither England nor the United States was multicultural as they are today. Today a Victorian ethics text, published in an era when university education was reserved for a monocultural elite, can seem to constitute an arrogant claim to ethical knowledge by the ruling class.^e

Today, in no small part because Western society has become multicultural, the claim that ethical knowledge exists has been largely abandoned. Yet the fact that the violence of the twentieth century has continued in the current century seems in part due to abandoning such a claim. This essay is an experiment to see if a persuasive claim to ethical knowledge can be recovered free of cultural insularism.

The growth of ethical nationalism since the German resistance to the influx of Syrian refugees in 2015-2016 has been accompanied by the spread of politically nationalist authoritarianism. In the United States public education is funded locally and thus unequally according to the varying ability of local government to pay salaries to teachers. Further, education in the humanities and social sciences, including ethics and civics, has taken second place to what in Germans call 'bread studies' (*Brotstudien*), *i.e.* studies by which one can earn a living.

In the United States such studies are known as STEM education concentrating on science, technology, engineering, and mathematics. STEM higher education downplays education in world history, foreign languages as well as philosophy—essentially education that creates an informed democratic citizenry in an ever smaller world. If social disorder continues to grow in the United

States and Western Europe, China's current leadership claims to have an answer: authoritarianism in place of democracy on a national level.

That is not merely a Chinese proposal. Napoleon's answer to disorder in French democracy in the early years of the French Revolution was essentially the same, a National Assembly that came to play only a consultative role, no longer a legislative one. The coming years will demonstrate whether the temptation of nationalist authoritarianism of the Right or Left can be reversed.

Purely STEM education denies students an idea of the of whole of wholes of which they are a part. In so denying it denies them self-comprehension as part of that whole. The part is what it is only through the whole. The stress on STEM education is fully justified in Western countries with high unemployment and low-paying jobs. I call for only STEM+ education including newly conceived ethics education for recovery of globally informed national citizenships

This chapter is autobiographical only insofar it helps readers understood where the book is coming from. I do not solely address academic colleagues. The aim is to help rescue the UN human rights from their declining popularity since 2015 in Western nations that led the global human rights movement after World War II.

Political science distinguishes between totalitarian and authoritarian states. Several totalitarian states have existed in the twentieth century, most notably the Axis powers defeated in World War II. A totalitarian state lacks any civil society of individuals and organizations whose life is not subject to state control. Authoritarianism does not fully eliminate civil, political, and due process rights like totalitarianism. Yet, in the absence of quality public education in civics as well as the humanities and social sciences accompanying bread studies in local schools and in universities, authoritarianism threatens to limit equal universal civil rights, democratic political rights, and legal access rights on national levels.

To explain the origin of the book's response to the moral crisis described in above, I give credit to a few philosophers, including two teachers of mine, by whom I have been influenced. My only specialization other than human-rights-based ethics is related to human rights.

Credit is first given to the German philosopher G. W. F. Hegel (1770-1830) whose life span coincided with four periods centered on the French Revolution.⁴ First came the Age of Enlightenment's lead-up to the Revolution. Secondly there was the Revolution's most violent decade in the 1790s. Thirdly came the Napoleonic wars of conquest in Europe. Fourthly came the last fifteen period of Hegel's life, the attempted Restoration of the pre-revolutionary old regime. In this period Napoleon in captivity, militarily defeated, began his own death in 1821 to influence the

course of history by propagating his own legacy, especially the Napoleonic civil code law by which many countries continue to be governed. The restoration of the pre-revolutionary Old Regime attempted by the alliance defeating him at Waterloo proved impossible.

Hegel remained a Bonapartist to the end, convinced that the institutional and ideological transformation effected by the Revolution and Napoleon represented an irreversible end of the European Middle Ages. His own work in philosophy contributed to the Revolution's ideological shift in Europe from the medieval language of eternal natural law and natural rights to that of historically constructed human rights. Through the global European colonial empires that followed in the nineteenth century to the middle of the twentieth century, the language of human rights conquered the world ideologically and institutionally in way by which the West in the end could not succeed militarily.

An undergraduate year at the University of Tunis in North Africa changed my view of Hegel. I did the first year of the French License en philosophie there under, among others, Jean Wahl who started the twentieth century Hegel renaissance in France. I was lucky to be in Tunis at a time when France sent some of its best philosophers there, including Michel Foucault who was there for two years after my year. Tunis freed me from the mockery of Hegel to which I was exposed the year before in America in a history of modern philosophy class. Hegel was perceived by my teacher as the philosopher who claimed to end philosophy by attaining divine wisdom.

I did my doctoral dissertation on Hegel to come to terms with him. He was the only classical philosopher I could not reduce to a series three by five inch classifying cards with minute writing in preparing for qualifying exams. Later, in a year in Nottingham, Hegel finally proved stronger than I: in my mind I became a Hegelian and set myself up for target practice by others invited to refute him.

In graduate school my ethics teachers were John Hospers and Dallas Willard. Hospers was attracted to ethical egoism through his relation with the novelist Ayn Rand. I have retained ethical egoism in a different form—far from his libertarianism which commended to each individual the pursuit of exclusive self-interest in private property. I substituted an inclusive egoism, including the self-interest others inseparable from myself. A human being in a globalized world is a human being in and through all others. Yet human rights are not in the interest of all if it goes no further than protecting individual property. Some are unpropertied. A defensible normative ethics like a defensible scientific theory must be adoptable by all.

Dallas Willard was my dissertation director. He was raised in the American evangelical Protestant tradition, while I was at the time a classical atheist. Yet five years later I met Thomas

Altizer and from then on I have remained a Christian atheist, but without a Altizer's insistence on the uniqueness of Christianity.e

Traveling through Algeria a few years after its independence as I worked indirectly at a low level for the CIA, I came upon a Catholic religious order that advertised the Muslim children in its orphanage as «invisible Christians». I first heard of the invisible church in which visible Muslims could also be invisible Christians. Willard remained uniquely Christian, but he lived in the age of the Son as a Jesus-intoxicated Christian—an outlier in the Evangelical movement which he called upon to live in the image of Jesus.

I studied twentieth century ethics theory with Willard. As a human being and teacher he was exemplary. His seminars resembled traditional Quaker meetings. He did not feel like most professors that he was paid to fill the air with words. He did not lecture, but sat in a circle with students. He allowed silences until the spirit moved someone to speak. In ethics Willard held a belief that became unconventional in the twentieth century, namely, that there is attainable ethical knowledge.⁵ He was a master of twentieth century ethical theories, but as a phenomenologist in the Continental tradition begun by Husserl he went beneath normative ethical theories to explore the experiential bedrock on which ethical theories are built.

The publications that earned him his professorship were in the phenomenological tradition. Of these the most important is *The Disappearance of Moral Knowledge*, published posthumously in 2018. He spent most of his career preparing to write this book.⁶ I maintained a relationship with both Hoosiers and Willard over the years. For many years I taught elementary ethics with Hospers' widely used text *Human Conduct*. Eventually I outgrew that text and moved closer to Willard in ethics. His primary audience remained evangelical, which he had a mission to reform. I was unchurched and secular. *The Disappearance of Moral Knowledge* is also secular, addressed to a universal audience, people of all religions or none. He came from a tradition in which from the beginning Jesus was the exemplary one, but his last book showed his belief that in different traditions Jesus could have different names.

A review of Willard's 2018 book concurs with him in these words:

To many twenty-first-century ears the phrase "moral knowledge" sounds like an oxymoron. Knowledge is understood to belong in the realm of objective facts and empirical science, while morality is understood to belong in the realm of subjective opinions, values, and feelings--and never the twain shall meet. The distinction between these two realms has become such an established tenet of cultural orthodoxy that it is widely assumed to be obvious without question and without argument. ⁷

By 'the disappearance of moral knowledge', Willard chiefly meant its disappearance from the curriculum of universities as an objective science of right and wrong. Universities are our storehouses of knowledge from which we expect individual and public policy guidance. From ethics as a credible discipline we expect guidance in general, encompassing the particular forms of guidance coming from professions and the special sciences. The trend of elementary ethics courses in the twentieth century has been to give us no reliable general guidance.

The remedy which Willard contributed was a restoration of moral knowledge in the university. His book concludes with a theory of what the development of teachable moral knowledge could be. It proposes an epistemology of moral knowledge. Though he mastered twentieth century ethical theory in the Anglophone analytic tradition, he was rooted in the phenomenological Continental tradition of Edmund Husserl, exploring the experiential foundation of such theory. He noted that no philosopher or had refuted the possibility of knowing right from wrong. The disappearance of academically recognized moral knowledge has only reinforced the decline of morality in twentieth century life outside the academy.

The remedy Willard proposed, starting from the phenomenological tradition, was not a normative ethical theory, but an exploration the experiential foundations on which a true human-rights based ethical theory might be constructed. A normative ethical theory is so many good sounding abstractions if its basic terms lack meaning that can be intuitively experienced. An experienced distinction between people who are morally good and those who are not must prepare the way for a normative ethical theory that can make a difference.

Human rights are in desperate straits in the world. They are widely proclaimed, but brutally violated on a mind dumbing scale. The basic outlook I wish to represent... is that moral rights depend, for their effective implementation, upon a certain condition in the human community. If the community is not one of a high level of moral substance (that is, is not one of morally good people, both in official positions and throughout the population), then moral rights will, at best, degenerate into mere legal rights, and... they will be continually subject to failure because the individuals involved... do not act to support them.... Those legal rights... will also be, at most, honored in the letter, and not in the spirit of human dignity...⁸

Willard appealed to Emmanuel Levinas (1905-1995), a phenomenological thinker who made ethics start with face-to-face encounter with the vulnerability and neediness of other persons. Willard maintained that intelligent morally good people, including those with no elementary ethics course in their background, have moral knowledge because they recognize one another as good people. They can see, intuit, who is a person of moral character and who is not.

Though no one can have a phenomenological face-to-face encounter with every other human being except by imagination, current information technologies like Skype makes it possible to have such encounters with faces on the other side of the world, a point not to be ignored in a post-pandemic world. But facial encounters are just the beginning of mutual trust which is to be confirmed by valid norms and agency by those norms.

Levinas did not construct an ethical theory as understood since Kant. If a good person has face-to-face encounters with others persons, some will be experienced as morally good and others not. Yet even evil persons are human beings with human rights. A good person can feel sorry even for Hitler in his bunker, in an unintended condition directly resulting from his own actions. To ground human rights in a real face-to-face encounters is to humanize other persons, whether good or bad. Hitler as long as he was alive could not be reduced to the record of his past actions. He deserved a trial in which he could exercise his due process rights.e

By the 1948 Universal Declaration and subsequent international human rights law, Hitler would have had a right to a fair trial, a right to plead innocence or guilt, a right to a trained defense team, a right to be assumed innocent until proven guilty, and a right to face life in prison. He also had a duty to face the faces of the vulnerable Jews who died in concentration camps, a duty to face his past actions.⁹

An experiential contribution to moral education by face-to-face encounters is consistent with ethical theory in this book as a series of particular ethical theories that can be compared and tested. Each theory has a final norm supported by arguments that can be discussed, each defending one or another ethical theory.

A search for a professional consensus of experts is expected any academic scientific discipline. Each ethical theory can be replicated by other researchers in testing a theory. If a theory tested in different applications by one researcher is not falsified, it can be presented in print to other researchers to see if the published results of a first researcher can be replicated in experimental situations that are the same in all relevant respects. Human rights ethics can be modified by discussion, and expanded by discussion among different researchers.e

Since 1948 the UN Universal Declaration of Human Rights has offered the a single secular non-sacred language acceptable for discussion between people of all local as well as global faiths and ideologies or of none. It declares a universal right to freedom of belief, but places limits on freedom of expression if it violates the right of others.

Human rights in 1948 was a second edition of Lafayette's original 1789 Universal Declaration of Human rights, but as a political compromise document it was left unsupported by

any argumentation. In 1948 that was not necessary. Human rights consciousness, the conscience of humanity, reached a peak upon discovering Hitler's death camps. Yet, since human compassion cannot be maintained forever at such a high pitch, what began as a revolt of the conscience of humanity against a phenomenal archetype of radical evil was maintained by international human rights law. This law serves to all as a reminder of universal moral rights and obligations regardless of what courtroom function it has had or may have.

After graduate school two self-corrections occurred on my path to human rights. As a child I assumed the superiority of Western. I was in Tunis for a year invited indirectly by Tunisian Foreign Minister Mongi Slim. The French left their last base in North Africa in Tunisia in 1963. I was told nature does not tolerate a vacuum. The Soviets or Chinese might get a foothold.

Yet my American accent betrayed me, and the Communist cell members realized why I was there. We had an amiable meeting on a rock hill outside the city and I was persuaded in a couple hours of conversation that no democracy in South Vietnam existed to defend. Lyndon Johnson had become a father figure. Bouts of guilt—I continued to be indirectly funded by the CIA—alternated with defiance. Autonomy finally won out and I have had no father figure since.

The month inside a highly-placed traditional Tunisian family was revealing. The men returned from work in Western suits which they quickly exchanged for long white flowing robes. As a male I was included in the dining room at the table for conversation, while all women including the Foreign Minister's sister, the lady of the house, ate on the kitchen floor with the servants. It was culture shock, but I told myself the practice was accepted as normal in this non-Western culture.

I was wrong. When I returned after the end of the school year to bid farewell only the lady of the house was at home. She ushered me in and sat me down to *thé à la menthe* and Tunisian pastries. I remained over an hour as she revealed life-long suffering growing up and living in her own household. She said things she could not say among men in this Arab nation under President Bourguiba, reputed to be progressive on women's rights. From that moment on I knew human rights as a global aspiration. Yet Tunisian men were still able to divorce by simply placing their shoes outside the front door overnight.

The Foreign Minister's sister felt she was a prisoner in her home, unlike poor Tunisian women obliged to labor alongside their husbands. She could never leave the house except chauffeured in a black Oldsmobile to cousins in the countryside, with curtains in the car drawn so no one outside could see her and she could not see outside. She could not go shopping by herself, since for that there were for servants. She was not Western educated, yet did not consider her situation normal. My prior view of human rights as restricted in appeal to the West changed forever.

There was no way that Asian values could prevent a woman from protesting violation of her human rights by rape. From then on the universality of human rights remained implanted in me.

More surprising was that Mongi Slim championed civil rights as the first Tunisian ambassador to the US. In 1961 he was on the cover of Time Magazine as the first non-Western President of the UN General Assembly.¹⁰ He bought back his black Oldsmobile while serving as Ambassador during the Civil Rights movement. One Sunday he ventured into Virginia, and was denied service at a restaurant with his black chauffeur. He was on the national news in the United States by insisting that the restaurant set up table service in the parking lot so he could dine with his chauffeur. In the United States he supported civil rights, but even as number two after President Bourguiba he was unable to take the cause home and create a cultural revolution in his own home.

On returning to the US, I traded a doctoral fellowship offer in Middle Eastern studies—offered by the Middle East-North Africa Program director and CIA agent who sent me to Tunis—for one in philosophy. He cautioned me that philosophy had no future. I had to prove him wrong.

A second self-correction followed my discovery in Tunis that human rights were universal at least among people on the ground. I studied international human rights law and human rights education by the «rule of law» method. This led to permanent intermittent residence in Strasbourg France for over thirty years. As home to the European Court of Human Rights, Strasbourg seemed to have a good claim to be a human rights capital of the world.

I had married a French national whose only condition was my eventual relocation to her country when I no longer had to teach in the US. I chose Strasbourg, separated from Germany by a bridge over the Rhine. I was often assigned by Purdue University to Strasbourg for study abroad. I was a visiting scholar at the Council of Europe library of the European Court of Human Rights, taught human rights-based ethics at the *Institut d'Etudes Politiques* in Strasbourg (Science PO), a short course at the Strasbourg Law faculty for the masters in human rights, and the philosophy of human rights for three Summers at the International Institute of Human Rights founded by René Cassin, who had won the Nobel Peace Prize for his drafting the Universal Declaration.

Before new life was given beginning in 2015 to pre-World War political nationalism, human rights were still popular in the United States. Learning of the Guantanamo Bay interrogation methods, American students asked the first national conference of the Purdue human rights Institute to address the issue. The book, *Guantanamo Bay: The Judicial-Moral Treatment of the Other*, appeared in 2007 and the monograph, *Human Rights Ethics: A Rational Approach*, the year after. The publisher asked “A Rational Approach” to be the subtitle. Readers otherwise might expect an easier read on something so topical. A student critic led me to the one revision of the ethical theory,

which appeared the collected papers from the 2013 Congress of Philosophy.¹¹

Experience in Strasbourg of global UN human rights education under the international human rights law profession persuaded me to relocate in Mulhouse—Alsace's second city with nearly one hundred and thirty immigrant communities in the city center, not hidden from tourists in suburbs like elsewhere. Mulhouse better suited my aim to replace human rights education under ethics, addressing people from around the world on the ground.

This book's reasoning supports a rights-based ethical theory apart from any doctrinal school of ethics. It appeals to the secular international languages of the UN and post-1945 human rights which, but for the accidents of history, might have arisen in ancient Persia under Cyrus the Great instead of Greece.

The year 1948 of the Universal Declaration of Human Rights was when the Cold War began. Soviet and Western academics in ethics, in the lead-up to the Declaration, could not agree. The lack of agreement about what ethics ought teach at the elementary level was also ideological. In drafting of the Universal Declaration, moral philosophers Peng Chung Chang of China, Charles Malik of Lebanon and Jacques Maritain of France were balanced with René Cassin, John Humphrey and William Roy Hodgson in law. Yet their contributions discouraged hope that moral philosophy could provide any universally agreed reason to support human rights. Maritain famously quipped that there appeared to be universal agreement about human rights until one asked why.

Moral philosophers love to debate perhaps too much. The profession risks satisfying itself more than the public. Their differences as philosophers are reinforced by their representation of different cultures that appear to be truly different. They were unable to render the public service of a professionally agreed universal justification of human rights which the educated public wished. When the public sees that a profession fails to provide a needed public service, the profession loses credibility. It is impatient with endless debates.

By contrast the public service of jurists like René Cassin was never questioned. Though moral philosophers and lawyers in the drafting of the Universal Declaration were equally balanced, publicity given to drafting the Declaration exposed moral philosophy to an embarrassing weakness in the age of science. At the UN not only international human rights treaties but human rights education fell to the law profession.

Yet Human rights education under the UN failed. That was admitted after the UN Human Rights Education Decade 1995-2004,¹² and little has changed since. The hope that wars, terrorism, and violence of the Right or Left after 1948 would decrease was disappointed. Increasing economic inequality in the world was a factor, but something was also wrong with the dominant approach to

human rights education.

This is not just my view. It was also that of David Marshall as head of Global Issues at the New York office of the UN High Commissioner of Human Rights.¹³ He realized this after ‘Rule of Law’ training in human rights for civil servants in South Sudan a couple years after its independence. The mission addressed judges, police, and prison personnel. Five hundred police were brought in from Arkansas. Elsewhere from the West many prison worker were recruited to be models to a new member of the United Nations. Judges from the West were brought in as role models for South Sudanese judges who stood by and watched how it was done.

Eventually the UN had to proclaim mission accomplished and depart. The problem was that the Sudanese went back to doing things as they always had. The real problem was that after work they returned home in the evening, and their family culture continued to prevail over the role models set for them by the United Nations. The lesson, discussed in Chapter Fifteen, is that the Rule of Law method of human rights education rarely works. The family remains sociologically the key institution, and human rights education needs to be directed to people on the ground, including wives and children.

We have moved from Strasbourg to Mulhouse, Alsace’s second largest city near Bale, Switzerland and Freiburg, Germany. In Strasbourg when my wife mentioned her husband worked in the area of human rights, people’s eyes would light up. But when she mentioned his degree was in philosophy, their interest waned. Here I am surrounded by Turkish, Chinese, Palestinian, Algerian, Tunisian, Moroccan, Russian, West African, Kurdish, Vietnamese shops, to name but a few. I live in a field in which the human rights education method outlined in Chapter Fifteen can be put to an ideal test. I do not need to grow around the world because the he world comes to me as in no city I know.

¹Francis Fukuyama, *The End of History and t he Last Man* (New York, NY: Simon and Schuster, 1992.)

²The execution of Court decisions remains complex. The Committee of Ministers of the Council of Europe is charged with supervising the execution of the court's judgments. The Committee of Ministers oversees changes in the domestic law of contracting states in order to make it consistent with the Convention, or to assure individual measures taken by the contracting state to redress violations. «Judgments by the court are binding on the respondent states concerned and states usually comply with the Court's judgments.” Arnold Hodder, *The Essentials of Human Rights*. p. 115. It should be noted that the UK’s exit from the European Union was not an exit from the larger Council of Europe, and thus not from the European Human Rights Convention or from the jurisdiction of the Strasbourg human rights Court.

³A discussion these family-related ethical theories is found in my book *Human Rights Ethics: A Rational Approach* (West Lafayette: Purdue University Press, 2008).

⁴ See Joachim Ritter, *Hegel and the French Revolution*, trans. Richard Dien Winfield, MIT Press: Cambridge MA, 1982.

⁵Dallas Willard, *The Disappearance of Moral Knowledge* (New York: Routledge, 2018).

⁶Dallas Willard, "Moral Responsibility and the Failure of Moral Knowledge," *Guantanamo Bay and the Judicial-Moral Treatment of the Other*, ed. C. Butler (Purdue University Press, 2007), pp. 161-178.

⁷ Adam Pelsler, Review of *The Disappearance of Moral Knowledge*, *Notre Dame Philosophical Reviews*, March 29, 2019. <https://ndpr.nd.edu/news/the-disappearance-of-moral-knowledge/>

⁸Dallas Willard, *Human Rights, Moral Responsibility, and the Contemporary Failure of Moral Knowledge*, in *Guantanamo Bay and the Judicial-Moral Treatment of the Other*; ed. Clark Butler in *Guantanamo Bay and the Judicial-Moral Treatment of the Other* (West Lafayette, Indiana: Purdue University, 2007), p. 161.

⁹ moral responsibility

¹⁰*Time Magazine*, September 29, 1961.

¹¹Clark Butler, "A New Ethical Consequentialism," *Proceedings of the XXIII World Congress of Philosophy*, vol. 75, 2018. <https://www.pdcnet.org>.

¹²United Nations Decade for Human Rights Education -- C.H.R ... hrlibrary.umn.edu/UN/1998/Res045.html; OHCHR **World Program for Human Rights Education (2005-2007)** <https://www.ohchr.org/EN/Issues/Education/Pages/Program>. Downloaded March 1, 2020

¹³*The International Rule of Law Movement: A Crisis of Legitimacy and the Way Forward*, ed. David Marshall with an introduction by the editor (Cambridge, MA: Harvard University Press, 2014).

PART ONE MORAL THEORY IN THE POPULAR IMAGINATION

Chapter One

ETHICAL RELATIVISM

Is moral philosophy really an academic discipline? Math teachers in an elementary course agree that two and two are four. There is also a professional consensus among elementary chemistry teachers that water is H₂O. And physics teachers now all agree with Einstein that the energy (E) of a physical particle is its mass (m) multiplied by the speed of light (c) multiplied by itself (mc²).

In the United States and many other countries, elementary ethics is taught in most colleges. Yet students quickly learn that most ethics teachers do not teach any one theory of right or wrong. The minority of teachers who do so teach in religiously-affiliated colleges that are built upon strict views about right and wrong that they oblige ethics teachers to follow. Yet academically well-regarded religiously-affiliated institutions are less strict. Where teachers trained in ethics are left to themselves, it is rare for them to argue for any one theory to guide choice. That they do not do so is due to the lack of any professional consensus about which theory deserves preeminence.

And so a teacher may personally hold to one theory of right and wrong, but hesitate to privilege it in class for fear of seeming opinionated. A typical elementary ethics class may even end up not teaching ethics at all, but instead only teach the history of conflicting ethical theories since the founding of ethics as a so-called academic subject. For many the embarrassing fact is that after centuries of failed research there is no known moral law of right and wrong comparable to the laws of natural or even social sciences.

Students may even wonder why elementary ethics is taught at all. It would seem that the intellectual history of ethical theories could be taught just as well, and maybe rather better, in a history department. Yet elementary ethics remains in philosophy departments. This fact alone encourages students who take no further ethics course to conclude that right and wrong are but a matter of opinion, a conclusion reinforced by the manner in which elementary ethics is taught. Some such students may leave the course thinking that "anything is permitted" if one but chooses to believe that it is right. After all, they will have discovered that there is usually someone in the history of philosophy who defends whatever one wants to believe.

Were ethics merely an 'ivory tower' matter of pure theory it might not matter outside the classroom what one believes, but given the practical impact of ethics on conduct that could be risky. Most people will eventually conform to the customary conduct of their society. But those who do automatically conform but deviate from traditional conduct, a good argument would be desirable to

convince them they are right to do so. If they break the law they risk punishment. However, without evidence that the positive law is right, some people will see no reason not to rebel. Ethics and principles such as that of equity enjoy higher authority than any legislated or even constitutional law can ever do.

The belief that any action one wants to take is right for oneself without academic support merely by thinking it is right (regardless of what others think) is common enough that it has a name: normative moral relativism.¹⁴ However, such moral relativism must not be confused with cultural relativism—which merely states the sociological fact that different cultures act differently without making any judgment about which are right. Cultural relativism as a sociological fact does not force moral relativism upon us. It is compatible with objectivism in normative ethics.

Relativism in moral philosophy may be excusable if no convincing grounds for objective truth are found to settle disagreement between contrary positions. Contrary faiths in different holy books are not objective evidence. Individuals enjoy reduced responsibility if there is no global supreme board of ethicists to which to appeal, and certainly there is no such board today. That just such a board is called for will be a thesis of this book.

However, as we wait for an international board of ethicists, moral normative relativism is an easy position in moral philosophy because it allows one to “know” what is right without investigation. In this it is like some other popular moral theories, but unlike the theories of many great moral philosophers of history. The problem with these great thinkers is that they have contradicted one another much like good opposing attorneys in a court case.

By moral normative relativism opposing sides claim an action is right without giving reasons to convince a global audience of researchers. As a relativist one does not seek to justify oneself. If as a relativist one should try to justify action by moral relativism, the falsehood of one’s belief is justified as much as its correctness as soon as one changes one’s mind. The relativist is open to contradictory truths, in defiance of the basic law of logic that a statement cannot be at once both true and false.

To escape this iron law, a relativist may reply that one’s relativistically held normative standard is true *for oneself*. But that reduces moral relativism from an *ought* statement to a factual *is* statement without moral force, namely, a statement that different persons believe contrary actions to be right in the same situation.

As to the call for justification, normative relativists may be indifferent. Even if unjustified, ethical relativism remains attractive to some, since they are allowed to identify with their own

personal truths. Their identity becomes wrapped up with such truths. A relativism that is essentially founded on an individual person's identity helps one stand out as different from others. Conversely, relativists may feel their identity as persons is attacked if their personalized beliefs are attacked. A common reaction to such attack is to dig in and, as a defense mechanism, to reassert the same belief. Those who mean by "truth" objective truth, as scientists do, would prefer all personalized beliefs to disappear in favor of theories independent of one's personal identity.

Persons fixated on beliefs defining their identity may be said to practice *identity ethics* on analogy with identity politics. Such people take beliefs that allow them to stand out from the crowd to be of much greater importance than collectively shared beliefs like $2+2=4$. Their personalized beliefs become personal truths elevated to immunity to criticism by others.

Questions of right and wrong are sensitive matters. Many will take the issues personally. Ethical objectivism means that if our moral theories differ, one of us is wrong. If you hold to your ethics because it is intimately connected with your identity, I risk offending you by telling you that are wrong. You may feel I am attacking you when I may only be trying to lead you to the truth by starting a dialogue. I may assume you are rational and open to the correction of error, where in fact you may be fixated on your moral belief because they are part of who you are. Ethical objectivism holds that the rightness of an action is a stubborn fact unchangeable by believing otherwise, and it is upheld by all ethical theories but moral relativism. Ethical objectivism, is a form of cognitive objectivism—the view that all truth is independent of what anyone believes. It warns us that what we believe can be false.

Truth in philosophy and science, ever since Thales, the first thinker in the Western tradition (circa. 624/623– 548/545 BCE), meant objective truth calling for shared true belief. Thales, for example, thought that everything in the universe originally came from water. The fact that the earliest scientists disagreed meant that truth was controversial. Yet claims to the truth acquire prestige when intersubjectively shared by competent investigators.

Later ancient thinkers, the Sophists, held like some lawyers that anything could be proven for a price if the one proving it is clever enough. This set the stage for moral relativism. Individual moral relativism can become collective relativism by the overpowering influence of a single relativist. The greatest of the ancient Sophists, Protagoras, held that man is the measure of all things, of what is that it is and of what is not that it is not.

Worse, what a dictator says may hold sway over an entire society. After all, if only for safety, most people in such a society go along to get along. Might typically makes right within a

whole society. This goes beyond mere moral subjectivism and may be generalized as cognitive subjectivism applied beyond ethics. An individual can choose to believe, for example, in the superiority of one's race. Hitler, by his rhetorical skills and institutional power over others, made many believe ~~the~~ what he wanted.

Yet subjective truth is often parasitic on the concept of objective truth, and conceals a wish for recognition of subjective truth as objective truth. Subjective truth has no place in objectivism, i.e. in cognitive objectivism as to matters of fact. The concept of subjective truth under discussion here implies a claim to objective truth, however untenable the claim be. Subjective truth conceals a wish for one's truth to be shared, to be objective. An individual with the power to disseminate one's subjective truth may cause it to be intersubjectively held and thus appear to be objective truth. To be a subjectivist regarding any truth harbors a wish for it to be considered objectively true, meaning that the belief corresponds to fact, to what is the case.

Moral relativism is a popular position in normative ethics has not been upheld by metaphysical system builders in the classical tradition in philosophy like Plato, Aristotle, Saint Thomas, Descartes, Spinoza, or Leibniz. (René Descartes upheld moral relativism only as a provisional ethics.) Protagoras, who held that man is the measure of all things, was a clever sophist not recognized as a philosopher. Chapter Eight will argue that—beginning in the nineteenth century and after the non-classical Kantian system from the standpoint of *practical reason*—popular philosophers outside the above classical tradition such as Author Schopenhauer or Friedrich Nietzsche, with a new middle class audience after the French Revolution, can be considered relativists.¹⁵

Moral philosophers have offered many arguments against moral relativism. However, one important strategy for its refutation comes from arguing that even its followers cannot escape invoking the objective truth they reject. Moral relativism applies, within ethics, a more general cognitive relativism. Cognitive relativism would mean, for example, that Einstein's physics could be true for you and hence everyone and at once false for me and everyone—all depending on our different relativist beliefs. Yet there is no contradiction if we only say different people believe differently. A contradiction arises only if the same person is both objectively right by thinking he or she is right and objectively wrong because *others* think he or she is wrong.

Many ordinary people look at the continuing contest between ethical theories and believe that ethics is relative but science is objective or at least methodologically error-correcting. If so, however, ethics should be expelled from the academy and relegated to the coffee house. Cognitive

objectivism is usual in science. Given objective knowledge, what is believed is believed to be factually so. Yet science is never certain that knowledge has been attained, only that it is there to be pursued. Trained researchers can disagree and at non-introductory levels commonly do. This book argues for a professional consensus only at the introductory level supported until further notice by the United Nations. The UN, which affirms individual moral human rights, is not more infallible than the prior League of Nations, which affirmed the collective right to self-determination of nations.

Cognitive relativists hold that truth is subjective or personal, i.e., dependent on what each believes. Insofar as belief is voluntary, the relative truth of any claim is manufactured by anyone who chooses to believe it. But moral relativists cannot make all truth relative. For one's belief in an ethical norm is true *subjectively* for oneself only if it is *objectively* true that one believes it subjectively. This is to assert two kinds of truth in the same theory of moral relativism, but it makes the first kind of truth, subjective personal truth, depend on the second kind, the objective truth of what one's belief is. A subjectivist in ethics is at once an objectivist in claiming to know objectively what he or she believes.

Truth is truth, and in science is objective whether known or not. Belief is belief, whether objectively true or not. Subjective belief can be belief in one's truth as objectively true. But one's belief is not objectively true because it is subjectively believed.

Subjective personal truth taken to be true because one believes it (rather than due to the objective facts) is sometimes due to infatuation with one's personalized belief. This can be found in religious faith and ideology as well as in ethics. Objectively, self-infatuation sometimes can explain why one is a subjectivist or relativist in ethics. But no causal explanation of a subjective belief is a justification of its objective truth.

Relativism Differentiated from Pragmatic Justification. The act of believing can be objectively justified without objectively justifying what is believed. For it can arise by *pragmatically justifying* the act of believing it by claiming objectively true good results of that act. By what is known as pragmatic justification one supposes that, if a belief cannot be justified theoretically, believing it can be justified practically-speaking by the factual good results of believing. Practical or pragmatic justification is consistent with all truth being objective and should not be confused with relativism.

The 1938 Munich Agreement, which handed Czechoslovakia to Hitler in an act of appeasement to prevent war, was justified pragmatically by most British leaders. Though they disagreed with Hitler's National Socialism on moral grounds and thus were not moral relativists, they mistakenly thought Hitler would be satisfied and War could avoided.

Some try to salvage the pragmatic justification of believing by taking it as believing in a falsehood which is nonetheless factually a useful fiction. One way of justifying a subjective belief—rechristened as “fake news”—is to claim that it makes one happier with oneself to believe it. Santa Claus may be a useful fiction for young children. Assuming cognitive objectivism is true, a useful fiction is a false act of belief that eludes criticism by objectively making someone feel good. And yet a fictitious but useful belief is still an objectively false belief. An appeal to pragmatic justification by such a fiction may work. As applied to an act of moral belief it eliminates moral relativism as a form of cognitive subjectivism.

Pragmatically justified believing has historical significance. Between 1648 and the Napoleonic wars in the early nineteenth century, mutual tolerance between Catholics and Protestant countries in Western Europe largely kept the peace even though Catholics treated the truth of Protestantism in Protestant countries only as a pragmatically justifiable useful fiction—usefully allowed in Protestant lands for sake of peace. «Truth on this side of the Pyrenees, error on the other side.»¹⁶ Yet peace and tolerance are not always good in their results. The useful fiction of going along with evil by ignoring its evil in order to get along does not always pan out.

Neither Protestants nor Catholic could demonstrate that their creeds were objectively true because both were based on faith. What then if one side could agree to disagree with the other side's belief as a useful fiction in the other's territory? No one would interfere with another doing what the other thinks right, and hopefully neither faith would be interfered with by the other. Yet peaceful coexistence does not always result from such compromises. In the 1930's the Allies thought that mutual tolerance could be achieved if every nation allowed another nation to do what it believed was right. Tolerance was not attained because the Germans, contrary to the British and French, believed it right for Germans to invade neighboring states. The Allies ended up tolerating intolerance of a peaceful European order with agreed borders since World War One until it was too late to stop World War Two.

So the objectively good result of self-satisfaction following from accepting a belief as true for others but not for oneself does not always follow. It would not follow if one is alert enough to notice the objections to ethical relativism. Even if you do not want to study them, someone may

point these objections out to you. Life may force your attention to them and cause you consternation. The reward of adopting an objectively false theory depends on not mentally realizing that it is objectively false.

Alternatively, what if we reject cognitive and hence moral relativism but accept a pragmatically justified objective useful fiction? A Big Lie often repeated can become the belief of masses so that it is unquestioned.

The pragmatic justification of rejecting of moral relativism is quite convincing. It works if the rejection of objective truth is hypothesized and this rejection can be shown to predominantly bad results.¹⁷ The acceptance of cognitive objectivism prevents the breakdown of courts, which assume objective guilt or innocence. It prevents schools from collapsing, since schools assume grading based on objective accomplishment or failure. It prevents science from collapsing, since the spread of cognitive relativism demotivates inquiry. These benefits do not prove objective truth, but show that rejecting it is practically unacceptable.

Moral relativism as an application of general cognitive relativism results in making errors impossible. If such a general relativism were true, no one could ever fall into error. Everyone would be right, since to think one is right would be to be right. There would then be little point to scientific research with the aim of correcting error and learning something new. Universities committed to researching the objective truth would have no real reason to exist.

Nor would there be much need for unbiased courts of law intent on issuing objectively true verdicts. Rather, all discussion could be relegated to a coffee house or lively party in which objective truth does not matter. If we cannot assume the existence of objective truth, we cannot assume the existence or error as deviation from such truth. Popular denial of objective error and truth would spell the disintegration of crucial institutions of society as we know them.

A further objection to ethical relativism is that the cognitive relativism on which it rests has general implications for all statements, and hence for the very statement of relativism. As a result cognitive relativism and its application in ethical relativism cannot be more worthy of being believed than its opposite, namely cognitive objectivism. Generally, neither subjectivistic relativism nor objectivism can claim superior standing to the other. Ethical relativism would be relatively true for those who believe it, and relatively false for those who do not. Ethical relativism on its own ground cannot justify its alleged superiority to contrary ethical theories it rejects.

Ultimately, if we examine ethical relativism by the standard of justifiability in the court of human reason we must find it wanting. If one exercises a right to bring it to that court, it appears

that ethical relativism fails as the final standard of right and wrong. Until a mistake is found in this reasoning, ethical relativism must be put aside as we try instead to search for a true ethical theory, one that we must continue to identify by carefully eliminating erroneous ones. This search is the subject of the following chapters.

¹⁴Normative moral relativism is distinguished from *meta*-ethical moral relativism, which goes beyond normative ethical theories by reflecting on them all. It claims that there are no convincing arguments for any normative ethical theory. Since this book argues for one ethical theory, human rights-based normative ethics, it seeks to refute other normative theories, including normative moral relativism. It does not subscribe to meta-ethical moral relativism.

¹⁵See Chapter 8, ‘A Critique of Kantian Practical Reason’

¹⁶Thought 294, in Blaise Pascale, *Thoughts*, 1670. Translation by T.S. Elliott. <https://www.gutenberg.org/files/18269/18269-h/18269-h.htm>. Downloaded November 4, 2020.

¹⁷Cognitivism objectivism, the belief that what is asserted can be *exactly* the case is difficult to prove. Such objectivism means that the proposition in one’s mind that this is green is true if and only if it corresponds to this is green as a fact outside one’s mind. The problem is that the sense quality of *being green outside one’s mind* is perfectly concrete while the *concept of greenness in one’s mind* is abstract or general, being applicable to different uniquely concrete sense qualities of greenness outside one’s mind. Yet a qualified cognitive objectivism still holds: a uniquely concrete greenness outside one’s mind approximates the general concept of greenness in one’s mind far more than it approximates any concrete redness outside one’s mind.

Chapter Two

PLURALISM IN ETHICS

Relativism regarding right and wrong is largely abandoned by moral philosophers, though it retains some popularity in the public and among beginning students. It was not the reasoning of good arguments but Hitler's betrayal of his own signature on the 1938 Munich Agreement, followed by the unconscionable wartime atrocities he perpetrated, that turned people and their governments in the West against moral relativism during after World War II. If moral relativism allows relativism of the present moment or choice, a relativist's word can never be depended on to last.

Although neither Britain or France were willing to concede any more territory, the hope was that Hitler would be satisfied if the Allies acknowledged Germany's wish for more living space in this way. Nazism, it seemed, could be true for Germans, who might then agree to tolerance towards the Western democracies with their alternative values. Alternatively, more living space for Germany may not have been endorsed by the West, but the unjustified belief in more living space for Germany may have agreed to by some in the West with the hope that accepting a useful fiction might have had the good results that such appeasement never had. Yet the War showed that any hoped-for mutual tolerance based either on moral relativism or on a pragmatically justified illusion was based on an illusory.

Today few professional ethicists teach moral relativism. Yet many teach a form of "ethical pluralism." In recent decades moral philosophers have increasingly come to distinguish ethical pluralism from moral relativism. What is meant by ethical pluralism though? One kind is *value pluralism*, by which is signified different and even incompatible concepts of what is intrinsically non-morally enjoyable.

The second kind of pluralism is *pedagogical ethical pluralism*. Unlike value pluralism, this is a pluralism of many moral or ethical theories. "Morality" here, refers to *mores* or moral customs, while I use the term "ethics", which comes from *ethnos* in Greek, to signify something more than shared customs since it means the positive spirit of an ethnic group frequently supported by an ethical theory. This chapter distinguishes the ethical pluralism of different theories of right and wrong from moral relativism, which is one of these theories.

An important argument for an ethical pluralism of theories is that, in fact, people do hold to different moral or ethical theories. Even if it is not possible to identify a true ethical theory, there is value in knowing a plurality of ethical theories because every agent acts by some norm or other. Put another way, pedagogical ethical pluralism at least allows one to interact more successfully with other people by knowing better where they are coming from.

Value pluralism in an ethical theory, on the other hand, asserts that there are many intrinsically non-moral but objectively good values, experiences, customs, ways of life, cultures, mores or tastes. They are non-moral yet still good because participation in their enjoyment by members of a group is a sociological fact. People talk about *the good life* as if there were only one, and often portray it as life of comfort free of financial and other worries. Today, however, by our exposure to the many cultures of the world, we recognize that there is more than one acceptable concept of a good life or experience.

We see by travel—either literally, through space, or through voyages of the imagination concerning history, reading and film—that there are many good lives that people can have and that these are different from the usual idea of having a good life in one's society. We can be happy that somewhere others live or have lived other non-morally good lives than our own, even though they are not the non-morally good lives we can have or even personally want to have. One can admire the non-morally good life of a musical virtuoso, but lack the talent to have and enjoy that life oneself.

It is also increasingly recognized in a globalized world that people can have not only different but *contrary* concepts of a good life. However, all the contrary good lives that we may learn to admire cannot simultaneously be enjoyed by one and the same person at the same time. Sometimes the reason is that they are logically incompatible. A woman cannot simultaneously have the good life of a mother and of a nun. However, a quadriplegic can acknowledge the good life of a mountain climber although she or he cannot have that life. And ethical egoists (out for only their own good), may recognize the life of a philanthropist as a good life for another, even though they may not choose it as their own good life.

In a single life-time, conversion from one way of life to another is possible. Yet no life-time is long enough for anyone to convert to the enjoyment of all forms of the good life. Some individuals might have converted to a different way of life except for the fact that they were never exposed to it. There are also good lives that require those who adopt them to make a difficult effort

to cultivate them. Individuals cannot be faulted for choosing not to make such an effort, and some may lack the ability to do so.

A moral agent can lay claim to *leading* a morally good life by practicing a moral theory that she or he takes to be sound, i.e., based on good reasoning from factual premises. Yet leading a good life is not the same as having a good life. But leading a good life can result in having a good life if one's ethical theory is results-driven.

I like jazz, you do not. You like golf, but it bores me. Yet we may find critics who credibly speak with passion of enjoying experiences I have not had or even want to have. Sometimes, however, we are glad to have trusted expert critics who say that viewing a certain film is objectively better rather than viewing another. At times one discovers the non-moral good of experiencing the performance of a musical composition because world-wide performances of the composer's work have been hailed before audiences who are far from the composer's own home country or culture.¹⁸

Yet value pluralism—recognizing the plurality of non-morally good lives and experiences—cannot be supported if the values in question fall outside the range of values justified by a true theory. Filming child pornography falls outside the range of permissible values by any plausibly sound ethical egoist moral theory. The reason is that sound individualistic ethical egoism, for example, must be universalizable to all egos or selves. Acting against a child's best interest contradicts ethical egoism as a universalizable moral law.¹⁹

The purpose of ethics is to provide a reasonable guide to action. Ethical goodness is assigned first of all to certain actions. Action here is distinguished from behavior because, unlike, say, falling down, action is intentional. Ethical action is motivated by some norm, undertaken for some reason. Some actions are ethical good by the norms of a given ethical theory, others are deemed either bad or ethically indifferent.

There is in itself nothing intrinsically ethical about an experience and its value as an enjoyable experience. Yet by extension, ethical worth is assigned to what is directly or even indirectly related to truly ethical action. There are at least four aspects to this.

1. The habits or virtues that make people spontaneously tend to perform those actions.
2. The rules of action by which people decide what they ought to do.
3. The persons themselves who are ethically good agents of such action.

4. And finally, the ways of life and experiences that would be indicated by a truly results-driven (consequentialist) ethical theory.

If we grant the range of morally good lives and experiences that people can have, we must also be prepared to recognize the range of morally bad lives or morally indifferent lives and experiences that they can also have. The life experience of a drug addict, alcoholic, depressed person, or terminal cancer patient is usually viewed as the opposite of a good life. Yet even here, there appear to be exceptions. If the alcoholism of a great artist like Van Gogh was an enabling factor in his genius, it may have contributed to the good life not of Van Gogh but of countless persons who have appreciated his paintings.

I now pass on to pedagogical ethical pluralism in contrast to value pluralism. Pedagogical ethical pluralism is the recognition that different ethical theories are in contention in normative ethics. Normative ethics is the branch of moral philosophy concerned with the criteria of what is morally obligatory, right (morally permissible) and wrong (impermissible) in human conduct. Much as behaviorism, cognitive science, functionalism, and psychoanalysis have been in contention as psychological theories, pedagogical ethical pluralism is a contest of ethical theories. I include it prominently in this book because I wish to defend one normative ethical theory—namely, UN human-rights based ethics—and wish to do so in part by arguments against the competing plurality of ethical theories.

However, many ethics teachers elaborate on just this plurality of ethical theories for reasons different from mine. Elementary ethics is a general education course, and all accredited philosophy teachers are presumed to be competent in ethics even if not specialized in the field. The ethical pluralism of theories plays a different role for different teachers. Teachers who are skeptics in the theory of knowledge may doubt that any ethical theory is knowably true. Other teachers may be good actors able to forget their own beliefs in ethics and impersonate in succession a series of notable moral philosophers. If they teach no one ethical theory as true, their presentation of one theory after another may enable students to be ethically heterogeneous *eclectics* and retain insights from different theories in an effort to construct their own ethics—while attempting to avoid self-contradiction by calling on their own critical thinking.

Teachers and professors who, on the other hand, actually have specialized in ethics may uphold one among the many ethical theories and risk being considered opinionated by students. I

propose that one way that such teachers can avoid this is by teaching as objectively as possible the ethical norm of the only world organization ever to have proposed such a norm. Teaching an ethics based on UN human rights avoids the accusation of simply teaching own personal ethics.

Ethics teachers realize that different ethical theories are incompatible. But today they also realize—and in this respect are surely unlike most ethics teachers in past centuries—that they live in multicultural societies. Their students come to an elementary ethics class with various and particular pre-established ethical beliefs, and often teachers must wonder how to avoid offending anybody. Even if some students have false ethical convictions, ethics teachers as pedagogical ethical pluralists prefer to be tolerant, particularly where no danger is posed to others. Their tolerance may take the form of neutrality toward different ethical theories in the classroom and have the virtuous aim of giving their students a chance on their own to discover and correct any erroneous ethical beliefs they have.

However, if some students at the end of the semester, after hearing the pros and cons of the different ethical theories, retain the same moral beliefs in which they were raised, teachers as pedagogical pluralists must then either allow the possibility that the students are right or respect their right to be wrong. Except, that is, on exams to test student knowledge of the meaning of terminology shared by all ethical theorists, and of the pros and cons of different theories. Philosophy professors are in a similar position to biology professors—broad classroom debate is encouraged but exam answers are narrowed down—much as biology teachers respect the right of creationists to oppose evolution except on tests.

Multiculturalism and Socrates. Many teachers would ideally like to practice Socrates' method of ethical education, a dialogical method. Socrates, who is sometimes said to have founded ethics as a branch of philosophy, is remembered for saying once that the only thing he knew was that he knew nothing.

However, Socrates was not a twenty-first century “ethical non-cognitivist.” He did not adopt know-nothingism in ethics, nor adopt the less dogmatic position of ethical skepticism which does not deny ethical knowledge but just doubts its existence. Socrates, on the contrary, held there was some truth in ethics to discover. It would be surprising if, after all his conversations with the young of his city, his own ethical knowledge never came to light in his own mind. Plato, his most famous student, made it his duty to pass on what he alleged to Socrates' ethical knowledge.

Socrates, on the other hand, seems to have held that by conversing, asking one question after another, the other's own ethical knowledge would surface. The other person would discover his or

her awareness of wrong opinions and correct them.

One challenge for ethics professionals today has been that of teaching very small groups like Socrates did, not least because often such small groups are considered uneconomic for colleges and universities today. These days, pedagogical pluralism is in part a response to our large multicultural societies with people of different religious and ethnic backgrounds.

Yet multiculturalism existed in Socrates' Athens too, albeit in a different form. There was generational conflict between young and old so great that it led to Socrates' death by the verdict of an Athenian court. Actually capital punishment was not the aim of the Athenian court, but Socrates insisted on it to teach Athens a lesson. Youth's natural inclination to question both conservative parents and the elders was emboldened by Socrates. Yet the multiculturalism of classical Athenian citizens, not to speak of slaves who were a majority of the population, was not ethnic multiculturalism as it is today.

Global value pluralism (under Articles 26 and 27 of the Universal Declaration) on the right to education is expressed by UN Educational, Social and Cultural Organization (UNESCO) in its publications and World Heritage Sites. UNESCO rejects the view that the common good of all can be determined by policy makers. The common good is not determined in committee. It is determined by the creativity of individuals in the world's many cultures. In 2015 UNESCO reaffirmed its original mandate in these terms:

“By promoting cultural heritage and the equal dignity of all cultures, UNESCO strengthens bonds among nations. UNESCO fosters scientific programs and policies as platforms for development and cooperation. UNESCO stands up for freedom of expression, as a fundamental right and a key condition for democracy and development.... UNESCO's founding vision was born in response to a world war that was marked by racist and anti-Semitic violence. Seventy years on and many liberation struggles later, UNESCO's mandate is as relevant as ever. Cultural diversity is under attack and new forms of intolerance, rejection of scientific facts and threats to freedom of expression challenge peace and human rights.”²⁰

Value pluralism without an ethical theory other than moral relativism of the moment attaches value, disvalue, or indifference to arbitrarily chosen values and types of experience without any grounding in an abiding norm to limit aimlessness. There is nothing in moral relativism to a moral relativist from drifting rather than remaining faithful to her of his chosen values to put them to a good test. Value pluralism without an ethical theory other than moral relativism risks attaching value, disvalue, or indifference to arbitrarily chosen values and types of experience without any

grounding in an abiding norm to limit aimlessness. Such value pluralism with no ethical theory but would amount to passive appreciation or non-appreciation of whatever ways of life or experiences come one's way.²¹

The soundness one's choice of a good life and range of valuable morally permissible experiences depends on having a sound ethical theory. The challenge is first to test the truth of one's ethical theory. Yet assuming one correct ethical theory, people and their situations differ, preventing a fixed ranking of values under any theory. Value pluralism under an ethical theory allows within limits extensive individualism and sensitivity to each person's situation. The permissible values of individuals change across time and space. They change as one passes from one stage of life to another within the same ethical theory. An example is end-of-life discussions. The priorities of patients may genuinely change as their health worsens. They need to be listened to. It cannot be assumed they continue to think what they previously thought.

So far we have only touched the surface in evaluating a sizeable range of moral or ethical theories. Since value and pedagogical pluralisms in ethics are committed no particular ethical theory. So far we have only addressed, moral relativism, which is widely regarded as the weakest theory. We now embark on a survey of theories that have been taken more seriously, starting conscience-based ethics.

¹⁸Value pluralism was supported by William James and Sir Isaiah Berlin

¹⁹A test of knowledge in mathematics or physics is also that it be universalizable to all trained truth seekers in the field. I will return to the universalizability test in ethical theory in the chapter on Immanuel Kant.

²⁰ UNESCO in brief - Mission and Mandate, 2015. <https://en.unesco.org/about-us/introducing-unesco>

²¹ The fictional person of Meursault in Albert Camus's novel *The Stranger* approaches **a similar kind of** value pluralism with no abiding ethical theory. He vacillates between the passing enjoyment of, rejection of, and indifference towards different experiences and views the good life is in a way that is unpredictable because it is guided by no stable ethical theory.

Chapter Three

CONSCIENCE-BASED ETHICS

Moral philosophers have rarely defended mere conscience-based ethics. Indeed, we still may ask if a good reason exists in support of such an ethics. It seems that the sole virtue in this ethics is conscientiousness, the morally good habit of seeking out and then carefully listening to the voice of one's conscience. Since conscientiousness is considered a virtue, this kind of ethics also qualifies as a form of what is called "virtue ethics." Conscience-based ethics is also a deontological theory of right and wrong, pursuing conscientiousness for its own sake.

All ethical theories give a special place to conscience. But conscience is a lower-level standard falling under the ultimate standard of reason. Many human beings, unlike some philosophers, claim not to hear the call of reason. To them the inner voice of conscience is appears as the final arbiter of right and wrong. They think of conscience as a quiet voice inside one's mind that directly tells one what ought be done. For any believer in this approach to ethics, there is no way to know what to do except by listening to conscience. In listening to an allegedly infallible private voice, many feel they have done the right thing, and feel no need to prove its validity.

Yet we need to put aside a widespread misunderstanding about conscience. One misunderstanding is that the inner voice of conscience is actually an internalized parental voice. This is how Sigmund Freud (1856-1939) viewed it. Literally, the parental voice is initially a voice of external authority. It is internalized as a defense mechanism against possible punishment due to disapproval by one's parents. Even long after someone's parents have died, their voices may still haunt a morally immature person and determine her or his sense of right and wrong. This is not necessarily a bad thing if one's parents were good and wise. Moral maturity is not always attainable, and so is not necessarily an obligation.

The voice of parental authority in one's mind does not necessarily make its dictates morally right. Children as they mature need ideally to develop their own independent, autonomous consciences by which they can judge their own behaviour and indeed that of their parents as well. This kind of conscience is an autonomous internal authority. Children who grow up may well come to agree with their parents, but as rational agents may do so autonomously.

Conscience-based ethics assumes that there is only one voice of conscience that speaks to different persons in their different situations. In all ethical theories but conscience-based ethics, conscience is justified by appealing to a higher standard, since conscience by itself is not self-

validating. Yet people who have not studied moral philosophy may not be conscious of the standard that determines conscience. Conscience is a reliable guide only if it is determined by a rationally grounded standard.

Freud, an atheist, believed that conscience was the internalized voice of one's family father no matter what that voice commands. From the point of view of ethics, this makes the voice of conscience potentially amoral or even immoral, since it is not always the internalized voice of a morally good parent. This voice is no better nor worse than one's parents, whose views and actions may have been not only ungrounded but inconsistent if not immoral or amoral.

The idea of immoral conscience is contradictory since, by definition, conscience is the awareness of the moral goodness or badness of actions. For creationists the voice of conscience is interpreted as the internalized voice God as an all-good and all-knowing heavenly father infallibly commanding right and wrong. If the situation is one of conflict between nations both acting on divine commandment ethics, divine commandment moralists must assume either that only one side misunderstands God's will or that God's instructs his human differently for some reason only he knows.

Conscience cannot simply defined simply as parental will, since a human father may err. When children grow up and seem to become aware of the difference between right and wrong, they are usually thought of as attaining the *age of reason*, an age that arrives along with the rejection of any external standard, whether parental or divine. Attaining the age of reason is plainly inconsistent with a child's prior view of moral conscience as merely an earthly parental voice.

Conscience-based ethics is popular. The question is whether it has rational or academic support. It is most popular due to the Walt Disney film *Pinocchio*. The saying «Let conscience be your guide!» from the film has become popular by repetition by itself independently of the film and with no explicit grounding in reason. Yet in the context of the film and story on which the film is based, immorality is chiefly telling lies. Further, immorality is punished, since when Pinocchio tells, lies embarrassingly his nose grows longer. Telling the truth may not exhaust reason as a guide for conduct, but the film is clear that «Let conscience be your guide» does not mean conscience is the ultimate guide.

If we peruse the history of philosophy, conscience turns out not to be a stand-alone ethical standard, though it can appear to stand alone as the standard of right and wrong in the mind of anyone who is innocent of philosophy. The eighteenth century French philosopher *Jean-Jacques*

Rousseau closely associated his ethics with a divinely inspired rational voice of conscience. He exclaimed:

“Conscience! Conscience! Divine instinct, immortal voice from heaven; sure guide for a creature ignorant and finite indeed, yet intelligent and free; infallible judge of good and evil, making man like to God! In thee consists the excellence of man's nature and the morality of his actions; apart from thee, I find nothing in myself to raise me above the beasts—nothing but the sad privilege of wandering from one error to another, by the help of an unbridled understanding and a reason which knows no principle.”²²

The above passage does not mean that *Rousseau*'s ethics is merely conscience-based. On the contrary, the quotation subordinates conscience to moral education by reason. The rational principles to which conscience is subordinate are given in *Rousseau*'s *The Social Contract*, published in the same year as the above quote, 1762. When the quote is placed in the context of *Rousseau*'s life work (1712-1778), reason appears as the final standard. Yet if the ordinary person is not aware of the rational basis of conscience as *Rousseau* explained in *The Social Contract*, it will falsely appear to such a person that conscience is based solely on itself.

Another moral philosopher associated with pure conscience-based ethics is the German philosopher Johann Gottlieb Fichte (1762-1814), an immediate follower of Immanuel Kant (cf. Chapters Seven and Eight). Fichte, too, held that the voice of conscience is guided by a higher standard of which the ordinary person untutored in philosophy is unaware—namely, the infinite self, the self free of limitation by any *not self*. Fichte, following Kant, called this infinite self the *transcendental ego*. Conscience, if one but consults it, tells everyone what next step to take towards total freedom understood as total self-determination, a freedom unlimited by anything other than oneself. This standard of freedom for Fichte was not a fully realizable human moral ideal. Self-determining freedom facing no external limit or alien not-self was impossible for Fichte. But total freedom, was ideally the ultimate standard for Fichte. Conscience only appeared to be the final standard to the public that has not assimilated Fichte's transcendental philosophy.

The position of the Catholic Church on conscience goes no further than *Rousseau* or Fichte towards establishing conscience as a final ethical standard. The Church is liberal in principle, and despite the Inquisition and burning of heretics in its name, it does not condemn people for merely following their conscience. The Compendium of the Catechism of the Catholic Church qualifies its support of conscience by stating that no one may be forced to act contrary to conscience *unless such*

*action should violate the common good.*²³ It tells people, within limits, to follow what their conscience perceive to be right even if they are wrong. One should not be a Catholic unless one's conscience tells one to be so. The conscience of the Church respects all authentic expressions of individual conscience and accepts that the ultimate standard of the usual atheist is rightfully a secular humanist standard. However, the final legitimate ethical standard of a Christian believer is the imitation of Christ.

The above brief survey of Rousseau, Fichte, and the Catholic Church refers returns us back to Pinocchio. Common popular sayings express pure conscience-based ethics apparently undefended by any philosophical argument. Such ethics can make sense to individuals who do not wish to think much about the matter: "Just follow your conscience" or "Let conscience be your guide!" Yet it is not enough philosophically to just listen to one's conscience. As the seventeenth century French philosopher *Blaise Pascal* put it, the heart has its reasons which reason knows not. If conscience is based on a reason beyond one's understanding, it may be the only accessible revelation of right and wrong. In that case, the voice of conscience is not the ultimate standard, but conscience-based ethics may remain a contender among ethical theories if conscience is the highest standard of which one is conscious.

Consider, for example, a young lady who may have thought of a series of reasons to marry a particular man, but then an inner voice tells her that something does not feel right, but without saying what or why. This voice may be strong enough for the lady to follow it and drop her marriage plans against all the good reasons of which she was conscious. Yet, although there may be an unconscious reason determining her final choice, she is still following purely conscience-based ethics. Her conscience is based on a real reason, and she may later become aware of the reason that determined her decision and thank herself for not making a big mistake.

We may describe the procedure of decision making by one who has not been tutored in moral philosophy in the following way. The first assumption of strict conscience-based ethics is that the voice of conscience addresses only *general* situations that do not really exist, since every actual situation is unique and unrepeatable. Whatever proposed action is describable only by a finite number of descriptive terms (adjectives, predicates) and is thus open to multiple instances. There is no such thing as a general situation outside the mental world in which every unique situation is described only by a limited number of general characteristics.

In everyday conscience-based ethics, one specifically experiences and ideally meditates the indescribably unique situation in which one finds oneself. The agent is directly acquainted with a

contemplated action without being ever explicitly aware of it by ticking off *all* its countless characteristics. There are no *general* characteristics in the real world. They exist only in our abstract mental simplified approximations to it, only in our failed attempt to fully describe a unique situation as unique. Conscience-based ethics then makes decisions concerning matters that cannot be fully accounted for and judged in any ethical logical discourse. Silence of the moral agent may be the only solution even if it seems socially unacceptable.

Suppose, for example, that someone is in a relationship with a unique person whom you know by direct acquaintance. He or she loves this particular person like no other. Yet one cannot capture that person in any storable description that could never apply to someone else that they have yet to meet. Nor are we ever in exactly the same situation twice. Since every situation is unique, there is never any general rule that applies to your particular situation. Thus, if someone says that no one should ever lie, we again have to recall that every lie occurs in a unique context and that, as Socrates argued a couple thousand years ago (with his tale of a madman asking where his knife is), that there is no hard and fast rule against lying. You simply have to contemplate the unrepeatable situation in which a lie occurs. When one acts to satisfy one's conscience, one is typically unable to explain the rationale for one's decision to another person. For another person is never in one's own skin and can never experience the unique situation you experience.

One can never be certain in appealing to conscience. It is possible to act authentically by conscience and later by reflection to regret one's decision. For how can one know that by meditation one will never discover a new morally relevant respect under which a past action existed? What if in a civil war you killed an enemy soldier, but only afterwards discovered morally relevant fact that he was your brother? Suddenly killing an enemy soldier is no longer the same. It now stands out as a morally conflicted act.

After one has contemplated the situation in which one has to act, the next thing a conscience-based agent does is to ask her- or himself what the obligatory or the morally permissible thing to do is? If our conscience does not speak right away, we must be patient and wait until we hear that voice inside us speak. This may take time, so we can only hope the time to act does not also pass by!

There are particular problems and issues that relate solely to conscience-based ethics. The first is that it is an ethical theory that makes moral education impossible. Yet moral education seems to be one function that an ideal theory of right and wrong ought to perform. We can teach ethics only by teaching grounded rules and if there are no rules (except rough rules of thumb that do not always count in favor of the action in a particular situation). If conscience by itself is guided by no

understandable higher standard one can understand, then ethical decision-making is unteachable. The only thing that is teachable is the procedure of contemplation or mediation described above. We cannot predict let alone prejudge the unique verdict by the voice of conscience in a unique situation. From the academic perspective, this is a major flaw in a conscience-based ethics. But it may be a major flaw of the academic perspective to assume that a teacher can go beyond taking a horse to the water by general considerations and then, so to speak, force the horse to drink.

There is a further difficulty. If one lives by a considerations which cannot all be publicly revealed to others, and so which cannot allow them to anticipate the one's behavior, one may have no choice but to claim that one did by conscience what one thought was right. There is a further difficulty. If one lives by a standard which cannot be publicly revealed to others, and so which cannot allow others to anticipate the one's behavior, one may appear to them as an unpredictable loner. Yet the loner is at times in retrospect right. For example, after the Fall of France in June 1940, an isolated DeGaulle giving a speech on BBC saying only a battle, not the war, was lost, seemed to many in France who followed Petain to be a hopeless loner.

History often shows that society progresses only because particular individuals rejects existing social practices. Yet, if someone claiming to follow only their conscience is, in reality, following a set of alternative rules rejected by the rest of their society or not communicable to it, they would not really be basing their actions merely on conscience-based ethics. In particular we must be very wary of what a person, who lacks a conscience committing her or him to follow any communicable rules, might do. A selfish ethical egoist generally knows what a benevolent do-gooder will do. Yet no one can predict what an individual to-all-appearances acting a life without rules will do. Unpredictable action creates general insecurity, and one function of ethical theories is to help us to see where others are coming from, which in turn helps us anticipate individuals' future behavior so that we are able to deal better with it.

Beyond the above particular problem of conscience-based ethics, a general problem arises because the approach is not a form of ethical relativism and thus must claim to be objectively true. However, the theory is far from an uncontested objective truth, like $2 + 2 = 4$, that might be considered self-evident. Thus, if support for conscience-based ethics is found allowing it to prevail over rival theories equally presented as objectively true, some convincing reason must be provided.

However, even if we do not know what this reason might be, the very fact that it is owed shows that conscience-based ethics is not an acceptably final standard of right and wrong. Whatever the reason might be that justifies the voice of conscience, that reason functions as a higher standard

than conscience itself. This alone shows mere conscience-based ethics to be false, since its claim that conscience itself is the highest standard fails. Recognizing the need for communicable objective norms in ethics, indeed in a science of ethics, is the central message of this book. After someone has publicly acted by conscience-based ethics, receiving an intelligible account from the agent after the act is appreciated.

The conscience of every moral philosopher has led her or him to act by opting for some position in the field. The request for a post-game account of why applies to all rival ethical theories that claim to be objectively true. For no such theory is self-evident because they are all contested by both many normally bright non-academic members of the public and, in the case of several theories, by highly regarded academics. It would be heartening if the public testing of established ethical theories by a process of elimination emptied them all into the irrefutable ethical standard of that very public method of testing standards. That is goal toward which the argument of this book is headed.

A new vista might open for the future popular acceptance and academic credibility of some ethical theory. Ethics might again be taught, instead of just teaching the long history of different theories. Yet it is too soon to declare victory. The following chapters will check out this result in some detail in the case of several major candidates among ethical theories that have enjoyed some popular appeal or that can be academically supported. The tendency to reduce ethics to a personal opinion or to make up one's ethics as one goes along might reduce the number cases of radical violence of which we know today to be much more than enough.

What if there were fewer individuals today who dismiss ethics as a divisive matter of opinion or ideology? What if the project of a scientific ethics loomed again on the horizon? What if philosophers of science—unlike Thomas Kuhn, author of *The Structure of Scientific Revolutions* (1962) who was not a scientist—disclaimed the incommensurability or leveling of historical positions in science since its ancient beginning and looked again at the evidence for the progress of perennial science?

²²Jean-Jacques Rousseau, *Emile, Or Education*, trans. Barbara Foxely, (London: J. M. Dent, 1921), Book IV, p. 254

²³“He [man] must not be forced to act contrary to his conscience. Nor must he be prevented from acting according to his conscience, especially in religious matters.” Compendium of the Catechism, Part Three, Section One, Chapter One, Article 6 – subarticle, 1782. http://www.vatican.va/archive/ccc_css/archive/catechism/p3s1c1a6.htm

Chapter Four

DIVINE COMMANDMENT RELIGIOUS ETHICS

Having examined a purely conscience-based ethics and seen its problems, we now face the question as to whether such an ethics can be judged more favorably if the idea of conscience is reinforced by taking it to be the voice of an all powerful deity, of God the Creator. This chapter discusses an ethics which remains widely popular despite having little current academic support, namely, divine-commandment religious ethics. In this normative ethical theory, the voice of conscience for the individual is retained, but it is no longer an independent, self-determining, or autonomous voice.

“Autonomy” means being a law unto oneself. In divine commandment ethics the voice of conscience is the opposite of autonomous: it is “heteronomous.” “Hetero” is the Greek term for “different,” while “nomy” recalls the Greek term for “law.” Conscience here is determined by something beyond itself, by the law as divinely commanded.

A classical illustration of this ethics is given in the Biblical story of Abraham and his son Isaac. In this story, Abraham hears the voice of God command him to sacrifice Isaac. Now, by most ethical theories this would be a most immoral command. But Abraham, was ready to obey God’s will wherever it took him. However, as he prepared to kill his own son, an angel of God called him ‘to stay his hand’, telling him the commandment was just a test of his faith. Abraham had passed the test.

Today, who upholds divine commandment ethics? Among most academic moral philosophers the approach raises objections quickly and does not pass muster academically. Indeed, there are numerous ways of being “religious” that do not commit one to this particular religious ethics. There are whole world religions that are inconsistent with divine commandment ethics. Three major Eastern religions—Taoism, Brahmanism, and Buddhism—do not even view God as a person. Only a person can issue commands. With respect to the Buddhism of Buddha himself, the consensus of most experts in religious studies is that for him there is no God at all. However, the three great Western religions—Judaism, Christianity, and Islam—have traditionally viewed God as a divine commander or Lord.

On the other hand, it is important to realize that no one is obliged to follow divine commandment ethics merely because one is religious. For instance, the Catholic Church

academically follows instead a “natural law” ethics associated with Aristotle. Its ethics of agape love is considered supra-natural, since it is based on faith rather than reason. Aristotle did not believe in a personal creator God. For him, right and wrong are determined by the everlasting law of an uncreated natural world. There is there is nothing specifically religious about natural law ethics as he understood it. However, if nature and its laws are created by God as the Church holds, they are the result of God’s will. The God of Genesis has commanded the world and its natural laws into existence by divine edict, merely by saying “Let it so be!” Only in this indirect way, then, can natural law ethics be a form of religious ethics.

That said, divine commandment religious ethics, independently of the Catholic natural law tradition, remains popular in the Western world, especially in the United States, but also in Islamic countries. The common way to find out what one ought to do by this religious ethics is to pray to God, asking that He may reveal his will to you in your particular situation. Then one must wait and listen for His reply to answer one’s prayer.

Prayer thus has a special role but, contrary to what is commonly believed, one does not ask God for a specific favor for oneself. In true prayer one is not asking God for a Cadillac or even to be cured of a deadly disease. Any different interpretation of prayer risks reducing divine commandment ethics to a version of exclusive ethical egoism. The truly believing creationist, according to Saint Anselm’s interpretation must be willing to follow the will of God wherever it leads. This makes religious ethics into an ethics humanly based merely on duty for the sake of duty. God’s will is not necessarily right because of any humanly understandable non-moral good that follows from it as a result. As a believer one has to allow that God may will the total self-sacrifice of oneself as an individual, even to the point of one’s death as a martyr.

If the will of God is by itself ultimate, there is no reason to his plan for you or for the world that God wills. The divine will in divine commandment religious ethics is absolute in that it is independent of any humanly intelligible justification. God’s will is right just because it is his will, not because of any good reason comprehensible either to him or any believer. Otherwise, God’s will would cease to be the final standard of right and wrong.

Creationists, however, can have faith that God’s will is determined by some good reason that only God can understand. For them, God’s will is determined by his knowledge of all truth including the truth about what they should do and its results. The divine will is then subordinate to divine reason and is no longer arbitrary even if we do not understand. In contrast to the unlimited knowledge of God, the limitations of human knowledge mean that we should not ask God to reveal

all his reasons. We could not understand them all. God has reasons which we know not. The divine will is determined for good reason, even if it is a reason we cannot understand. From this perspective, to follow God's will is to follow a kind of super-human, supernatural reason-based ethics.

However, if "God has his reasons", for mortals, the approach relies on trust. There are different kinds of trust. Young children may trust that their parents have good reasons for telling them what to do even though they as children do not understand these reasons. Those who follow God's will on the assumption that it is based on reasons beyond their grasp are like children as they look up to their divine father for guidance. However, divine commandment ethics can become an authoritarian ethics requiring regression towards the earliest stage of a child's mind characterized by blind trust with no thought of any good reasons that might or might not have been motivating her or his father. In the life of an adult who has been autonomous before, a personal crisis can result from such regression.

When people who think they are following divine commandment ethics discover its real meaning—a willingness to follow God's will even if everything that adult that human reason can value will be destroyed—many come to realize that they do not really subscribe to such an ethics.

One practical problem that true adherents to divine commandment ethics face is that other people in their own society, as well as in foreign countries, do not even believe in a creator God. A true normative ethics, as well as a true theory in physics, is true universally. It cannot be considered true only for a chosen group of people. Yet today there is no consensus in rational theology let alone philosophy that the existence of a creator God as suggested by Genesis can be proven. Today it seems that only scientific rationality can unite humanity in a single authoritative (not authoritarian) belief. Conversely, doctrinal blind faith tends to only divide humankind.

In the absence of convincing arguments based on fact and logic, the sad reality is that missionaries and holy warriors can only attempt to convert by resorting to non-rational inducements without regard to evidence. The conversion of non-believers is accomplished only by appealing to motives that are irrelevant to the truth of whatever version of divine commandment ethics is believed. Missionaries may try to befriend non-believers. They may provide for them economic development, social services like housing or good water or medical care.

However, to the extent that such a missionary enterprise does not succeed, an alternative is to convert by force of arms. That is in fact what Christian crusaders and Muslim jihadists have

resorted to. And yet conversion by force is unethical, at least according to all ethical theories but this extreme version of divine-commandment ethics. True conversion cannot be externally imposed. It is a thing of the heart that depends on free consent. The first generation of a conquered people may bow without consenting, but history shows that by force of habit subsequent generations may acquiesce.

The logical problem for the approach is that as long as the world does not adopt one particular divine-commandment ethics by the establishment of world empire, those who hold such a religious ethics co-habit on the same planet with others who do not hold to it. In that case, some ethics other than any form of divine commandment religious ethics is still needed to allow human beings to trust one another in order to facilitate world trade in goods, services, and information. Today's globalized world is unlikely to go entirely away despite the resurgence of ethical political nationalism based on sentiment rather than by reasoning together. Another basis for ethical dealings among people from around the world is needed. Due to theological divisiveness in interpreting what God may will for no indelible good reason, no divine-commandment ethics can stand as the one universally adoptable ethical theory. Such a doctrinal religious ethics could only be sustained in a totally isolated faith community.

The existential problem for the approach is that there is no reason to believe that followers of a doctrinal divine-commandment ethics are factually justified in their faith. Some religions claim to know what God has willed, but if so a comparison shows that God has revealed his will for all human conduct in conflicting ways. Each divine commandment ethics is by nature an authoritarian ethics because God is presented as a superhuman external authority figure. If God told Bin Laden on 9/11 to attack the Twin Towers in New York, then God also told the US President George Walker Bush to fight Bin Laden as a terrorist by invading Iraq. If Bin Laden and Bush referred to the same God, God's instructions seem to have been self-contradictory.

The contradiction can be avoided by insisting on the difficulty faced by the limited human mind in interpreting correctly the infinite divine will. Let us assume that we are God's children. Naturally it is more difficult for a child to correctly interpret the parent than for the parent to understand the child. Yet if God's will cannot be interpreted by us with any confident knowledge of his will, it provides no reliable guide in ethics. For this reason alone it should be rejected as the norm of moral conduct in interaction with all others.

A general objection to any doctrinaire dogmatic ethical theory asserting an ultimate standard to justify action that is that it is never itself subjected to serious discussion with others, including

those who hold different opinions of such doctrines. The objection may be expressed as a dilemma in which one of two things must be true, but where the religious ethics under consideration here is refuted in both cases. The dilemma is this: either the will of God is arbitrary, in which case there is no reason to follow it, or it is backed up for some reason, in which case divine-commandment ethics refutes itself in favor of some kind of reason-based ethics. And “reason” can mean different things. It can mean dialogical reason, i.e. impartial discussion ethics. But God conceived as the Creator has no need to search for the truth through discussion with others. Instead, the intellect of God is supposed to know all truth in one intuitive glance.

However, reason insofar as it belongs to finite human minds remains dialogical. Even if God knows all in a single glance, no human being has God’s immediate intuitive knowledge of the good reason ethically for a human being to this and not that. If there is a good reason for what God commands one to do, even creationists can approach an understanding of the reason only tentatively by a dialogical ethics in which the human rights of everyone participating in the dialogue are respected. Thus divine commandment yields to human-rights based ethics, i.e., to it as a universal ethnical minimum for people of different faiths and doctrinaire belief systems to trust one another in negotiating agreements in a globalized world.

Having put strict divine commandment religious ethics aside due the dilemma described above, tentative human dialogue is needed by creationists who believe God’s perfect knowledge determines what He wants us to do. They need it as one method of approach to such divine knowledge, being so far away from the Creator. A creationist cannot exclude the possibility that God created human beings with minds capable of dialogue as a way by which a divine light illuminating the mind of a human creature can be turned on in the midst of dialogue. “Come now, and let us reason together,’ says the Lord...”²⁴

²⁴Isaiah 1:18

Chapter Five

POLITICAL ETHICAL NATIONALISM

In this part of the book—where we consider popular normative ethical theories that arose spontaneously and only then could be available for evaluation of their merit—political ethical nationalism cannot be ignored. Political ethical nationalists assert that everyone ought promote to the national interest of her or his country, defined by its distinct culture and territorial national interests. Sovereign territory is needed to display the cultural identity of each nation. The more extensive the sovereign territory, the greater the display of national cultural identity.

We will see that political ethical nationalism reached its apex from the defeat of Napoleon to the defeat of Nazi Germany. In this romantic era, political nationalism celebrated the art and culture of each people. Yet we will also see that historically political ethical nationalism began in one country with Joan of Arc championing the culture of French divine monarchy religious ethics.

A national culture, if it does not exist prior to its promotion by political nationalism, can be forged, we will see, by a colonial political national liberation movement. Once territory is secured, the best defense is a good offense: political nationalism can take an imperial form that denies the equal right of all nationalities to territory and resources by which to display its culture.

Beyond the United States, itself a pre-eminent superpower threatened by the prospect of being number two, the chapter addresses Chinese imperial ethical political nationalism based on global economic more than military power. Secondly, it considers the potential soft imperial power of the European Union advancing the United Nations human rights agenda. In a world that respects hard power, no future EU superpower can ignore hard power.

Whether ethical political nationalism is defensible depends on whether its national culture is defensible, but also on whether its denial of territory to other nations for the display of their territory is defensible. Since European Union culture supports the UN human rights agenda privileging diplomacy and the soft power of human rights, Jurgen Habermas is right in calling for a future EU democratic supra-national identity on top of the distinct cultural nationalisms of member states.²⁵

Political ethical nationalism universally proposes the national self-interest of every nation state as one's highest standard of conduct in opposition the national interest of other states. It does not mean "my country, right or wrong." It means that the national self-interest of everyone's country is the highest norm of right and wrong. If it is not the ethics of a sovereign state, it can be that of a national liberation movement seeking as a sovereign state. Nationalists can emerge by contrasting themselves to imperial nationalists of other states—often in response to

attack, invasion, occupation, or conquest.

Nomadic tribes exist, but not nomadic states. A state has territory with borders. Lacking sovereign territory, a nomadic people aspires to statehood with borders. It may reinforce its eventual conquest of territory by appealing to theocratic theology—a theology by which a people’s God in heaven protects its territory in exchange for the people’s obedience God’s commands.

Theocratic political nationalism shows how one can follow two different ethical theories without self-contradiction by theoretically subordinating ethical political nationalism to divine commandments religious ethics. Such a state is ideologically a theocracy supernaturally governed by God who commands the nation’s territory and delegates government of to human worshippers who rule by divine right.

By a legend at the basis of the three great Western religions—Judaism, Christianity, and Islam—Moses was a divinely chosen leader in the thirteen century BCE. He was a nationalist leader who originated an Israeli political ethical nationalism. He led his people out of captivity in Egypt in the time of Ramses II to create a homeland in Canaan. Ramses II is an undoubted historical figure, and much is known about his military campaigns. Though he ruled over Canaan during the time of the alleged Exodus, nothing in ancient Egyptian records evidences Moses, the Exodus, or a Hebrew invasion of Canaan on the scale claimed by the Bible. Yet Ramses II would surely have been alarmed by these events if they happened.

Historians trace the literature of Israeli ethical political nationalism only to the sixth century BC. This literature, referring to Moses, followed the Persian empire’s release of Hebrews from Babylonian captivity to return to Israeli and rebuild the Temple. A popular political nationalism—under the more particular cultural description of a divine commandment religious ethics of sacred monarchy—was so influential that it was historically realized in the late Middle Ages in the person of a female Moses, Joan of Arc, who led France out of British captivity before the dawn of the modern world.

The martyred Joan of Arc (1412-1431) appears as the first successful historical political ethical nationalist representing a nation, France, rather than a city state as evidenced by the Athenian leader Pericles’ funeral oration near the beginning of a war with Sparta, a rival city state. Without theism or creationism, Greek political nationalism arose under Alexander the Great only as an ideology in his conquest the Persian Empire. There was no popular mass nationalist movement in Greece until the nineteenth century. Already in the early fifteenth century Joan of Arc had become a popular national heroine.

China as the Kingdom of the Middle and the United States as the Land of

Opportunity with a Manifest Destiny both internalized a belief that they were chosen nations—chosen by heaven (*T'ien*) or a Creator God. The United States appealed to Manifest Destiny in the conquest of the frontier to the Pacific Ocean as its divinely Promised Land.

It is not just nations but individuals as national leaders who can believe they are divinely chosen. As an individual in an adopted country, one may take oneself to be divinely chosen to act by divine commandment religious ethics as an alternative to assimilation to the culture of the country in which one resides. One may take oneself to be divinely chosen to lead one's people defined by a common culture to separate statehood. Political ethical nationalism is then subordinated to theocratic divine-commandment religious ethics.

Political ethical nationalism is typically accompanied by cultural ethical nationalism signaled by cultural attachés at its foreign embassies. A national culture that no longer has sovereign territory in which to display its culture cannot exist except dispersed in a *diaspora*. In a diaspora public expression of the national culture can stabilize if the state is a multi-cultural federation like Canada, Switzerland, or Belgium. In countries with monolithic cultures, minority national cultures exist in ethnic neighborhoods and private family life. After the destruction of the Temple in Jerusalem by Rome in 70 AD, Jews in a diaspora practiced their national and religious culture in the privacy of family life with the refrain “Next year in Jerusalem.”

A nation may lack sovereign territory either because it never had such territory and yet envies nations that have it or because it once had territory and keeps the memory of it alive in family culture. If those who share the national culture of a people do not control territory, they may phantasize that they once did. For example, the Chinese of the Han dynasty (202 BCE-220 AD) over two thousand years ago imagined against existing historical evidence that all China was ruled by good emperors as long ago as three 3000 BC. When evidence of simultaneous emperors appeared, an ancestor worship specific to China led Chinese historians to project emperors further into the past so there would appear to be only one emperor at a time.

By the end of the classical age of political nationalism (1815-1945), political ethical nationalism had evolved into a global imperialist ethical nationalism—namely, British, French German, Japanese, and American. Britain and France advertised their “civilizing mission” to the world until in the 1950's figures like the existentialist Jean-Paul Sartre and later the post-modernist movement exemplified by Jacques Derrida not only offered new validation of non-Western traditions but, following the lead of anthropologist Claude Levi-Strauss, even questioned the distinction between the civilized and non-civilized.

In European ethical political nationalism in the

nineteenth century, all art of a nation's people—architecture, sculpture, painting, music, and literature—replaced divine commandment religious ethics as the culture on which ethical nationalism had been founded. After 1815 the attempted restoration of divine right absolute monarchy proved impossible. Berlioz and Saint-Saëns were expressions of French cultural nationalism in the nineteenth century while Wagner was a rival vehicle of German cultural nationalism. Franz Liszt inspired Hungarian folk dance music. Verdi expressed Italian cultural nationalism in his opera. Dvořák was an instrument of Czech cultural nationalism. Tchaikovsky's *1812 Overture* served Russian cultural and political nationalism.

E l s e w h e r e , cultural nationalism flourished without political nationalism in nations without the military or financial power to achieve the political nationalism of a sovereign nation state. Today, cultural nationalism is strong in Quebec (Canada), and among the Kurds without any corresponding established sovereign state. Cultural nationalism can exist with independence movements (eg. Catalonia in Spain, Alsace in France) sovereign territory.

In the eighteenth century, France was the center of the cultural European Age of Enlightenment with idealistic global aspirations and influence. The French Revolution and the Napoleonic Empire with global ambition were political expressions of the cultural age of Enlightenment. The break with the Middle Ages in France, by contrast to Britain, was sudden, public, dramatic, and violent. The non-English, including the Scots and Welsh as well as the American colonists, called for the rights of Englishmen, not the global rights of man as in France.,

After the fall of the Napoleonic empire, France was consoled by creating a substitute global colonial empire based on the Enlightenment premise of French moral exceptionalism. The French much like the English were raised to believe that they had *a civilizing mission* to the world. After the fall of this colonial empire—militarily defeated at Dien Bien Phu in Indochina in 1954, at the Suez Canal in alliance with Britain in 1956, and in Algeria by 1960—the United States, without applying to itself the word “empire” after de-colonization, took over the civilizing mission to the world as “leader of the Free World” and then as the center of “the international community.” Much as the American colonists and the Hindus of India wanted the rights of Englishmen, the Western-educated portion of the native populations of the French colonies wanted all the more the rights of Frenchmen conceptualized as the universal rights of man.

Cultural Nationalism Forged in a National Liberation Struggle. The political nationalism of colonies, ungrounded in any pre-existing national culture judged superior to that of the enemy mother country, are a special case. The United States and Algeria, however different, exemplify

former colonies whose national liberation movements presupposed the cultural superiority of the imperial nation that ruled over them but denied them equal citizenship.

For example, the American War of Independence began with the colonists' belief in the superiority of British national culture and their resentment over their exclusion from equal participation in that culture and its political institutions. Hence the American colonists war cry of "No taxation without representation" in the British Parliament

For five years I was employed by the Middle East-North African Program In the School of International Relations at the University of Southern California. I travelled through Algeria in the early years after its independence. To an American it was like plains of the Middle West, except that this time the Indians had won! Each town had a previously steepled church turned into a mosque. The Program focussed on former French North Africa, the Maghreb.

Similarly to the American war of independence, the Algerian war of national liberation began with the recognition by Algerian leaders like Ferhat Abbas (1899-1985) that native Algerians would never enjoy equal human rights with the French citizens if they remained part of the French colonial empire. The American and Algerian national cultures both arose in the fire of their wars of national liberation. There was no prior American culture—George Washington had been a loyal British officer—nor prior Algerian national culture. In Algeria there was only a diffuse Berber culture or Muslim culture of a territorially vast civilization. Neither was viewed by the secular Algerian non-Islamist independence movement to be superior to French culture.

North African Algerians today—of which there are many in the city center of Mulhouse in Alsace where I work and live—are disappointed because, since independence from France, their government has not satisfied the wish they still share with Ferhat Abbas, the leading founder of the Algerian independence movement. Many young Algerians would like to move to France for their higher education. Abbas was Westernized and wished at first only to enjoy the equal rights, opportunities, and freedoms European that the French colonists had. Second-class French citizenship in Algeria had denied this status to him. After Algerian independence in 1962 he was quickly sidelined, and the Algerian government became an authoritarian military regime supplied with Soviet weapons while being ideologically identified with the Third World Non-Aligned Movement.

Free democratic presidential elections occurred in Algeria in 1991, but authoritarian military government became more entrenched when, with the support of the United States as well as France, Algeria's government cancelled the 1991 elections because a majority of non-Europeanized

Algerians elected a radical Islamic party that defeated the secular National Liberation Front Party that had won Algerian independence.

US Pivot From Europe to the Pacific. A book on human rights-based ethics cannot fail to discuss the imperial nationalisms of today even if none uses the language of empire. The term is used here descriptively, not ideologically. There are four imperial nationalisms with contiguous territory as distinct from more fragile colonial empires across seas: the United States, China, Europe, and Russia. This list places the four in an order determined more by economic than military power. Basing pre-eminence on military power more than economic power is largely out of date.

The right to security is a human right. Geopolitically European NATO nations have depended on the US nuclear deterrent to shield the Continent from attack for decades. It is likely that the US will continue to request that Europe do more to defend itself, and that Europe will oblige and do so independently of the US. No matter which major party governs in the US, the underlying cause of the US pivot to the Pacific is to contain the rising military as well as economic power of China in the Pacific. The US and China are the two largest economic powers. Being number two is now habitual for China, but more traumatic for the US which is used to being number one.

The discovery of each other by the China and the West was first a curiosity, and then a shock that created a Chinese form of political ethical nationalism, but yet ultimately a blessing to both. Behind the face of Western imperialism China discerned intelligent life, another civilization beyond the supposed barbarian world on the other side of the Great Wall. China has long been a trading nation. It seeks to succeed in multilateral world by increasing the purchasing power of all nations through global economic growth. As part of this strategy, since 1978, China has aligned itself with United Nations human rights treaties, including the UN Convention on Civil and Political Rights.

Of the four imperial nationalisms today Europe (although its record is not pristine) upholds human rights the most. Europe in ancient Athens gave birth to the current global human rights movement and suffered most from human rights atrocities in the two world wars of the last century. The ultimate deterrent of further war is nuclear, and with the UK out of the EU France is the only nuclear power in the EU. In the past France has offered to share with the EU protection by its own nuclear deterrent. The limited ground forces on the Continent would likely not contain a Russian attack on the EU by conventional means.

France has offered to discuss extension of its deterrent into an EU deterrent. Yet, because France is a middle range great power, this cannot mean that other EU nations would be asked to

depend solely on the current French arsenal and decision-making authority. Further investment in the current French deterrent by EU countries other than France would be necessary, and especially by Germany, if the deterrent is to become European. Memory is long, and no EU nation is likely to trust a purely French shield as Poland did in 1940, nor a purely German shield because of World War Two. Investment by Germany and other nations in a European deterrent would require France to share decision-making over the use of an enhanced deterrent with other European nations, especially Germany.

The French President is open to discussion of this sensitive issue with Germany, but for the present Germany and the rest of the EU are in a wait-and-see posture to see how extensive the withdrawal of US forces from Germany will be, and by what time table. The French-German alliance, originally based economically on a coal and steel union in the 1950's, is now based on an agreement for France to build the next generation of Franco-German fighter jets and for Germany to build the next generation of tanks.

Europe is a civilization rooted in its Greco-Roman heritage. France, more than Italy, represents ancient Greco-Roman civilization to the world today. It could even be argued that the city of Strasbourg is best qualified to be the human rights capital of the world. Despite periodic desecration of Jewish and Muslim cemeteries in the European Union, the EU—with the Council of Europe and European Human Rights Court in Strasbourg—has placed itself under European Convention on Human Rights. The European Convention—to which the UK remains a member despite Brexit—turn has placed itself under the UN Universal Declaration of Human Rights as positive law. Europe takes human rights more seriously than the other above three imperial nationalisms because it experienced the devastation of World War Two up close. Further, realizing that human rights legalism is not enough, moral and civics instruction in 2015 were mandated at all levels of national education in France. These are the reasons for the attention given here to Europe and France as home to the EU Parliament, even though European imperial nationalism is still latent rather than manifest.

In the era of Charlemagne (748-814) the Western Roman Empire briefly recovered the semblance of existence. France and Germany were then a single state under Charlemagne/Karl der Grosse, the tribal Frankish king crowned as emperor by the Roman Pope. Yet linguistically and culturally France and Germany remained different. Except for Frankish tribal inheritance customs that required equal inheritance of Charlemagne's domain by his heirs, it is possible that the two countries have to grown together as one.

Charlemagne conquered multi-cultural Roman Gaul to which he gave the German Frankish name of France today. He acknowledged the superior Latin culture of Gaul, but his German territories continued to be German-speaking. Yet today there is no manifest pan-European political nationality any more than there is a single nationality identified with Muslim civilization.

Greek civilization had been divided into many city states, but united only temporarily under Athenian leadership to defend itself against Persia. If the European Union in the coming years were not to see itself threatened militarily or financially by Russia, China, or the United States, or by the post-2020 pandemic, it might remain a civilization with common values and some shared institutions. Any EU member state, like the United Kingdom, is free to leave the EU if it found itself it to be in its own national interest to do so.

Yet due to the advantages of a single EU market for goods, services, and labor, no EU member state is now tempted to follow the UK model and exit from the EU. UK membership in the Council of Europe, headquartered in Strasbourg, is another story. It is unlikely that the UK will withdraw from the forty-seven member Council of Europe. The European defense organization independent of NATO, the Eurocorps, is also headquartered in Strasbourg. Participating members are Continental Council of Europe nations excluding both the UK and Russia.

The ethical political and cultural nationalism of France or Germany co-exists with the provincial cultural nationalism of regions like Brittany or Bavaria, but is incompatible with the political nationalism of any province. Continuing rival ethical political nationalisms of Germany and France are incompatible with the European ethical political nationalism that France's Emmanuel Macron, elected President in 2017, has advocated.

No one can serve two masters, nor coherently have any two conflicting final ethical standards. The question is whether European Union member states be willing to limit nationalism to their many rich cultural nationalisms in a United States of European Nations? The 'United States of European Nations' might be a better name for a future EU than the 'United States of Europe'. The reason is that, in the US, there is multiculturalism internal to each of the fifty states, and no State is a nation. Despite identity politics in the United States, the fact that one calls oneself Polish-American (Polish first, American second) in Chicago does not mean that one can be more Polish in Chicago than in Poland. Multi-culturalism in the US is internal to each of the fifty States, while in Europe one has to cross national borders to experience another national culture.

European political ethical nationalism along with a pan-European human rights ethical norm on the Continent would require mobilization by a threat recognized by the peoples of Europe, not

just by intellectuals and statesmen like Robert Schuman (1886-1963), or politicians like Macron who recently won the Charlemagne Prize in Charlemagne's capital in Aachen, Germany, or fellow European Federalists who projected a European sovereign superstate after 1945. The confederal European Union, the most important world power dedicated to the UN human rights agenda, still exists and is inching towards federalism only at a snail's pace. Schuman awaits posthumously the Vatican's declaration of his sainthood as the Father of Europe as soon as the Pope sees the necessary miracle as illustrated in the early twentieth century in the sanctification of Joan of Arc.

Though the EU has not, or not yet, generated a pan-European political nationalism, the EU Parliament in Strasbourg France no longer merely makes recommendations but actually legislates, and its legislation supersedes the domestic any conflicting law of the twenty-seven member states. The EU under its present name and preceding names back to the Common Market (1956) have kept the peace for over seventy-five years. Execution of Parliamentary legislation is up to the European Commission in Brussels, Belgium where the EU Commission is headquartered. The EU Commissioner, currently a German, is the closest to being President of the EU. Yet unlike the US President, the Commissioner is chosen by negotiation among EU member states, not popularly elected.

A successful European political ethical nationalism would be a small miracle, comparable to the unification of France after Joan of Arc. Will the European economic crisis to follow the 2020 pandemic be the mobilizing factor? The age of political ethical nationalism beginning with Joan of Arc signaled the decline of the Middle Ages as an era of warring states. The Hundred Years War (1337-1453) was not due to English nationalism, but to the dynastic claim of English kings to France. The defeat of the English in France was the starting in world history of political nationalism.

Ethical political nationalism increases the power of a sovereign state because the rank and file of its military fight more fiercely to defend their common national self-identity linked to the soil of the nation. Soldiers no longer fight simply because they are ordered by a ruler, but to keep the lands redistributed to them. Yet ethical political nationalism becomes imperialist after a nation's best defense of its homeland is seen to be an invasion of neighboring countries.

China is the second imperial political nationalism. It today enjoys the advantage of accumulated trade surpluses and extensive direct foreign investment outside China since 1978. The

precondition of successful Chinese diplomacy in the post-pandemic years is the growth of Chinese economic strength through the continued growth of world trade.

Globalization as an expression of imperial nationalism of the US, China, the EU, and Russia it is likely to change but not disappear in the post-pandemic world. China as an economic superpower depends on global trade. The free trade of goods and services (facilitated by meetings with social distancing made possible by the internet) is likely to continue. Actual physical travel is likely to decline, but be replaced by virtual meetings between people even on different continents. If the West for the time being is less able buy from China in a pandemic when China has accumulated trade reserves from the past, a good path for China and the global economy in the coming years may be to go beyond investment in rural China by working to eradicate poverty in Africa through the Silk Road by land or sea.

The Silk Road is not an end in itself but a means to trading products. China has created employment to its West by its foreign direct investment. During a post-pandemic recession in the West, the loss of Chinese sales to Western powers could be compensated by increased direct Chinese investment in Africa production facilities, not only in English-speaking Africa but also in Francophone Africa. The Protestant work ethic, epitomized by the Benjamin Franklin's saying that time is money, was limited to industrialists. The Chinese work ethic includes the working class. Pre-industrial Africa has a pre-industrial work ethic and concept of time. The creation of employment in Africa by China for Chinese-African trade would help avoid resentment towards China due to Chinese financing and ownership of Silk Road transportation facilities between the Far East and Africa.

Nothing replaces direct face-to-face communication to create bonding between people. Limited air travel between China and Africa will continue. China may want to accelerate the teaching of the international languages of the former colonial powers, including French as well as English for direct investment in African industrial production. This language competence would permit Chinese management personnel in the developing world to employ more Africans, reduce African unemployment, decrease the number of African economic refugees seeking entrance to the European Union, and increase African purchasing power to absorb excess Chinese production during any recession in the West.

Direct Chinese investment in Africa is looked upon with suspicion by France as it tries to protect French interests in its former colonies. Yet, because of financial strains in Europe after the

pandemic, in the long term Chinese direct investment in Africa would be seen as an act of Chinese friendship by Europe as well as by Africa, since it could reduce the flow of economic refugees into Europe.

Confucius was a duty-bound humanist. The prime virtue in his ethics was *jen*, meaning humanity and care for the other. China, known as the Kingdom of the Middle, could not achieve a fully inclusive human ethical political nationalism, and instead built a wall (including literally the Great Wall) around itself to separate and protect itself from the unassimilated barbarian world. Barbarian enemies like the Mongols who breached the wall were in time assimilated to Chinese civilization. Due to a combination of its power to protect its borders and assimilate foreign peoples to its culture, Chinese political ethical nationalism did not arise until the last half of the nineteenth century.

Where the Universal Declaration calls for progressive realization of human rights, China has interpreted such progressive realization to mean first overcoming poverty to eventually permit fuller realization of civil rights. More recently, China has joined the consensus of humankind that believes that the common foe of humankind is now the man-made degradation of nature by increasing pollution. China is investing heavily in green energy.

Since China has adopted United Nations human rights ethical standards despite its admitted failure to implement consistently civil and democratic political rights, its behavior is not that of a state that practices political ethical nationalism to the exclusion of the self-interest of other nations. Its impressive growing economic strength in world trade since 1978 shows that it no longer practices reclusive totalitarian exclusive ethical egoism as a nation state. China is an authoritarian nation for which freedom of expression is so far more a privilege of a loyal educated elite and, not yet a universal human right.

The domestic extension of civil and democratic political rights beyond the local level has further economic development and the reduction of Chinese poverty as preconditions. The United Nations accepts the prioritization of progress in economic rights in poor countries ahead of civil rights. The ethical purpose of universal freedom of expression in dialogue is to promote the discovery and the communication of truth on which the success of society as a whole, and not just individuals, depends. Since China has ratified the UN Covenant on Civil and Political Rights, this treaty is one standard by which China's moral progress should be judged. Unfortunately the abuse of freedom of expression by radical fringe groups in Western nations, including the United States, may demotivate Chinese progress in this area.

Exclusively egoistic political nationalism holds that every nation ought, insofar as is practically possible, realize its national interest. Since nations, like people, are more or less powerful, the powerful nations are able to exploit disproportionately more scarce resources in their interests than weak nations simply because they can. Because “ought” implies “can,” weak nations get disproportionately less in resources because it cannot get more.

The problem with this situation for egoistic nationalism is that it implies that *might* makes *right*. That the powerful ought win and the weak lose is contrary to any ethics based on the necessity of *good reasons* to support its legitimacy. The mere fact that one nation has more power than another gives no automatic good reason for it to disproportionately get more resources per capita. Since *might* does not make *right*, based on human rights ethics each nation ought to receive what, proportionately to its population, it needs.

American *political realists* during the Cold War held that, by a law of international relations, every nation by nature can only pursue maximization of its own power, and thus can have no obligation to do anything else. “Realists consider the principal actors in the international arena to be states, which are concerned with their own security, act in pursuit of their own national interests, and struggle for power.”²⁶

The problem with political realism in a world of interdependent nations is that, because the atomic bomb is now unusable except as a deterrent, the self-interest of a nation is defined by economic power more than by military power. The transcontinental colonial empires and territorially contiguous empires of history show that national power until the twentieth century depended on superior military power. The military power of Rome or Persia could overwhelm that of many other nations for centuries. However, today the economic power of neither the United States, nor China, nor Europe, nor Russia can survive by militarily overwhelming that of the others. It is not in the interest of any economic imperial power to bomb its customers.

So far we have only seen that the argument for egoistic political *non-ethical* nationalism fails. Proceeding to an argument specifically against egoistic political *ethical* nationalism, this ethical theory cannot perform an essential function of any legitimate ethical theory. This is the function of giving good advice on one planet with scarce resources to rival nations great or small. A first nation, by exclusive ethical national egoism in giving advice to a rival nation, would have to do so in its own national interest and against the interest of the second nation. But then its advice would not be true or credible to another nation. The problem, if political ethical nationalism is an ethical theory, is that it can only with difficulty be equally universalized all ethical nations whether imperial or non-imperial, though the G7 or G20 or UN General Assembly makes an attempt.

To be an acceptable, a nationalist ethical theory must be universalizable to ethical nationalists in all nations. For political ethical nationalism to be applied to one's own country one must be willing to apply it to any nation, even if the self-interest of the other nation is in conflict with the interest of one's own nation. It is not just ethical nationalists of one's own country but of every country that ought to pursue proportionately their respective country's exclusive interest in a situation of scarce resources. For example, if there is not enough petroleum for all nations, one nation must both be for and against other nations having enough scarce petroleum for their needs. Insofar as the exit from the pandemic of 2020 requires a vaccine, its proportionate distribution to all nation states will be a test of political ethical nationalism in this century.

To speak only of the economic power of the US, China, Europe, or Russia, each depends on a balance with that of the others in global trade. It is in the self-interest of one to help others recover from a pandemic, simply because in this way can each retain its foreign markets. Since power is now more economic than military, political realism can no longer be understood as a struggle for one-sidedly military power, It can only be understood as a common multilateral attempt to maintain balance.

Recalling that different normative ethical theories overlap, Joan of Arc simultaneously acted by ethical political nationalism and divine commandment religious ethics. The legitimacy of political ethical nationalism can be saved if it is the nationalism of a state that defines its self interest by the standard of another ethical theory that is legitimate. In this sense political ethical nationalism is a parasitic ethical theory. It was parasitic on the legitimacy of divine right monarchy during the Hundred Years War. It may be parasitic on human rights-based ethics today.

Usually when we hear of "ethical political nationalism" we think of countries that define their highest interest egoistically as the nation's self-interest to the exclusion of the self-interest of its rivals in matters of national wealth or military power. Yet the standards of national self-interest can vary greatly. For Joan of Arc the standard was the divine protection of France as the first daughter of the Roman Catholic Church. England at the time of the Hundred Years War against France was another daughter of the Catholic Church, but presumably not the first like Joan of Arc.

Academic Support of Political Ethical Nationalism? A question in this chapter is whether the exclusive egoistic ethical political nationalism seen between 1815 and 1945 has been well defended academically. There were Nazi philosophers, but I will restrict myself to citing there renowned names in German philosophy, Herder, Fichte, and Heidegger.

Johann Gottfried Herder (1734-1803) preceded the age of political nationalism, but argued against the French Enlightenment view that a civilized enlightened Frenchman like Voltaire

represented civilized moral ideal to be aspired to by all humanity. He was a cosmopolitan cultural ethical nationalist. He was not a German political ethical nationalist if only because Germany did not then exist as a sovereign country. He believed that all peoples in the human career, each with its unique culture and including his own Germanic people, have right to their place under the sun. He proclaimed the right of each national culture, past or present, to be preserved, and to be preserved in the collective memory of humankind even if, like the culture of ancient Egypt, it is no longer represented by a sovereign state. It takes all human cultures to form the complete idea of humanity. Every national culture is one alternative empirically proven possible way of being human.

However, Herder's thesis may seem to be challenged by extreme cases such as Pol Pot's Cambodian back-to-nature genocidal culture, Mao's Cultural Revolution and the totalitarianism of North Korean under Kim Jong-un, These are perhaps better understood as temporary aberrations in reaction to Western colonialism and the Stalinist totalitarian model that are inconsistent with traditional East Asian civilization.

The German philosopher Johann Gottlieb Fichte (1762-1814) is viewed as the initiator of German political nationalism in his 1808 "Speech to the German Nation" under the imperial reign of Napoleon. He was a political as well as a cultural German nationalist. There are undertones of racial ethnic nationalism in his defense of the German nation. His ethnic German nationalism cannot be entirely be separated from its racial dimension framed in terms of "descent." Germany, unlike France, remained racially homogeneous after the Frankish conquest of multi-cultural Roman Gaul.²⁷

Fichte believed that the freedom and independence of a nation depended on it being a closed commercial state, the opposite of economic integration of states in the Napoleonic empire and of the European Union today. Fichte's 1808 address to the German nation made him a herald of the age of nationalism after 1815. Yet the age's record, ending with Hitler, reinforces Jean Monet's case for the 1956 French-German coal and steel economic union, a prelude to the European Union's human rights-based moral and legal order. Fichte's defense of a closed commercial state detracts from his eminence as a philosopher in political economy. The vast popularity of political ethical nationalism from 1815 to 1945 did not depend on Fichte in any way comparable to the way in which the popularity of utilitarianism depended on the support of philosophers like John Stuart Mill.

Regarding Martin Heidegger (1889-1976), Germany's most influential twentieth century philosopher, it can hardly be doubted he was a cultural ethnic nationalist. He would not have been offended by Hegel's assertion in the previous century of the speculative genius of the German language. Yet, for Hegel, the speculative genius of German was complementary to

the political genius of France, its Revolution, human rights, and, in the end, Napoleon himself as a soldier of the Revolution bearing its message, by the military means of the time, to the rest of Europe. Yet in Heidegger's writings there is no public denunciation of Hitler's death camps, no endorsement of the second coming of the Age of Enlightenment through the United Nations and the UN Universal Declaration of Human Rights. His record in political philosophy did not add to his philosophical eminence.

There has been a controversy about the degree or flavor of Heidegger's membership in the Nazi Party until the end of World War II. Heidegger was a romantic ethical political nationalist who briefly in 1933-1934 had great hope that Hitler would represent a new dawn for the German nation. After 1934, he remained a disappointed Party member and fancied himself as a more isolated "good Nazi" in contrast to the boorish Hitler as the failed national leader. He increasingly withdrew from active participation in National Socialism, but never adopted an opposing political position. He retreated into non-political mindset and ended his life only as a German cultural nationalist. Since Heidegger was not chiefly a moral philosopher, his initial support of German political ethical nationalism is consistent with placing ethical nationalism among popular ethical theories without significant support by noted moral philosophers.

And so, to the conclusion. In the current globalized world, the national interest of nations large and small lies in a balance of economic power rather than in a balance of military power. There is no balance of military power between France and Russia. Russia has very many more nuclear weapons. Yet France is not afraid of Russia because even with a small fraction of Russia's nuclear weapons it has, according to doctrine of Charles DeGaulle, the ability to destroy ten Russian cities. It thus has sufficient deterrent power, so it is not in the country's perceived national interest to acquire more nuclear weapons.

Similarly it is not in the national interest of a country of under 70,000,000 people to have as much economic power as China with 1,400,000 people. Germany, with far lower population than China, has per capita wealth and income much higher than China even with far less national economic power. The balance of economic power that is important is between what a nation imports from the rest of the world and what it exports. The sovereignty of a nation depends on not being economically dependent on any single other state whether as importer or supplier. The diversification of suppliers and markets can help equalize the sovereign power of nations of very different populations. Switzerland with little more than 8,000,000 people and unburdened by a high military defense budget is a good example of sovereign power by such diversification.

This chapter has highlighted the risks of ethical political *nationalism* which is likely here to stay for long in a multilateral world. But the risks in such a world of competing imperial nationalisms (and nationalists) and the per capita inequality between nations big and small should not be interpreted as a criticism of *patriotism*. Patriotism can be attributed only to citizens, since it makes no sense to attribute patriotism to nations or states. There are nationalistic states, but we do not speak of patriotic states. Yet there can be patriotic citizens who are not nationalistic. Patriotism by itself may be viewed in a positive light. Patriotism is regrettable only when it is the patriotism of citizens of a militarily aggressive nationalistic state. Patriotism itself is defensive. It is to be protective of one's state.

Nationalism tends to be aggressive, and seeks to exploit opportunities to increase its relative power and territory. Patriotism is not subject to the same criticism as political nationalism. Nationalists cannot be trusted to give good advice to foreign nations, but the patriots of Canada are not disqualified from giving credible advice to the patriots of the United States. The patriotism of non-nationalistic states, unlike ethical political nationalism, can be universalized. Because of the imperial tendency of nationalism in the acquisition of more territory or at least a larger sphere of influence, a risk posed by exclusive imperial nationalism is that the balance of military power may be misjudged. In 1961 Kennedy came close to a nuclear attack on the USSR because the USSR was planning to invade West Berlin, and NATO did not have enough conventional forces to stop the USSR. A balance of power between nuclear arsenals is circumstantial. It is in the eye of the beholder and is always at risk of being overturned by the misjudgment of one side or another.

Napoleon was a French imperial nationalist who as emperor of France put his family members on the thrones of neighboring countries. But he was not a French patriot according to French historians because, before losing Battle of Leibzig in 1813, he declined to take the opportunity offered him by Metternich to negotiate the retention of some of his conquests for France – such as Belgium. In the end his imperialist passion led him to overreach his power. But he misjudged and after losing the battle of Waterloo the Allies who defeated him imposed harsher terms on France. There is less passion in patriotism, and hence less of a risk of misjudgment. One performs patriotic duties, votes, and pays one's taxes out of recognition of services the state has provided.

²⁵Jürgen Habermas, *The Crisis of the European Union: A Response* (Cambridge: Polity Press, 2012).

²⁶“Realists consider the principal actors in the international arena to be states, which are concerned with their own security, act in pursuit of their own national interests, and struggle for power” in “Political Realism in International Relations,” *Stanford Encyclopedia of Philosophy*, <https://plato.stanford.edu/entries/realism-intl-relations/>. Downloaded May 4, 2020.

²⁷This judgment agrees with Arash Abizadeh, “Was Fichte an Ethnic Nationalist? On Cultural Nationalism and Its Double,” *History of Political Thought*, vol. 26, no. 2 (Summer 2005), pp. 335-359. The author understands “ethnic nationalism” connected with “descent” to have racial if not blatantly racist overtones.

Chapter Eight.

EVERYDAY ETHICS ACCORDING TO W. D. ROSS

Theoreticians generally are prone to oversimplification. In ethics, this might even be called “the theoreticians’s fallacy.” Reality is complex, and thinkers have always sought to reduce this complexity to a simple law or small easily intelligible set of universal laws. It may work in physics or mathematics, although today even that is more doubtful than in the eighteenth century, particularly if one looks at the multiplication of geometries or still reigning controversies in theoretical physics. However, in ethics, it really does not as easily work.

The twentieth century British philosopher W. D. Ross has argued against any single duty-based ethical theory,²⁸ such as Immanuel Kant’s notion of a ‘Categorical Imperative’ or absolute duty unaffected by context or circumstance. Ross believed that Kant produced a theoretical oversimplification of ethics by such strategies. Instead, Ross advocated an ethics closer to the common belief of many ordinary people, that is, an ethics able to guide hard choices between conflicting obligations in the trenches of everyday life. Ross believed that people generally recognize several different independent moral rules or standards. Unlike Kant, Ross did not claim to have discovered ethical rules, he simply tried to note them by observing and listening carefully to ordinary human beings. In this way, his ethics was not a theory produced in the solitude of his personal study.”

All normally healthy persons must make decisions and act by some ethics or other. Ross argued that they rarely hit on their ethics by reading the theoretical work of a single philosopher, however great, even like Kant. Given this, Ross sought to develop a good ear for what intelligent ordinary people hold to be the standard of right and wrong without ever taking an academic ethics course. Upon reflection, Ross came up with the following list of independent rules of right and wrong:

1. Promise keeping (fidelity)
2. Compensation (reparation)
3. Gratitude (gratefulness)
4. Beneficence (doing good)

5. Non-injury (non-maleficence)
6. Justice (fairness in the sense of *distributive justice* – giving to each what he or she deserves)
7. Self-improvement

Note that truth telling in the sense of never lying, so dear to Kantian ethical philosophers (as we shall see in the next chapter), is not even on the list. Yet promise keeping is. When we open our mouths to say something, there seems to be an implied tacit promise to tell the truth, or at least tell it as we see it. Perhaps then, truth telling in the form of never lying falls under the rule of promise keeping.

But back to Ross' list of rules. For Ross, there is no fixed hierarchy is. On the other hand, if (as he thinks), these are logically independent rules, possible conflicts calling for *triage* arise. "Triage" is "the process of examining problems in order to decide which ones are the most serious and must be dealt with first," as one dictionary definition puts it. This is what, Ross says, we do in everyday ethics.

For example, the fourth rule of beneficence, may conflict with the first, the duty of promise keeping. As Socrates suggested over two thousand years ago, you should probably not keep your promise to give a knife back to a mad person intent on using it to kill someone. The rule of telling the truth may also conflict with the rule of beneficence. You should probably not tell the truth to terrorists if telling the truth would result in the death of others. Yet, if the good that gained by lying were very small, the rule of truth telling would less likely prevail.

This discussion of multi-rule duty-based ethics can be clarified by distinguishing between two kinds of rules. In sports, there are rules of practice binding on all who play the same game. No single player can change a rule of practice in a game, such as baseball. A rule of thumb is, by contrast, a rough and ready rule that may apply most often, but it is not a defining rule of the game. Most practices contain both unbendable rules of practice defined by the institution and rules of thumb that can be at times broken in the interest of a team or individual without breaking the rules of practice. Similarly in ethics, rules of thumb are persuasive in most situations, but not binding.

The world of law also provides examples of this distinction between rules of practice and rules of thumb. For instance, in America, higher courts consider their verdicts to be binding on lower courts, but consider precedents of past verdicts merely as rules of thumb, and the rulings of lower courts as not binding on courts at higher levels.

However, ethical rules of practice are not like those of a sport. Every rule of practice in Ross's multi-duty ethics states a universal consideration that may or may not be applied to every action—like the consideration that the action is beneficent or that it compensates for injury done to another. Whenever such a consideration applies to an action, for Ross it *tends* to make the action morally obligatory. Multi-duty ethics views life itself as an institutionalized practice with fixed rules of practice as right-making considerations. Unlike rules of thumb (e.g., punt on fourth down in American football), there is no exit from rules of practice—except by changing the practice.

In principle, constitutions and laws handed down by a legislature are rules of practice of a country, while the non-binding policies or executive orders issued by a president are rules of thumb to which an exception may be made. Take American baseball or football. Examples of rules of practice are: “Three strikes and you are out” and “Ten yards and you have a first down.” You would not be playing the game if you did not follow such stipulated defining rules. Yet what about the rule “punt on fourth down”? This is a different kind of creature: a rule that is usually followed, but sometimes near the end of the game may be neglected. (For instance, if the team controlling the ball is one point behind and not far from the goal).

Of course, there are important differences between football, the constitution of a country, and the very serious “game” of life governed by a set of ethical rules of practice. Ethics is better called an ideal institution of life, of living together. It assigns certain obligations and rights that all persons are called upon to practice. Well-founded obligations and rights may be far from describing how many people live and act. If life were a game, it would differ from sports games in an important respect. You can decide not to play a game of football or basket ball. Yet, except by suicide or living the life of a hermit, you cannot withdraw from the “game” of life. However, our lives are still guided and to some extent constrained by certain rules of thumb that describe how an individual may habitually discharge an inescapable obligation. For example, borrowing money establishes a moral obligation of paying off one's debt, but paying by a credit card rather than by cash or check is a rule of thumb.

The reason that ethics is difficult is that, unlike the rule of a sport, ethical rules at times conflict. Something is wrong with the sport of football if this happens. Then the rules of the game must be rewritten by the governing authority to avoid such future conflicts. In a sports game, violation of a rule of practice means something is wrong with either the established definition of the game. In a more serious constitutional game of the life of a country, only the highest court can legally amend the rules. In the looser international global practice of good conduct, only a global institution, like the United Nations, its international treaties, and the policy-making authorities of its

affiliated agencies, have the authority to amend it.

However, conflicts in ethics may be unavoidable. Let us take another example. One ethical rule says private property should be respected. A contrary rule says the worst off ought to be protected from threats to their survival. Both conflicting rules are practiced, however imperfectly, in the mixed economies of nations that are neither purely capitalist nor purely socialist. We ought not allow homeless and starving people die in the streets, and we ought not forcibly deprive individuals of their hard-earned property by taxation. Unless national or global rules of practice fall into some stable reasonable hierarchy, conscience weighing the levels of importance of different rules that apply in diverse situations, has to decide for one or another.

Returning to W. D. Ross, he argues that in a conflict between ethical rules, no one rule consistently prevails over another. Instead, the choice of a rule depends on the situation. The rules of ethics are all *prima facie* rules defining merely apparent obligations. Each rule, if it alone applied to an action, would be a duty in fact, not just in appearance. It would be your *de facto* actual duty. Each of the above seven rules is a rule of practice, not a rule of thumb like punting on fourth down in football. Yet the rule of being beneficent towards others (doing good) always *tends* to make an action morally right. It is a right-making consideration. Every action exists under different descriptions. That an action is one of beneficence is one consideration. An act of injustice is also always a wrong-making consideration. The same action can fall under both right and wrong making descriptions.

What then does one do when there are conflicting *prima facie* obligations both applying to a contemplated action? Ross says that in such a situation, the ethical actor must meditate on the situation and weigh the different *prima facie* obligations to see which is weightier or the weightiest. This calculation indicates one's actual obligation. Conscience, by the standard of the weightiest applicable rule of practice, decides what one in fact ought to do. Yet, if conscience is the ultimate standard in an ethical theory with a plurality of rules of practice, these rules appear in the end to be only secondary ethical standards. Many rules pointing a person in different directions cannot really guide her or him in deciding what to do. Instead, this ethics, like all ethical theories in this book, must have but one final decisive standard.

However, although conscience and the uniqueness of every situation play a role in commonsense human ethics according to Ross, this ethics must not be confused with conscience-based ethics in which the voice of conscience is ultimate. The reason is that for Ross, the voice of conscience is bound to choose between rules of practice in a finite list.

Promise keeping has a special place among the seven rules on Ross's list. But there is no promise keeping unless it is preceded by promise making. Promise making is the act by which we acquire *any* moral rule. To adopt a moral rule is to make inwardly a promise to oneself to follow the rule. A true and sincere promise must be made to oneself as well as possibly to others. If one makes a promise only externally to others but not to oneself (e.g., by crossing fingers behind one's back), the promise is not real, and all one has done is to have deceived others.

By making a promise to yourself, you place an obligation upon yourself to follow a moral rule, such as being beneficent. Promise keeping is the obligation underlying all other obligations, the obligation of obligations. It is the source of all other obligations one places upon oneself. And yet it seems that not all promises should be kept. One should not keep a promise to oneself to follow an immoral rule. There are promises, like those made in joining the Mafia, that ought not to be made in the first place. Thus promise keeping, since it is morally restricted, cannot be the sole rule of ethics.

Critique of Ross. I now pass on to a critique of Ross's multi-rule ethics. There are logical objections that can be raised to his claim that the seven rules are independent of one another as he claims. For instance, if we do not lie because we have made a promise to ourselves not to lie, not lying is not itself an independent self-grounded rule. But it is a special case of following the rule of keeping promises. Ross offers no order of dependence among his seven rules because he considers them logically independent. I shall contest this claim by indicating how beneficence, gratitude, non-injury, compensation, justice, and self-improvement are subordinate to promise keeping.

First, if there is a rule of *promise keeping*, the aim of promise keeping is to do good, not to do bad as in the example above of immoral lying. Secondly, if one ought to do good or show *beneficence*, it generally follows that one has an obligation to avoid injury, the contrary of good. In the third place one thus has an obligation of *non-injury* toward others. The rule of non-injury thus follows as the minimal obligation if one can do no good. Fourthly, if one can do good and acts accordingly, it follows that one deserves the *gratitude* or gratefulness of others. Fifthly, if one cannot avoid injury others, a duty of *compensation* toward them arises..

We have said that promises ought ideally be kept in a beneficent way, but beneficence ought not be unfair. Sixthly, therefore, the good one distributes to others ought be distributed in a *just* manner, distributed to each according to what is deserved. When that is the case, *justice* will turn out to be the one and only rule, and popular multi-rule ethics with its problematic conflicts

collapses. This is because being just or fair according to the rule of *distributive justice* includes beneficence and avoiding injury, its contrary. Not even *self-improvement* is an independent duty.

1. *Self-improvement* is ethical only when it is done to
2. keep promises whether
3. beneficently,
4. non-injuriously, or
5. recompensively in case of injury, or
6. gratefully in receiving another's beneficence, or
7. justly in rewarding beneficence or protection from injury.

Self-improvement to become a better thief is not ethical! Even improving one's character and knowledge base with the virtuous aim to be more beneficent may not be fully ethical if the good you distribute is not distributed fairly. Justice is the complete virtue and aim of self-improvement by a promise to oneself. It presupposes promise making and keeping and self-improvement, and depending on the situation it implies beneficence, non-injury, gratitude or compensation

The problem with distributive justice, the virtue concerning the fair allocation of resources to others, has been that it is hard to determine by what *criterion* one ought to fairly distribute the good one ought distribute. One criterion that has been proposed is equal income. Another criterion is to each according to his or her need. Still another proposed criterion is distributing the good according to the varying achievements of different persons.

In the above I have sought to reduce the multiple duties among Ross's seven to one rule, the virtue of justice as object of self-improvement. A key argument of this book is that justice ought, insofar as is practically possible, result in proportionately equal benefit for all affected by the outcome of the action. This is what human rights ethics is about. The argument will in turn be that such equal benefit ought be determined if possible by equal participation in the discussion of what to do by all who believe the discussion concerns them. Ideally no one ought to be turned away at the door. If the issue does not really concern one who first felt concerned, once in the discussion the person can conclude that the discussion is not for her or him and then voluntarily withdraw.

A proposed equal income criterion for justice is not acceptable because all concerned persons who have a right to take part in the discussion require a personally minimum of resources, and this minimum varies from person to person. There are many ways in which this minimum varies, but one clear way is health needs. The problem with the redistributive principle “To each according to his need” is that it is too general. It needs instead to be qualified as to each according to resources needed to take part in a discussion with a possible actionable outcome for those concerned. To each according to her/his achievement is unjustified because social conditions beyond the control of an individual may prevent her or him from showing enough achievement to equally participate in a discussion of real or felt concern.

Should this be right, the conclusion we must draw, in going beyond the multi-duty ethics approved by Ross, is a one-rule ethics without the risk of subjective variability in weighing conflicting apparent obligations in unique situations. Ross thought of ethics as duty-based, but as we will see in the next chapter on Kant, the distinction between duty-based and results-based ethics is not as sharp as has been supposed.

And so, at the end, it seems that the one rule left standing is now simply “Be just!” Being just is a rule, but internalized as a habitual virtue justice leads spontaneously to inquiry into what actions and policies are required by this rule. To the extent possible, the good result ought to include the non-moral good of minimal individual resources to enable each to express her- or himself equally according to one’s ability in discussions of perceived personal concern. Until the local and global societies, by a combination of private and public initiatives, have sufficient non-moral resources to assure to all individuals the above minimum, ethics and ethical obligation remain a moral ideal still under construction.

²⁸W. D. Ross, *The Right and the Good* (Oxford: Oxford University Press, 1930).

PART TWO

KANT AND PRACTICAL REASON

Chapter Seven

THE ETHICS OF IMMANUEL KANT

Kant is the most important moral philosopher to have been widely interpreted as holding that acting morally cannot be motivated by any reward for the agent. He is usually interpreted as the outstanding example of ethics based on moral duty for its own sake rather than for the sake of non-morally good results.

Virtue, i.e., habitually acting morally, can only be its own reward. Behaving morally might make one happy, but if one behaves morally *because* it makes one happy to do so, one is not behaving morally. If one receives no enjoyment from doing one's duty, as long as one follows one's conscience and resists immoral temptation, one acts for the morally right reason. The suspicion arises that it might be better to hate doing one's duty rather than decline doing it as long as one does it. For that would show one is acting for the right reason.

This is how most elementary students of ethics in the Western world understand Kant, and its effect is to put most of them off. There have been or still may be some cultures in which the idea of duty for duty's sake is made palatable by tradition if not by indoctrination, but it is not the contemporary Western culture which has been globalized since decolonization. Kant's moral philosophy is a philosopher's moral philosophy without wide popularity in the Western world apart from Kantian moral philosophers.²⁹

Kant gave different formulations of the moral law. The first two formulations differ in meaning by placing the moral law under different descriptions. Each formulation highlights a different aspect of the moral law and addresses a different audience. The first formulation addresses those who only want to realize, we shall see, what they are morally permitted to do, while the second formulation addresses the more virtuous audience of those who wish to realize what morally they have a duty to do.

The formulation of the moral law that Kant happens to treat first is known as the universalizability principle. **This** principle does not directly command any particular moral obligation. It rather serves to test the moral permissibility of any contemplated rule of action. It addresses persons who are sufficiently moral to want to know whether a rule of action they propose is permissible. The proposed action is presented as a means to a chosen end. Kant expresses the proposal as an *if-then* hypothetical imperative, which he calls a *maxim*. What the maxim commands

in the *then* clause is a means for reaching the chosen end in the *if* clause. There is no action that does not follow some maxim. The nature of an action is to be a means to some end.

If-then maxims may be morally permissible without being morally obligatory. There are usually alternative permissible means to a desired or desirable end. Ten dollars can be repaid by giving back either two five-dollar bills or ten one-dollar bills. Neither means is obligatory, but each is permissible or morally right.

The test of the moral permissibility of a maxim under the universalizability principle is a two step procedure. The first step for the agent is to see if she or he can conceive a non-self-contradictory world in which everybody follows the maxim. If the maxim passes this first step, the second step is to see if one as an agent is willing to apply the maxim to oneself. The point is not to make oneself into an exception to a rule one would have everybody else follow.

The end pursued by a maxim can be either moral like keeping a promise, non-moral like achieving greater happiness for oneself, or immoral by violation of Kant's moral law. In all cases the question arises as to whether the means employed are morally permissible. Should the end in the *if* clause justify ethically permissible means in the *then* clause, the end justifies the means. For example, *if* a person with savings wants a vacation for personal happiness, *then* she or he ought budget it. No one can ethically will the end in the *if* clause without willing some morally permissible means or other in the *then* clause.

Kant distinguishes between perfect and imperfect duties. Keeping a promise is a perfect duty because the person to which a promise is made has a moral right to the performance of the duty. The person making the promise cannot escape the duty. By contrast the duty to improve one's character or to help another person in need is an imperfect duty because no one else has a definite right to its performance.

Economic rights to a decent standard of living in the Universal Declaration of Human Rights exemplify imperfect rights because wealthy nations have no duty give any definite amount or kind in foreign aid. If the world's poor lack basic life necessities, it is morally admirable for the rich to donate food, but there is no binding duty to do so. Even if food is donated, there is no duty to donate a particular amount, or to donate it to one group of persons rather than another. In foreign aid, a possible maxim to put to the test runs as follows: any given first nation ought to donate food to the poor of a second nation lacking life necessities assuming the first nation has more than enough for the subsistence of its population. Yet despite the universalizability of this maxim, the test of the morality of donation is not passed if the people of the nation proposing the maxim is unwilling to apply the maxim to itself and actually help other nations in need. It is not

morally permissible for a nation to advocate a maxim of universal charity to a nation in need and then hypocritically exclude itself from the maxim's application.

In his *Groundwork to the Metaphysics of Morals* (1785) Kant uses the above universalizability principle to give examples of morally non-permissible means to non-moral as well as immoral ends. Non-moral ends need not be immoral, but the means by which they are pursued can be immoral. First, one ought not break a promise as a means to a one's end in view. For, Kant argued, if everyone broke promises to one's personal advantage, no one could successfully break a promise, since no one would be trustworthy enough to be believed.

Secondly, it is not morally permissible to pursue a personal one's end in view by stealing property. For, Kant holds, if everyone stole for personal benefit in the pursuit of a personal end, the institution of personal property would collapse. No one could successfully steal because there would be no personal property to steal. Private property as an institution depends on respect for property rights as the rule.

Another example concerns lying. One ought not lie because, if everybody lied in pursuing a chosen end, no one would be believed and so no one could get away with an attempt at lying. A successful lie, in order to function in one's advantage, must be believable. There is no benefit from a failed lie that is not believed.

From the moral point of view Kant personally prohibited all lies without exception. Kant scholars have debated whether Kant's unqualified prohibition of all lying is justifiable. In a juridical context the duty to tell the truth if one speaks is absolute. Juridically one is sworn in before a tribunal to tell the truth, the whole truth and nothing but the truth. But the moral point of view is not the juridical point of view.

Kant scholars have debated whether, as Kant affirmed in 1797,³⁰ one would be wrong to lie even to a murderer at one's door who asked whether his would-be victim was in hiding in the house. Most people, including many Kantians, would feel guilty and co-responsible for murder if they admitted to a murderer that the victim is hiding in their home and especially if, as a result, the victim is murdered. Should there be someone hiding from a murderer in one's house, she or he would be hiding with the end of not being murdered. Most people would concur that one is morally allowed to follow a maxim permitting lying in order to save a life as the end in view.

Telling the truth to a murderer at one's door seems to violate Kant's own moral law in his further formulation of the law known as the *principle of humanity*. According to this principle, one ought always treat another person as an end in her- or himself in pursuit of her or his own ends in view, and never merely as a means to one's own ends as the agent. If one lives in society with

others and exchanges any services, products, or information with them, one cannot avoid treating others as a means to one's own ends, but the point is that others should never be treated merely as a means to one's own ends. The problem with not lying to a murderer at one's door is that little could be further from treating another person as an end in her- or himself than being party to murder.

For a person to be an end in her- or himself translates into having personally chosen ends in view. Happiness is commonly chosen as an end. But progress in working to improve one's own moral character as a rational being, or to assist other persons in the attainment of their morally permissible ends, may also be chosen. For Kant these two ends are worthy moral ends reflecting our dignity as rational beings. Yet the pursuit of them may come at the price of some sacrifice of personal happiness.

The principle of humanity has been interpreted by some Kant scholars to contest the usual duty-for-duty's sake interpretation of Kant. Notably David Gauthier has used the principle of humanity as grounds for arguing that Kantian ethics is results-driven or consequentialist.³¹ One can understand Gauthier's motivation, since if he is right Kantian ethics would have more popular appeal. Yet to say that one *ought* to treat persons as ends in themselves does not mean that, as a result or consequence, one actually *will* do so. *Ought* does not imply *is*. Further, even if the historical Kant reasoned in a fashion that lends support to a results-driven ethics as Gauthier holds, Kant never expressly stated such support and has gone down in history as the prime example of duty-based ethics. If Kant was not a deontologist in ethics one must wonder who is. Gauthier's presents his interpretation of Kant only as a "rational reconstruction" of the historical Kant. For purposes of the present book, the textbook tradition of interpreting Kantian ethics as duty-based is retained as a foil, i.e., something to which results-driven ethics can be set in contrast.

Kant presents the universalizability principle and the principle of humanity as two formulations of the same moral law. Yet the two formulations still differ in meaning. Whereas the universalizability principle serves to eliminate morally non-permissible actions like lying, stealing, or breaking promises, only the principle of humanity gives positive guidance as to what we ought to do, namely respect persons.

If we accept Kant's examples of the universalizability principle, all lying, all stealing, all promise breaking is prohibited, even if such acts save lives. The prohibition of all lies, even to save lives, threatens the consistency of the universalizability principle with the principle of humanity. Sacrificing the life of anybody by invoking the universalizability principle violates the humanity principle by treating another person as a mere means to the agent's alleged moral rectitude. There is a strong argument for discounting Kantian maxims which are so

unqualified as to prohibit *all* lying, *all* stealing, *all* promise breaking. Instead, we might follow such a maxim that applies only under one or another to be specified circumstance.³² For example, if a life can be saved by means of a lie, it might be morally permissible to lie. If one can feed one's family only by stealing a loaf of bread, it might be permissible to steal a loaf. If despite one's best efforts to the contrary one is bankrupt, one may decline to pay one's creditors despite past promises of repayment. Such maxims, qualified in this or other limited ways, can be universalized without self-contradiction, and the agent can willingly apply them to her- or himself.

As for lying, others would not generally cease to believe a person simply because it is known that the person on one occasion has lied to save a life. For one thing, such a situation rarely comes up—people could still be telling the truth almost all of the time. Yet the rare but special circumstances in which lying is morally permissible are sufficiently diverse that they cannot all be spelled out beforehand.

As for bankruptcy, from the moral point of view it is the exception rather than the rule. Otherwise creditors would not lend in the first place. Even the taking of human life could be justified under certain circumstances. Take self-defense, for example. There appears to be nothing problematic with a maxim by which it is permissible to kill if killing an attacker is the only available means of saving one's life with all one's own ends in view.

For Kant conscience judges, in the court of practical reason in the privacy of one's mind, whether one's maxim is acceptable if followed by all regardless of the results. Yet Kantian ethics as an ethics of duty merely for duty's sake has little appeal to most people. Why do I say that? Well, consider for example what kind of mother would you prefer? One who raises you well without getting any pleasure as a consequence, but who does so just because it is her duty? Or one who does so because she loves the resulting enjoyment of being a mother? Most would rather not have a stern mother who forces herself to act merely out of the universalizable duty of all mothers. The answer is clear.

When Kantian ethics is formulated in this off-putting way based solely on the universalizability principle, it is difficult to persuade people to live by it. However, the universalizability principle is misunderstood if it does not harmonize with the principle of humanity, i.e. with the formulation of the moral law that Kant states after his statement of the universalizability principle. It is important to recognize that being stated secondly does not mean that the humanity principle is secondary in importance to the universalizability principle.

The impression Kant leaves by his stress on stern duty for duty's sake if it is softened by his own declaration of the duty of every person—insofar as one is able and in a way one chooses—to

help other human beings to advance as rational beings toward their own self-assigned ends. Kant writes that «the ends of any person, who is an end in himself, must as far as possible be also my ends, if that thought of him as an end in himself· is to have its full effect on me.»³³ Reverence for the moral law implies reverence for other persons as ends in themselves with their own ends in view. This applies to a mother in relation to her own children. The ends of a growing child must at once be, as far as possible, the ends of their mother. Yet if it is not possible, maybe because the mother did not want the child in the first place, she still has a moral duty to treat her child as an end in itself.

The principle of humanity is not a test of the moral permissibility of actions, but directly commands an obligation of assistance given to others pursuing their own ends. The principle of humanity issues the same command to all persons. It commands mutual assistance ‘as far as possible.’ Mutual assistance is the best antidote to mutual conflict, much better than indifference to the ends of others.

As noted, there is no reason to assume priority of the universalization principle over the humanity principle merely because Kant lists it first. They are two complementary formulations of the same moral law, highlighting two different aspects of the law.³⁴ The universalizability principle could be rechristened as the principle of moral permissibility. By it we come to know what is permitted but also what is not permitted. We do not learn what is positively obligatory. (What is *not* morally permitted states only a *negative* obligation. Thus whenever lying is not permitted, there is a negative obligation *not* to lie.) Knowing what is permitted and not permitted reveals the extent and limit of moral freedom of action.

The first-stated principle serves to tell us both what we ought not do and what we are morally permitted to do, while the second principle states what we *positively* ought do. The humanity principle could be rechristened the principle of positive moral obligation. All actions approved by the first principle, as qualified above, are compatible with respect for the second principle. When one learns that one ought not lie, steal, or break promises *except* in cases that would violate the principle of humanity, the first-stated universalization principle becomes secondary to the humanity principle. This is to assume that doing what is morally obligatory is more virtuous than only doing only what is morally permissible.

...the ends of any person, who is an end in himself, must as far as possible be also my ends, if that thought of him as an end in himself· is to have its full effect on me.’ This principle concerning the status of each human being—and more generally of each rational creature—as an end in himself is the supreme limiting condition on the freedom of action of

each man. (Supreme in the sense that it trumps everything else, e.g. prudential considerations.) It isn't drawn from experience; there are two reasons why it can't be. One reason is the principle's universality: it applies to absolutely all rational beings, and experience doesn't stretch out that far. The other is the fact that the principle isn't about humanity considered subjectively, as something that men do take to be an end, i.e. do choose to aim at, but rather about humanity considered as the objective end that ought to constitute the supreme limiting condition of all subjective ends, whatever they may be.³⁵

Chapter Eight

CRITIQUE OF KANTIAN PRACTICAL REASON

Kant's ethics arose in the context of his larger philosophical project. The early Kant before the 1780's gave credence to classical Western metaphysics and its claim to know the nature of things in themselves apart from being known. But in his Critique of Pure Reason (1781) he abandoned any claim to knowledge of things as they objectively are in themselves.

There had been metaphysical skeptics before, but never before metaphysical skepticism as systematic philosophy. This chapter offers a critique of the skepticism in ethics that followed in the wake of Kant through twentieth century. It is sometimes known as non-cognitivism, but it can be called more plainly as *know nothingism*.

*Kant's Critique of Pure Reason. Though Kant disowned theoretical reason's capacity to know things in themselves, he clung to the term «reason», By the mid 1780's he revealed reason in an essentially practical function. Practical reason guided human action. It became clear that *The Critique of Pure Reason* had shown how reason pre-consciously constructed the empirically known world as the stage on which we are actors.*

The 1781 critique of reason was a negative critique of any human metaphysical attempt to go beyond empirical appearance and discover the nature of things in themselves apart from being experienced by us. When readers after 1785 became aware of his moral philosophy as developed from the standpoint of practical reason,³⁶ it appeared in hindsight that his 1781 account of the human construction of empirical «knowledge» at work in the natural sciences could only be understood from the non-theoretical moral standpoint of practical reason.

In the decade prior to the French Revolution Kant stressed that morality cannot be legally enforced. Acting morally to avoid legal penalties would nullify his concept of morality as duty-for-duty's sake. In the decade after the Revolution broke out in 1789 he adopted a concept of human rights already implicit in the principle of humanity in his 1785 *Groundwork of Metaphysics and Morals*. Every human being is rightfully an end in her- or himself. Yet after the Revolution Kant reacted to the violence surrounding the Revolution both in France and more widely. By war a nation seeks victory over dead bodies of human beings in opposing armies as a mere means. He called for a universal alliance of nations for peace ready to intervene by its combined strength against any nation that broke the terms of a universal alliance for peace. This is the Kant who is credited with anticipating the Charter of the United Nations (1945).³⁷

In Kant's ethics from the standpoint of practical reason, everything turns on how “practical reason” is taken. For Aristotle to be a human being is to be a rational animal as a single substance—a single individual with a career—who is potentially rational, but not always actually so. For Kant, by contrast, a human soul without a body is a single substance who is always actually rational. But our actually rational souls are burdened for Kant by having in this life a substantially distinct human animal body with non-rational or even anti-rational inclinations.

Kant's denial of Aristotle's classical concept of reason as primarily theoretical, with a reduction of practical reason to the role of applied applied theoretical reason, is the meaning of what Kant called his Copernican Revolution in philosophy. Practical reason becomes for Kant the active organizing factor in constructing the empirically known physical world. Human beings can understand the world to the extent that practical reason has made it be what it is for a human moral purpose.

Giambattista Vico (1688-1744) had already claimed that the historical human sciences were more scientific than the natural sciences because human beings can understand well only what they themselves have made. For Vico God made the natural world, which is thus less intelligible to us than human history, which we human beings have made. Kant went beyond Vico by claiming an intersubjective human mind in general (*the transcendental ego*) underlying the empirical world including our experience of ourselves.³⁸

Kant claimed that we know that all events we can experience are necessarily caused. Since it does not follow from the definition of an event in space-time that it must be caused, our experience of events as necessarily caused must be the result of action by this transcendental ego beyond experience pre-forming the conditions of the possibility of what we experience.

The traditional Aristotelean concept of human knowledge made the human mind revolve around the world. To come to know *for Aristotle* is to reform one's beliefs to make them conform to facts and natural laws independent of the human will. Astronomy before Copernicus (1473-1543) made the planets and sun revolve around us on earth. Copernicus discovered that the earth and hence human beings empirically were not at the center of the universe as previously thought. This discovery was a blow to human pride and created anxiety. The French thinker Blaise Pascale (1623-1662) lamented: “The eternal silence of these infinite spaces frightens me.”³⁹ It could no longer be said so easily that God was in heaven above and all was well on the earth.

Kant's ethics restored the ancient view that humanity is at the center of the world, but at the cost of subordinating theoretical reason to human transcendental practical reason. This human mind in general, which we must presuppose but cannot empirically know, metaphorically manufactures the known world as the stage on which the trials and tribulations of individuals unfold as moral agents. The structure of the known world revolves around this presupposed transcendental human

mind which timelessly constructs the space-time empirical world of causally interacting things as a proving ground to test one's virtue.

Kant did not deny Copernican astronomy threatening us with the thought of being lost on an insignificant planet not at the center of the world. His ethics is Copernican because it complements Copernicus by proposing a way to comfort humanity consistent with Copernican astronomy. Though we are alarmed in physics by the external world in which we encounter "the eternal silence of these infinite spaces," we learn we are still at the center of reality morally. The world that counts practically is the one each perceives and must act in. For Kant the our common *transcendental ego* constructs our perceived world to give each of us an obstacle course to be run to prove one's moral worth.

Kantian philosophy abolished the theoretical perspective of spectatorship which had been the dominant in the West ever since Pythagoras coined the term "philosophy." The world had been a show for us much like detached spectators before a performance of Greek theatre, a show in which we are not practically involved. Kant conceived the moral calling of human beings. It is not be theoretical spectators over against the stage and its theatre, but is to be moral agents for whom the world is constructed as our own field of action. We are morally allowed to use whatever things we own in this world to achieve self-assigned goals within the limits of the moral law.

Kant restored human dignity by subordinating the unknowable external world of things in themselves to something more important, to the knowable world perceived from a moral point of view that only humans can adopt. Kant's "Copernican Revolution" in the eighteenth century grounds his standing as one of the great philosophers. Yet since Kant we have become accustomed to the Copernican revolution in astronomy. His Copernican Revolution in philosophy is no longer felt by us to be so necessary. The subordination of theoretical reason to practical reason may have become counterproductive.

Aristotle held that knowledge is relatively passive, determined by submission to the objects known. To come to know is to place belief in conformity with a knowable natural order of the universe beyond control of humans. For Kant the world of things as they are in themselves rather than for us is unknowable. Metaphorically, knowledge in natural science is an *output* of information processing by the human mind in general. *Sensory inputs* originating in *unknowable things themselves* outside our minds inject *sensory inputs* in our minds. These inputs are the raw material from which the human mind manufactures knowledge in two steps.

First, human mind in general imposes on sensory inputs two forms of sensibility: location in *time* and *space* in the field of perception. Secondly, the human mind forms *judgments* about temporally and spatially ordered sensory inputs by applying to them necessary and universal concepts (*categories*) hard-wired in its general nature. In this way the human mind constructs for

each individual a known perceived world of *things in causal interaction* beyond mere sense data in time and space. We each thus know the world as governed by universal causal laws allowing us to act with predictable results in pursuing our various life goals. Ethics, practical reason, also requires this ordered perceived world to include *other people* with whom we also causally interact.

As noted, for Aristotle and the ancient world, the highest human faculty was theoretical reason. It distinguished human beings from other animal species guided solely by instinct. Aristotle further differentiated practical reason from contemplative theoretical reason by which we seek the truth for its own sake. Theoretical reason, he held, is motivated by curiosity and wonder. Theoretical reason strives to base its reasoning on unprovable but allegedly undeniable premises (first principles). Logical conclusions (theorems) are inferred from premises by deductive logical reasoning. For Aristotle practical reason uses the results of theoretical reason in guiding action. Theoretical reason has priority over practical reason. And for Aristotle ethics is a form of applied theoretical reason.

“...to say that happiness is the chief good seems a platitude, and a clearer account of what it is still desired. This might perhaps be given, if we could first ascertain the function of man. ...as eye, hand, foot, and in general each of the parts evidently has a function, may one lay it down that man similarly has a function apart from all these? What then can this be? Life seems to be common even to plants, but we are seeking what is peculiar to man.... Next there would be a life of perception, but it also seems to be common even to the horse, the ox, and every animal. There remains, then, an active life of the element that has a rational principle.... ...we state the function of man to be a certain kind of life, and this to be an activity or actions of the soul implying a rational principle....”⁴⁰

Although the sciences have changed in a fundamental way since Aristotle, his classical idea of science was maintained up to and including Kant’s time. Kant saw sciences as developing toward completion as perfected Aristotelian theories. Euclid’s geometry was the earliest example of a finished science with first principles (axioms), definitions, and postulates from which everything else is deduced as conclusions (theorems) by formal logic.

We need not today return to Aristotle’s classical theoretical science with evident first principles, theorems, and proofs. Willard van Orman Quine’s statement that in scientific theories we must repair the ship of our scientific theories at sea expresses the revolution in our idea of science since the nineteenth century,⁴¹ illustrated by Cantor’s theory of infinite numbers. Kant held that

Newton's physics was a finished science that could be axiomatized like Euclidean geometry. By a more contemporary concept of reason, to be rational is to be non-dogmatic, non-doctrinaire, admittedly fallible, never stuck in one's beliefs, and always ready to look at new evidence. To be rational is to be open to the correction of ever possible error through discussion and with other truth-seeking investigators who subordinate practical reason to theoretical reason, prudent policy to facts.

Kant claimed one only one categorical moral law, but various particular hypothetical rules of conduct (maxims) in various life situations. Conscience in every person issues the same unconditional imperative. Yet he offered different formulations of the categorical imperative. The first-stated formulation, the universalizability principle, is conceptually secondary to the second-stated formulation (the principle of humanity) because it does not give positive ethical guidance, but has only the negative function of eliminating maxims which are not morally acceptable.

Although Kant has been credited with having inspired the concept of collective security in the 1945 Charter of the UN, his ethics disagrees with the 1948 Universal Declaration which does not dissolve theoretical reason into practical reason. There is no Kantian categorical imperative in the Universal Declaration. Human rights are optional and establish hypothetical imperatives based a theoretical reason and empirical science.

For example, based on Article 16 of the 1948 Declaration, *if* a man and woman—of whatever nationality, race, or religion—with equal rights in marriage and its dissolution choose to marry, everyone has an obligation to respect their choice. Same-sex marriage was not on the table in 1948, but the fact that it now is illustrates how the human rights to marry can evolve by empirical research to improve the list of optional rights. It can improve of a couple's domestic support system to strengthen public exercise of freedom of expression by spouses.

The basic public right of freedom of expression in dialogue improves research into wider knowledge of the situations and opportunities of individuals for greater personal life success in attaining goals they choose that are both practically possible and compatible with the equal personal success of as many as possible. Solidarity implies reciprocity and mutual assistance between bonded people. I receive help insofar as I can be relied on to give help. I become the beneficiary of the benevolence of others in dialogue to the extent they rely on my equal reciprocal benevolence towards them.

The fact that human beings can engage publicly in rational interpersonal dialogue, not just in private intra-personal rational dialogue with internal voices, co-exists with their equally natural

ability to act by impulse and instinct. In Greek, “dia” means “through,” and “logos” means “reason.” “Dia-logos” is reasoning through others rather than merely in the privacy of one’s own mind. Reasoning by oneself cannot replace interpersonal dialogue, but it can help to rehearse future outings in public dialogue and improve on past outings. Without dialogue with real other flesh and blood persons, reasoning merely by oneself risks the manipulation and repression of the voice of reason by internal voices expressing inclinations contrary to reason.

Since, as Kant points out, whoever genuinely wills an end also will the means, the cognitive point of view within the empirical sciences has a role to play in Kantian ethics. By knowing the world and its causal laws, calculations can be made as to what goals are realizable by what means, and research can be conducted on the most efficient means with which to realize them. It is not serious to say one really wills a goal while failing to do all that is possible to achieve the goal by the causal laws of this world.

A further perspective for Kant is that of one’s lower animal self by which one pursues her or his individual self-interest. This point of view of exclusive self-interest is not morality for Kant. Yet a moral agent is obliged to pursue his or her individual self-interest to some extent. Harming oneself would reduce one’s ability to act morally, and one cannot progress morally in this world if one is dead. Other people may look out for you, but you have a better chance to stay alive in good health if you also look out for yourself. Helpful people may not always be around.

The Universal Declaration does declare a right to individual security which under certain conditions might require a lie—for instance, a lie to throw villains off their course. It does declare an ideal right to life necessities by receiving social security if needed. The UN allows privately volunteered help of different kinds, with the UN and member states serving as a backup should voluntary private help not be adequate to provide a decent standard of living.⁴²

Proofs are conceivable only from the perspective of theoretical reason, the cognitive standpoint. There are no proofs or even good arguments for truth from Kant’s moral point of view of practical reason. Instead, for Kant, there are only certain unprovable presuppositions that must be made to enable the adoption of the moral point of view. He calls these presuppositions *postulates of practical reason*. In taking the moral point of view, according to Kant, we act as if these assumptions were true, even if, theoretically, they are false or unknown.⁴³

There are three Kantian postulates of practical reason: the free will of the rational soul, immortality of the soul, the existence of a just God—not as a personal God but as “the moral order of the world.” Taking up *free will* first, we must suppose that the soul has free will because

otherwise, for Kant, we cannot justify moral responsibility. Kant is not being original here. He is only repeating a very longstanding tradition in moral philosophy. Yet repeating a venerable tradition is not evidence of its truth. Tradition holds that without free will we cannot justify praise or blame, punishment or reward, which would result in the collapse of basic social institutions. Yet from a theoretical perspective there is reason to call this presupposition or postulate into question.

Free will means that one's choices are not wholly determined by the past state of the universe. If that were so, determinism would be true and there would be no personal responsibility for any action. Whatever one would do would be determined by the state of the universe thousands of years before one was born together with the universal laws of natural cause and effect of natural science beyond our control.

In the twentieth century physics, the most fundamental natural science, adopted indeterminism, the view that the behavior of invisible microphysical particles is not fully determined by the past. Kant mistakenly held that physics was a finished science in the form of Newtonian science, so that behavior of the human empirical self in the observed physical world was completely determined, while the unobservable inner rational soul enjoyed free will and hence responsibility for its actions.

A strong argument can be made against determinism independently of the current consensus in physics. The universal causal laws of nature state causal conditions in general terms, which determine effects only in general terms. For example, any combination of combustible material, oxygen, and heat in general causes fire in general. Yet every actual event of fire is unique and thus not entirely determined by its general causal conditions. The implications for human responsibility is that one is responsible for what one does only in general, but not in every detail of one's actual action. The assumption of free will, contrary to Kant's view, does not necessarily make for moral responsibility for one's action.

To understand free will, it is useful to see its place in a classification of different types of freedom. There are two types of freedom, forwarding-looking *positive freedom to do something* and backward looking *negative freedom from the past*. Three kinds of negative freedom can be distinguished: 1. freedom from coercion, i.e., from external compulsions, whether physical or psychological, that *force* us do what we do not want to do. 2. Freedom from *restraint*, ie, from external or internal forces *prevent* us from doing what we wish to do. 3. *Freedom from past causes* that would determine us to do one and only one thing. This may also called free will or indeterministic freedom. For Kant free will is a postulate of practical reason, a traditional presupposition in taking the moral point of view which he does not question.

There are two kinds of positive freedom: 1. *Freedom of choice*, the freedom to do what we choose to do, which is limited by our abilities. Note the equation between positive freedom of choice with the first two negative freedoms: if one has freedom of choice if and only if nothing compels one to do something and nothing prevents it. 2. *Rational freedom*, the freedom to do what we choose based on understanding a good reason for doing so. Rational freedom thus excludes subliminal advertising or hypnosis determining choice. If one does something under hypnosis, it seems to the individual that she or he is acting by free choice, but actually one is acting by the predetermined choice of the hypnotist. If one buys popcorn during intermission in a movie theatre, again it may seem to that one is exercising free choice. However, one may actually be responding to subliminal advertising suggestions on the screen, messages so brief so as to be unnoticed.

Rational freedom is freedom of choice with the addition of insight into a good reason as the cause of the choice. Insight causes the choice which causes the action. An alternative term for rational freedom is autonomy. As a rational agent one is a law unto oneself insofar as one identifies with reason. At times authoritarian or totalitarian rulers claim to have a monopoly on the truth and impose their good reasons on those whom they rule. But that is an abuse of the concept of rational freedom, since it denies rational freedom to the human beings over whom they rule. Democratic governments correctly disclaim having any certainty as to the truth and do not impose any ideology on their citizens. A pluralistic democratic society assumes that the state has no monopoly on what beliefs are rational.

For Kant, among the above senses of “freedom,” only free will, freedom from complete causation by the past, is a postulate of practical reason. Yet his view that free will is necessary for moral responsibility is dubious. If our choices are not fully caused, as indeterminists hold, they are not fully caused by human persons as agents. In that case we cannot be fully responsible for them. Free will, if extensive, would be a freedom to be to be afraid of, since we would not know fully what we freely would do next.

We may be comforted by the fact that free will does not exclude the wide extent of causation. It only excludes complete causation. Yet free will can still cause some anxiety. Driving in the left-hand lane, we must hope that a free will act does not strike one from the blue and result in a swerve into oncoming traffic causing a multi-car collision. Free will is consistent with a very high probability that our knowledge of the danger of doing so will prevent a crash.

Limited free will that seems realistic can be illustrated like this. With too much coffee one may not be able to go to sleep even if one chooses, and with sleeping pills one may be unable to stay awake even if one chooses. But there may be a window of opportunity if one has neither too

much coffee preventing us from sleeping nor sleeping pills forcing us to sleep. Within a window of opportunity in time we may be able to make a free will choice *either* to yield to invading sleepiness, put a book one is reading aside, and go to sleep *or* to persist reading to the end of a chapter and stay awake for a number minutes.

Free will can be extensively limited by past causal forces, including moral education. We must hope that free will is hemmed in through moral education by forces that prevent us from doing anything terribly evil. Yet Kant seems incorrect in holding that the free will of the rational non-empirical self is a necessary presupposition of moral responsibility. Completely external to one's intentions, a sudden breeze may deflect an arrow one shoots away from its target, meaning that agent is not fully responsible for the flight of the arrow. It also seems incoherent to say that one's inner rational self has free will while its outer visible expression in action is subject to the universal determinism in the empirical world known by natural science.

As for the immortality of the soul, Kant starts with the categorical imperative. We are aware of the moral law by practical reason. If we ought to follow the moral law, we ought to follow it, period. No qualification says one ought to do so only halfway. Conscience commands us simply to do our duty unconditionally and, hence, perfectly. Yet because animal instinct tempts one not to do it, one can only imperfectly do what one ought. Since there is no duty to do what cannot be done, we must suppose an afterworld in which the moral law can be fully followed.

Practical reason for Kant insists that a person ought to be perfectly moral, but without knowing so from the standpoint of theoretical reason. Yet there is not enough time in a lifetime on the earth to morally perfect oneself. Therefore, we must suppose an everlasting afterlife in which there is time enough to perfect oneself.

By Kant's third postulate of practical reason, justice ought be. Kant means distributive justice: happiness should be distributed according to how much one deserves. Yet in Kant's duty-for-duty's sake ethics the motive of ethics is not the pursuit of happiness as an end. If one deserves happiness, he holds one should let God be motivated to reward meritorious human souls. Be as virtuous as possible in this life, and then act as if there were a moral order of the universe upheld by God in which one receives whatever happiness is deserved by one's degree of virtue.

On earth perfect justice cannot be. As long as there is one innocent child born with a birth defect it did not deserve, this is not a just world. There is no universal law of nature by which everyone gets what one deserves. Yet justice ought to be. Since it cannot be in this world and since "ought" implies "can," from the moral standpoint we must postulate without knowing an afterworld governed by divine justice in which justice can truly be.

Even if one enters the afterlife, one is tainted by recollected bodily temptations. Unburdened by an earthly body, one will no longer have new bodily temptations. But one will retain one's personal identity including one's non-angelic history in this life. It will take forever to fully rid oneself of the moral stain of one's past life. Thus, we must suppose that the afterlife will be immortal. One ought to act as if this were true. We can be comforted by practical reason supposing without knowing that injustices of this world will be righted in the afterworld.

Since Kant had already established elsewhere that the Creator God of Genesis is unprovable, in ethics he makes no reference to this God. He refers only to an impersonal God or just "kingdom of ends" of persons free of further immoral temptations. There is no forgiveness of earthly sins by Christ on the Cross. Kant is not an orthodox Christian. Nor is a Christian living out of self-giving love, for such love is not pure reason but includes bodily feeling.

In an everlasting afterworld one continues moral striving from the point at which one left off in this world. Yet no goal that needs an endless duration to be attained can be attained. Since an unattainable goal imposes no obligation to attain it, contrary to the present postulate of practical reason, Kant after all cannot maintain his own belief that one ought to be morally perfect. We know from experience that we cannot be morally perfect, and yet are asked to suppose the contrary in an "as if" story.

Should beneficence imply a perfect duty respecting a universal right to help when in need? The duty to help others in order to be helped in need by others assumes that one's help is recognized by others to be significant enough for them to be grateful. Gratitude by those to whom one helps requires a way of measuring the helpfulness of one's own action. The only way to know the success of one's help is to know the results of one's action, which is not called for within an ethics of duty merely duty's sake. A universal maxim of helpfulness generating an equally universal right to be helped in need requires, beyond duty for duty's sake, a calculation of the results of one's action on others.

Locally Kant knew others in need face-to-face. Towards his family members he acted on specific moral obligations not deducible from his later categorical imperative (in its second formulation) to treat all persons around the world equally as ends in themselves. In 1746, after the death of his father, he left his university studies out of a duty to help his family. He then practiced a results-based ethics based on personal knowledge of family members with their specific needs. Yet Kant would come to view beneficence or doing good as a "imperfect" duty that reduces anyone's ability to rely on any definite assistance from others. As one Kant scholar writes: "We ought, morally, to act in ways that benefit others; but we are free to choose how much and how

often, as befits our inclinations.”⁴⁴ Ideally human rights-based ethics would make beneficence a perfect duty with measurable help provided to others. The purpose would be to protect everyone’s right to be helped, including indirect help through support of local charity and public assistance by UN affiliated organizations and agencies.

To respond morally to the need of another person, French philosopher Emmanuel Levinas has insisted on direct encounters with the face of another as the basis of moral obligation. There were countless faces of persons around the world that Kant never faced. Today television, social media, go far beyond *Facebook* to give us virtual encounters with people’s faces around the world by photos, and allow us to imagine millions upon millions more faces that we will never directly encounter. Software like Skype, Zoom, and their successors give us living, moving virtual faces in present communication. Skype faces are still virtual faces since they are not physically present. Yet Skype or Zoom faces come closer to closing the gap between virtual and physically present reality.

A global system of the human rights implementation would delegate the moral obligation to unseen faces to neutral institutions called upon to distribute resources equitably. Kant’s categorical imperative directs us to treat persons as ends in themselves, but in his time there were no global institutions available for research into the depth and breadth of human need around the world.

Critique of Non-Cognitivism. Little progress can be made until know-nothingness in ethics—*non-cognitivism*—has been overcome. The passage of centuries since Kant’s time have revealed the danger of an excess of “practical reason” in ethics particularly when it not an application of an agreed factually grounded theory, and when it does not subordinate itself to the scientific. Climatologists can agree that global warming is a fact, but they have reduced influence on public opinion and policy as long as elementary ethics is viewed as a matter of subjective opinion.

Kant’s alleged defense of “reason” as practical reason succumbed to the contrary of reason, to the Romanticism of Rousseau’s moral conscience as an infallible celestial voice. It goes counter to reason as understood after the age of nationalism that ended in 1945. “Practical reason” subject to the unconditional command of a private voice telling us to respect persons as ends in themselves sounds appealing. But reason is public dialogue. It is not based on a private intuition or thought experiment.

It is no coincidence that non-cognitivism has flourished as never before since Kant. It has flourished in Schopenhauer’s voluntarism; in Nietzsche’s ethics of the will to power; in the satisfaction of the true believer’s “will to believe” in the work of William James (American

pragmatist philosopher); in the totalitarian suppression of public freedom of inquiry; in the Heideggerian categorical imperative of “letting Being be” no matter how Being manifests itself in the world; in ethical emotivism of the twentieth-century logical positivist movement in philosophy (in English-speaking countries) excluding ethics from any meaningful discourse; and in places of high authority’s propaganda mills spewing incompatible forms of fake news.

Since 2015 non-cognitivism has flourished in the resurgence of a political ethical nationalism that blocks any global professional consensus in ethics aspiring to moral knowledge. For sovereign nation states have conflicting interests, but humankind has none. Once dogmatism is allowed to suppress reason by concealing itself under the guise of *practical* reason there is little way to stop its proliferation in conflicts between non-discussable counter-dogmatisms. It is imperative that we return to Aristotle by subordinating ethics and practical reason to theoretical reason as its application.

An explanation of the Kantian moral law raises the question as to whether it can become law in the legal sense. To Rousseau, the first to speak of “human rights” in *The Social Contract*, the answer is “yes.” He did not base human rights on the old concept of *natural law* and *natural rights*. Human rights do not exist naturally, but are constructed by the *general will* of the human beings who come together to found an ethical rational state. Kant after the 1780s bought into Rousseau’s idea of human rights. Kantian ethics is a human rights-based ethics like Rousseau’s that places practical reason over theoretical reason, willing over knowing. This is the fundamental difference of Kantian ethics from the human rights-based ethics in the present volume.

Yet Kant, unlike Rousseau, believed the validity of human rights to be co-extensive in time with humanity based on the *transcendental* status of human personhood distinct from the empirically observable human biological species and its behavior. Rousseau asserted that human beings were always born free, but by his time were everywhere in chains.

The moralization of impulsive human freedom in the state of nature depended for Rousseau on constructing a local rational state by human will—a state that had never before existed. After Rousseau, revolutionaries in Paris added that this rational state had never before existed until the 1789 Revolution and a social contract with possible global application.

France, beginning with the Revolution, was a territorially limited state with the global ambition. The Napoleonic campaigns of conquest were the French Revolution made explicit by the military means used throughout history until the atomic bomb in 1945 made these means unusable

except as threats for the purpose of deterrence. In Kant's work in the 1790s after the Reign of Terror in the French Revolution he, like Rousseau, advocated the legal construction of human rights, and thus the legal enforcement of the moral law. Before the Revolution, Kant had held that morality cannot be legally enforced. After the Terror he held that some crimes, like acts of war by irresponsible rulers resulting in the loss of innocent lives, were awful enough to be criminalized as human rights violations.

If one behaves only in *compliance* with the moral law out of fear of penalties, one is not behaving morally for the only morally good reason, reverence for the moral law. If the moral law were legally enforced, many would obey it due to a non-moral egoistic calculation. They would externally comply out of fear of the penalties if they did not. This would change Kant's ethics from a duty-for-duty's-sake into a results-driven ethics.

The moral law cannot not be legally enforced without the self-contradiction of Rousseau's idea of prisons forcing free citizens of a democratic state to be free through punishing them or threatening to do so. Rousseau explained away this apparent self-contradiction by presuming that citizens had freely consented to possible punishment by having accepted the constitution or domestic social contract of her or his state.

In 1795 Kant applied Rousseau's idea at the level of nations by publishing *Perpetual Peace*. He was inclined to advocate the legal construction of human rights by federal world government.⁴⁵ Yet he did not openly advocate world government because he felt the public was not ready to accept such a revolutionary proposal. He instead would go down in history as advocating something like the UN: a universal alliance or contract of all nations ever ready to act militarily against any nation deviating from an international social contract for world peace. Putting down a morally abusive government militarily through the intervention of something like the UN would not necessarily educate local war-mongering government leaders morally. Military intervention could at most result in compliance.

Yet even enforced compliance with the moral law could eventually serve moral education. Repeated examples of compliance with the moral law, demonstrating that crime does not pay, could promote a habit of compliance. Once the habit is established, government leaders might be open to internalizing the morally good reason for complying. They might then act not merely in conformity with the moral law but out of reverence for it.

Indeed, In the midst of the French Revolution, Kant concluded that coercion, when

threatened or actually resorted to by an international alliance, could be a tool of moral education. It could awaken the conscience of government leaders which had been habitually proven weaker than their immoral animal inclinations.

And laws to force people to comply with the moral law exist today as international human rights treaties. War in Kant's time was becoming so immoral through new destructive weaponry threatening the goal pursuits lives of innocent persons that it should be made illegal. A new era—a new age of perpetual peace outlawing war—was needed. On occasion a nation state declares a war of aggression against another nation state. A war declared by the UN would differ by being a war to help end all wars of aggression. World War I was supposed to be the war to end all wars, yet by the time of World War II it had to be concluded that it had failed. Today many people believe that the victorious allies in World War II who founded the UN have equally failed. Contemplating all the regional wars that have occurred since World War II, we must reflect on how difficult it is to undo the habit of going to war seen throughout prior world history.

Still, there are a few current examples of war-torn nations seriously trying to apply something closer to Rousseau's (rather than to Kant's) solution in order to end domestic civil wars with the salutary withdrawal of the international intervention. For Rousseau, civil wars are worse than criminals defying the general will of the people, since they dissolve the general will of a nation.

Civil wars are of two types: the winnable and the non-winnable. The US Civil War was winnable, and indeed the North won. Yet the result was not the restoration of a moral *general will* of free citizens as Rousseau would have liked. The North conquered the South, the Confederates were coerced into compliance with an *indissoluble union*, an idea absent from the original Constitution of the US. The result is that the loyalty of Southerners to the North and its abolitionism cannot be tested, since they have had no free choice *not* to obey Lincoln's Emancipation Proclamation, nor to disobey Eisenhower's desegregation of Southern schools through the military intervention by the North, nor to voluntarily obey civil rights laws that followed in the 1960's.

Theoretically winnable civil wars are better than non-winnable ones, but the example of the uncivil, racially inspired conflict against Northern civility continuing unabated since 1865 calls this assumption into question. However, today there are a few examples of un-winnable civil wars that could lead the combatant sides to make peace domestically in situations where an international alliance following Kant's has failed in attempts at externally imposed peace. Two possible examples are Yemen and Afghanistan:

More than six months since the UN mediated a ceasefire for Yemen's port city Hodeidah, the international community's eyes remain laser-focused on the slow progress of that deal. But they're overlooking the people who can really make change in other parts of the country: local peacemakers. While the UN was meeting with the main warring parties in Sweden last December, crafting what became known as the Stockholm Agreement, back in Yemen dozens of tribal and community leaders from the district of Serwah, home to one of the country's deadliest front lines, were working on their own extraordinary plea for peace.⁴⁶

It may feel like the closed-door talks about peace in Afghanistan have been going on almost as long as the Afghan war itself, but now they are actually going somewhere. The first public ray of hope came on Monday in Doha when a group of prominent Afghans, including some government officials acting in a personal capacity, managed to sit through a long--and by all accounts respectful--two-day meeting with the Taliban. Although it was unofficial, they managed to agree with the Taliban a roadmap as to how they might get towards a peace deal.... And, most importantly, they agreed immediately that soft targets--the schools, women and children who should not normally be part of a conflict, but are in America's longest war--would be off-limits for now. Why does this development matter? It's the first time Afghans have made an agreement of this nature. And it comes after weeks of the tougher, preparatory stuff: the direct talks between the Taliban and the United States about the terms and pace of a troop withdrawal. The Taliban always insisted direct talks with the Americans must come first, and Washington has until recently resisted.... The Taliban -- who fought the world's military hyper-power to a standstill--may end up in a unity government with Afghan liberals they once called puppets.⁴⁷

The UN could be said to have been following the advice of Kant as it has sought to make the world free from the devastation of war by trying to enforce militarily peace as a human right all over the world. However, true fraternity or solidarity among compatriots--a condition of the cultural nationalism necessary for an effective nation state--cannot be forced on a people any more than love can be forced on a couple in marriage.

In conclusion, I have critiqued Kantian ethics here on two main grounds. First, the previous chapter I suggested a need to revise Kant's formulation of the moral law by subordinating his universalizability principle of what is morally permissible to his principle of humanity determining what is morally obligatory. The universalizability principle in Kant's formulation is not itself an ethical rule of positive moral obligation like Kant's more popular second formulation of the categorical imperative. I have suggested replacing Kant's first formulation with one that complements his popular second formulation.

Secondly, in this chapter I have questioned his subordination of theoretical reason to practical reason. Additionally, I have defended the traditional subordination of practical reason to theoretical reason defended, among others, by Dallas Willard:

However fragmentary or misguided the presumed knowledge may be, it is, I think, impossible for a normal human being (I leave out psychopathic and extremely traumatized individuals) to conduct his or her life

except on the assumption that there is a shared or sharable knowledge of who is a good person and who is not—and, by extension, of what is right and wrong, of what is morally praiseworthy or not, and so forth. Thus the normal human being accepts the possibility of moral guidance and of learning about such matters, and the possibility of being wrong about them, that is, of holding false views about them. Throughout the history of ethical theorizing in the Western world, well into the twentieth century, every important thinker has agreed with that. What most strikingly characterizes twentieth century ethical theorizing is the emergence of non-cognitivism as serious contender in the field of moral understanding. Far from being a passing phase... non-cognitivism has now entered the life-blood of Western culture. As a result, there is no recognized, systematic body of moral teaching that can be accepted as moral knowledge by the institutions of Western society, chiefly by universities... -- and certainly not by law and government. This fact is what I refer to as “the disappearance of moral knowledge in the twentieth century.”⁴⁸

Kant, a non-cognitivist, remains an immensely important thinker as judged by the portion of publications devoted to him. The influence of non-cognitivism is more difficult to reverse than Willard indicates. Students want finite math classes to be lectures classes because they expect to learn established knowledge. They are not discussion classes. Students raise their hands to ask for clarifications, not to contest what the teacher is trying to teach.

Yet ethics classes are commonly presented as discussion classes. Ethics teachers are advised and even taught by academic administrators how to teach the discipline in which the teachers may be specialized. They are advised to privilege no single theory. Academic freedom survives in research, but less so in the classroom. Administrators, reacting to public ethical skepticism in a multicultural society, advocate teaching of elementary ethics classes as discussion classes. Institutionally endorsed non-cognitivism in matters of right and wrong, however is not comforting. It spreads complacency in the face of a public threat.

²⁹David Cummiskey in *Kantian Consequentialism* (Oxford: Oxford University Press, 1996) has argued that Kant misinterpreted his own thought and should have made it clear that he in fact endorsed a results-driven ethics. If he is right, this chapter is about the near universal legend of Kantian ethics supported by Kantian moral philosophers.

³⁰murderer in hiding, 1797

³¹David Cummiskey, *Kantian Consequentialism* (Oxford: Oxford University Press, 1996).

³²...we might be following a rule that pertains only to specific circumstances, like “It is permissible to lie when doing so will save a life.” This rule can be made a universal law without contradiction. After all, it is not as though people would stop believing each other simply because it is known that people lie when doing so will save lives. For one thing, that situation rarely comes up—people could still be telling the truth almost all of the time. Even the taking of human life could be justified under certain circumstances. Take self-defense, for example. There appears to be nothing problematic with the rule “It is permissible to kill when doing so is the only available means of defense against an attacker”. It is not necessary to interpret Kant’s theory as prohibiting lying in all circumstances (as Kant did). Maxims (and the universal laws that result from them) can be specified in a way that reflects all of the relevant features of the situation. Consider the case of the Inquiring Murderer.... Suppose that you are in that situation and you lie to the murderer. Instead of understanding the universalized maxim as “Everyone Always lies” we can understand it as “Everyone always lies in order to protect innocents from stalkers”. This maxim seems to pass the test of the categorical imperative. <https://www.csus.edu/indiv/g/gaskilld/ethics/kantian%20ethics.htm>

³³Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. Jonathan Bennett, p. 30, <https://www.earlymoderntexts.com/assets/pdfs/kant1785.pdf>

³⁴ A brief comment on Kant's third formulation of the categorical imperative commanding us as rational persons to be autonomous or self-determined. A problem with his third formulation is that it presupposes human persons to be actually rational souls. If persons are not actual rational souls interfered with the burden of having animal bodies, Aristotle here is closer to the truth by current science in not bifurcating human beings into rational souls and biological bodies in interaction. Human persons belong to an animal species and are only potentially rational. Accordingly, the third Kantian formulation of the categorical imperative as commanding the autonomy of a rational soul no longer applies. As rational animals, we can as autonomously yield to impulse and instinct as to reason.

³⁵Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. Jonathan Bennett, p. 30, <https://www.earlymoderntexts.com/assets/pdfs/kant1785.pdf>

³⁶Immanuel Kant, *Groundwork of the Metaphysics of Morals*, 1785

³⁷Joachim Rauber, «The United Nations—A Kantian Dream Come True?,» <http://hanselawreview.eu/wp-content/uploads/2016/08/Vol5No1Art04.pdf>

³⁸The presupposition of this ego transcending experience for Kant must be presupposed to explain our knowledge that all events are necessarily caused, since it does not follow from the nature of an event that it be caused.

³⁹Blaise Pascal, *Les Pensees*, trans. T. S. Elliott (New York: Dutton, 1958) Section é, Pascal, *Les Pensées*, trans. T.S. Elliott New York: Dutton, 1958), Section 2, paragraph 206.

⁴⁰Aristotle, *Nicomachian Ethics*, book 1, trans. W. D. Ross, <http://classics.mit.edu/Aristotle/nicomachaen.html/>

⁴¹ "I see philosophy and science as in the same boat—a boat which, to revert to Neurath's figure as I so often do, we can rebuild only at sea while staying afloat in it." https://todayinsci.com/Q/Quine_Willard/QuineWillard-Quotations.htm

⁴²Article 3: Everyone has the right to life, liberty and security of person. Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. Article 25 (1): Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Universal Declaration of Human Rights.

⁴³Immanuel Kant, "Postulates of Practical Reason in General» in *Critique of Practical Reason*," trans. Philip McPherson Rudisill, edited 2020, Book Two, Part Two, Section VI, pp. 170-172, <https://kantwesley.com/Kant/CritiqueOfPracticalReason.pdf>. Downloaded October 31, 2020

⁴⁴Richard McCarty, "Perfect and Imperfect Duties," myweb.ecu.edu/mccartyr/GW/Perfectand-ImperfectDuties.asp

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⁴⁶Rafat Al-Akhali, "In Yemen's internationalized war, it's time to give local peacemakers the floor." *The New Humanitarian*, July 5, 2019

⁴⁷Nick Paton Walsh, "Peace might be breaking out in America's longest war ever Nick Paton Walsh." (*CNN International*, July 9, 2019)

⁴⁸ Dallas Willard, "Moral Rights and Moral Responsibility, and the Contemporary Failure of Moral Knowledge," in *Guantanamo Bay and the Judicial-Moral Treatment of the Other*, ed. Clark Butler (West Lafayette: Purdue University Press, 2007), pp. 162-163.

PART THREE

ETHICAL THEORIES WITH SUPPORT AMONG MORAL PHILOSOPHERS

Chapter Nine

FROM EGOTISM TO RESULTS-BASED ETHICAL RULE EGOISM

The previous chapter interpreted Kant's first formulation of the moral law as a law of moral permissibility complementary to his more popular second formulation as a law of moral obligation commanding us to treat persons as ends in themselves, as having their own ends, and not merely as means to our own ends. Other people have their own self-chosen ends which we ought to respect on condition that they likewise respect our respective ends which we have chosen.

Although Kant is known for supporting duty for duty's sake, his second formulation's reference to ends was interpreted as a reference to consequences, in particular to the final outcomes or results chosen for pursuit by others as well as oneself. Just as others have their own final chosen ends, we have our own such ends which others should respect by not treating us a means to their final ends. The second version of Kant's categorical imperative leads us to believe that Kant was not as unambiguously attached to duty for duty's sake as has been supposed. « ...the ends of any person, who is an end in himself, must as far as possible be also my ends, if that thought of him as an end in himself is to have its full effect on me.»⁴⁹

The proposed reformulation of the first version of the categorical imperative may be stated as follows: *exercise freedom of expression in dialogue with as many others as practically possible in the potentially universal audience so as to test any proposed hypothetical imperative—i.e. any proposed optional rule of conduct or “maxim”—for its maximum contribution to one's greater success in realizing one's own final ends in view.*

For example, the categorical imperative in 2020 could put to the test of judgment of the following hypothetical imperative or optional *results-driven* rule of conduct: *If one does not want fall ill with the pandemic virus, one ought to wear a mask when away from home.* This formulates what Kant calls “a maxim” as a rule of conduct which is contingent on one's choice of healthy living as an end in view. This reinterpretation of Kant's ethics transforms it into a more teachable results-driven ethics.

Most surveys of ethical theories classify them into two types, either “teleological” or “deontological” theories. “Telos” means “final end” or goal.” “Deon” in Greek means “duty” or “obligation.” At times “virtue ethics” is added as a third type of ethical theory. Yet since a “virtue” is only the morally good habit of following duty, we may retain the division of ethical theories into the “teleological” and “deontological.” The present treatment of normative ethical theories agrees

with this bifurcation, but differs in terminology by calling it a bifurcation into *duty-for-duty's sake theories* and *results-driven theories*. After elimination of the first type in the thought of Kant, presumably its best known defender, only academically supported result-driven theories remain to be examined.

Ethics is of vital concern, since we are all called upon to act in relation to others. If the truth among ethical theories is pursued in the spirit of the scientific in method—as is called for if ethics is more than a matter of ideology or opinion—esoteric Greek or Latin roots on the model of medical science are not called for. The Reformation gave the people the Bible in their native languages. A reformation of ethics may put ethics in the language of people on the ground for whom it is meant.

A specialized science like medicine might be corrupted by non-Latin or non-Greek roots if it made people without medical degrees using the vernacular feel qualified to participate equally with medical doctors in medical research. But normative ethics is different. In ethics all normal adults have a right to discuss, and increasingly children as well as they approach adulthood. So ordinary language is preferable in distinguishing types of ethical theory.

Moral philosophers now commonly speak of “consequentialist” ethics instead of “teleological ethics.” Yet “consequences” is ambiguous, since they can be logical or causal. «Results-driven» ethics is preferable, since it makes the consequences of ethical conduct causal. On examining the range of prominent duty-driven and results-driven ethics, until further notice there is no reason to remain neutral if the case for a results-driven ethics proves both pedagogically and theoretically strong. The complexity of Kant’s ethics makes his ethics hard to correctly interpret even for specialists in Kantian studies. The question of truth cannot be raised until the meaning is clear. Moral and civics education benefits if some clear results-driven ethics is well-grounded.

The results making action right or wrong in are not limited to moral results. Not all good is morally good. The good can be nonmoral rather than immoral. Candidates for non-morally good results are happiness, pleasure, human relationships, the *eureka* feeling of discovery, knowledge, and the appreciation of beauty. The concepts of non-moral goods fall outside of ethics into fields such as psychology, sociology, science, or art. Morally good results include the improvement of one’s moral character, the result intended by moral education (Chapter Fifteen).

As we turn to philosophically supported results-driven theories with popular roots, we must decide in what order to treat them. Each theory each must be fairly examined, and those judged to lack sufficient credible support eliminated. By a process of elimination, we can hope to end with a last remaining sustainable ethical theory. Any presumption that the last remaining viable theory will be the human rights-based ethics, to which I have already pointed in critiques of other ethical

norms, must be here in Part Three methodologically suspended.

The version of results-driven conduct by which the results for the agent alone are considered can be designated as *act egotism*. As an act egotist one calculates the good only for oneself as resulting from each available action. As an egotist one is concerned only with one's own advantage in each action. One makes up one's rules for the occasion as one goes along, which is to say there are no abiding agreed rules. Rules are made to be broken. As an act egoist one is free to contradict oneself by violating the precedent of one's past conduct. Act egotists are not reliable partners. Act egotism crosses a red line into unethical behavior. "Ethical" has definite meaning only by contrast to egotists. One is socialized to abide by rules only when they are set by interpersonal agreement where different persons promise one another to follow the same rules. The very term "ethos" in Greek means customary conduct. Egotists keep no customary agreements and are unpredictable. One hesitates to do business with them.

In contrast to act egotism, rule-based *ethical egoism* can be tested as ethical theories. Five academically discussable ethical theories precede, here in Part Three, the case for human rights-based ethics in Part Four:

1. *Capitalist/Libertarian Ethics*: individualistic rule egoism discussed in this chapter. .
2. Utilitarianism, inclusive/exclusive ego-identification with co-residents of a multi-city state, with the agreed common good guided by utilitarian public policy makers committed to the greatest non-moral good for the greatest number of residents, discussed in Chapter Ten. Utilitarianism is exclusive as well as inclusive because there is no sovereign world state with policy making authority for the world.
3. Aristotle's communitarian multi-family rule ethics of the city state discussed in Chapter Eleven.
4. Stoic cosmopolitan ethics of an ideal world city of all human beings as rational global citizens, discussed in Chapter Twelve.
5. Agape love ethics of ego identification with all *microcosms* in the all-inclusive cosmos, discussed in Chapter Thirteen.
6. Human rights rule-guided ethical egoism inclusive of all human beings discussed in Chapter Fourteen.

Stoicism and Agape ethics approach human rights ethics closely without coinciding

with it. Human rights-based ethics is more nearly realizable today than Stoic ethics in the ancient world due to industrial and the information technology revolutions. In the time of the Emperor Justinian the Roman economy was based on slavery. The industrial and information technological revolution progress of today makes it really possible to bring the Stoic cosmopolis down to earth by the implementation of human rights. Only the human will to do so is lacking.

As in a court case so in an evaluation of ethical theories, neutrality towards all suspects benefiting from adoption of the presumption of innocence reigns before the trial begins. The scientific method requires that inquiry begin without any foregone conclusion about what the inquiry's result will be. Yet, although neutrality reigns during the inquiry, the hoped-for conclusion is neither perpetual neutrality, nor doctrinaire certitude of guilt or innocence, nor a hung jury. No ethical theory is to be banished never to be considered again. A possible reopening of inquiry with new evidence is always allowed.

The distinction between *ethical egoism* with *act egotism* has already been introduced. There is a cluster of terms each including "ego," e.g., "egoism," "egotism," "egocentricity," and "egomaniac," etc. The last three terms refer to personality traits, and they are of no more central concern here than other psychological terms related in meaning, like "narcissism," "self-centeredness," or "selfishness." This is a book about authentic ethical theories. "Ethical egoism" is used refer to a group of ethical theories by which an individual ego is ego-identified with members of a more or less inclusive group of individual egos. Ethical egoism is commonly understood to assert that everyone ought to pursue her or his exclusive individual self-interest.

We begin by avoiding a common confusion of ethical *egoism* with psychological *egotism*. It is easy to confuse the two because psychological egotists sometimes promote what a pseudo ethical theory. Egotism is a personality trait of individuals who each take their own exclusive self-interest as each understands it to be final standard of right and wrong both for himself or and for any others over whom he is able rule. Pseudo ethical egotism is an inauthentic ethical theory with possible examples including Hitler, Stalin, Castro, Pol Pot, Mao, and the North Korean leader Kim Jong-Un, not to mention Jim Jones, and Charles Manson. The ethical standard of totalitarian leaders is their own respective exclusive and sometimes volatile individual self-interest. Certain psychological egotists are successful enough to influence people in their entourage or base to believe that all those over whom the egotist rules ought to serve the egotist's exclusive self-interest as he sees it and only it.

Ethical egotists demonstrate egocentricity, narcissism, selfishness, and egomania. Most

psychological egotists fail to persuade others, although they may call attention to themselves as the life of the party and become objects of mockery. Yet a few named above obtained near totalitarian power over a greater or smaller number of people. Since these leaders obtain mind control over followers, their followers lack the freedom of expression to publicly discuss in a dialogical manner the policies of the egotistical individuals who rule over them. Because of the repression of interpersonal freedom of inquiry and the subjection of many to a cult of personality centered on their ruler, and the inclusive interest of the group is portrayed to be whatever the ruler decides is in his personal self-interest. As a result act egotism cannot qualify even as a hypothetical scientific ethical theory.

Although Ayn Rand published a book entitled *The Virtue of Selfishness*, she really meant a book to defend the capitalist theory of rule ethical egoism discussed below. Intelligent ethical egoists with followers whom they do not hold captive are not egotistic or egocentric. They do not suffer from egomania, a psychological disorder. The exclusive ethical egoism of libertarians maintains that ideally everyone ought to serve her or his own respective individual self-interest, not that of any theorist of individualistic ethical egoism.

Ayn Rand corresponded with moral philosopher John Hospers, author of the widely used textbook *Human Conduct*. Their correspondence occurred during Rand's transition from a novelist to a writer of non-fiction philosophy. Hospers was attracted to her ethical egoism and wanted to assist her to write to earn respect more among philosophers. Hospers himself was not an egotist. He was what is known as a *rule ethical egoist*. This means he was not an *act ethical egoist*. Act ethical egoism must not be confused with act ethical *egotism*. Hospers did not aspire to create a cult of personality around himself, and hoped that Ayn Rand could be dissuaded from doing so. Hospers' rule ethical egoism is contrasted with *act rule egoism*, which in turn should not be confused with the pathological *act egotism* cited above.

Act ethical egoism and rule ethical egoism are legitimate competing ethical theories. That means they make no attempt to succeed by mind control over others. They appeal to evidence and logical reasoning. Precisely by its own proposed empirical evidence and reasoning rather than mind control over others, act ethical egoism is a true, intelligently discussable ethical theory that cannot be dismissed without a hearing. Yet the conclusion of a fair hearing argues for rejection by refutation of the evidence on its behalf.

One argument is that act ethical egoism is true because in *acting* by definition one always does *what one wants*, as contrasted to passively or non-actively falling downstairs. By further

definition what one wants to do is by definition in one's self-interest to the exclusion of the self-interest of other agents. Yet making a theory true by linguistic definition prevents intelligent discussion of it with opponents.

Another argument for act ethical egoism appeals to psychological egoism, the theory of human motivation claiming that by human nature no one is able to act otherwise than for their exclusive individual self-interest. This theory of motivation denies altruism by interpreting proposed cases of self-sacrifice for others as cases concealed self-interest. Psychological egoism is a universal theory of human motivation. The problem with it is that as long as there is at least one factual counter-example based on empirical evidence—whether Saint Mother Theresa (1910-1997) or someone leaping in front of an on-coming car to push an unknown child away from certain death—psychological egoism is false. If it is false, it is false that no one can be altruistic or self-sacrificial, and hence true that a human being can be self-giving contrary to her or his self-interest. The argument for act ethical egoism based on psychological egoism thus fails.

Even if the above arguments for act egoism succeeded, one remaining argument against it is that act ethical egoism makes it impossible for a moral agent to perform one function expected of a moral agent, namely giving advice. The advice of an act egoist could not be trusted, since the advice would be given according to the self-interest of the advisor, not that of the recipient of advice.

A last argument against ethical egoism is that the time needed for inquiry into the results of alternative acts would take so long as to make act egoism unpractical. The required reflection would often take so long that the opportunity to act would pass one by. This is a key reason, if one still wishes to be an ethical egoist, to opt for rule-guided ethical egoism. *Rule ethical egoism* would reduce the time taken by act egoism to the time required to deliberate on the rules to follow as a rule egoist.

By rule ethical egoism one commits to a rule or set of rules which most often is most beneficial to agents.⁵⁰ For example, as a rule ethical egoist Hospers might decide to pay income his tax to the United States despite the fact that a fraction of tax money does not benefit him because it is used by the government to distribute food stamps to the poor. He thus might conclude that the United States government is not perfect from his egoist standpoint, but that on the whole it respects freedom of expression and has policies that are far better than openly socialist countries. Being a rule egoist has the further advantage to the agent of saving much time by not being obliging one to calculate the results of each action.

Regarding Ayn Rand, Hospers failed to convert her to the consistent practice of rule egoism. Although on the whole she has been taken more seriously by professional philosophers in her own

non-fiction philosophy writing due to her correspondence with Hospers as a professional philosopher, in a pique of upset she broke off her relation with Hospers because she found that he criticized a view of hers at a philosophy conference.

Having eliminated ethical egotism and act ethical egoism as candidate ethical theories, the rest of this chapter is devoted to rule ethical egoism in which the *I* or ego becomes a *we* in solidarity with other *I*'s. Ethical egoism is not an ethical theory whose standard is the self-interest of merely a single individual. Even the most exclusive form of rule ethical egoism, namely libertarian or free-market ethics, is to some degree communal or inclusive.

Hospers's own libertarian rule ethical egoism is a mixed inclusive-exclusive ethical egoism due to the more or less extensive ego identification of an individual ego with other egoists like himself. As a Libertarian candidate for US President in 1972 he was ego-identified with other libertarians in the Party and could have relations of trust with them.

Different degrees of inclusiveness exist in ethical egoisms. Prehistory had no states, but there were sovereign families and a family-based normative ethics shared by its members. Family ethics still exists. But since families are no longer sovereign, family ethics is subordinate in history to the more inclusive ethics of the state, beginning with the city state. The origin of the family is *the couple* with its own inclusive but very exclusive courtship ethics, e.g., the original ethics of Adam and Eve.

Normative ethics regulates interpersonal relations, not relations between a single ego and a thing. Ethics cannot regulate relations between a slave owner and the slave because slavery holds that the slave is not a person but a thing. Ego identification with others allows a speaker not only to say "I" but also "we." Through ego identification in bonding with others, a speaker claims to represent a larger or smaller group of egos. Ethical theories that take the interest of all individuals in a group to be the final norm of right and wrong show the elasticity of the idea of the self. They are more or less extensive communal ethical theories. In the in-group solidarity reigns. Members trust one another to give honest counsel to one another.

"We" is not a contingent empirical concept, but belongs necessarily to the grammar of most natural human languages. "We" means "the speaker representing a community of potential speakers" through more or less ego identification with others. It eliminates act egoism, making possible less individualistic forms of rule ethical egoism. The rules libertarians take to be final are those of the free market. They hold that each ought enjoy the product of his or her labor in fair competition with other individual players in the market place, without interference with the market by government. By her or his non-egotistical conduct, libertarians recognize that if one goes

bankrupt in a free market no one responsible but oneself.

One problem with free market libertarian rule egoism is that a wholly free market does not exist even in the US. Therefore, free market rule ethical egoism is at most an unrealized ideal ethics. Yet this is not a fatal objection. It is a problem similarly faced by human rights-based ethics as well, since UN universal human rights do not actually exist either. In both cases the possible solution is the same. If an ideal ethics is unrealized, as we wait however long for its realization we still need an actually realized ethics to live by. We may substitute for the rules of free market capitalism the rules of a related ethics of moral progress towards either a free market or UN human rights. An ethics of moral progress may be treated as a provisional rather than definitive ethics. Practicing provisional free market ethics as demonstrates the ideal ethics one believes in.

I once had a student who came to class with a dollar sign badge on his shirt. When I asked what it meant, he replied that it meant he was a capitalist. I retorted by asking how many factories he owned. He had no answer, but he was in a way as right as I am in promoting human rights ethics. The difference I would still maintain is that my student, like very many Americans, practiced a form of *identity ethics*. Free market ethics includes libertarians and their fellow travelers, but excludes many who will never have a realistic chance of winning in the market. A free market with nobody but those with a secure future as winners is inconceivable. A world with realized UN human rights is conceivable if policies and resources were diverted from their current course.

An ideal free unregulated market is not the best way to further universal civil rights. In a free market there will be winners and losers. Strict libertarians recognize that what counts is not whether one wins or loses but how one plays the game. Yet millions, seeing no chance in winning, will be reluctant to play. This means that some rules of the free market cannot be universalized by all. One maxim might be: if you want to eat during unemployment in the business cycle, look in garbage cans if you have no savings or income. This rule fails to pass Kant's universalizability principle as a test of the acceptability of rules. In subscribing to the UN Universal Declaration of Human Rights as my platform, I find libertarians reliance on charity too hit and miss to protect the freedom of expression of millions upon millions from be reduced to begging for charity to survive.

A further criticism of free market ethics is that what it takes as the product of individual labor is really a social product. Would Steve Jobs have been as successful in realizing his wealth in developing Apple if he had been born, raised, and socialized in Burkina Faso, instead of the US with all the opportunities of interaction with other high achievers and all the purchasing power the American public? If not, the product of his work must was in part a social product, not a purely

individual product. Bill Gates founded the Gates Foundation and used wealth he legally owned privately, but it was also a social product to which the institutions and culture of the United States, unlike Burkina Faso, could contribute.

These institutions and culture included both an American population self-educated in the culture of everything hi tech and the American middle class and lower middle class purchasing power due in part to relatively high personal income by global standards and in part to the use of credit cards, home equity loans, and other forms of easy financing—sometimes too easy as shown home purchase with no down payment (ending in the 2008 Great Recession) and the high American bankruptcy rate in part due to the high cost of medical insurance. Yet Bill Gates and Warren Buffett are admirable for admitting that their preference would be for less charity and more support of United Nations economic rights. Gates speaks for less dependance on the privately funded Gates Foundation and for more taxes on the superrich than American voters have so far been willing to support.

⁴⁹ ...the ends of any person, who is an end in himself, must as far as possible be also my ends, if that thought of him as an end in himself is to have its full effect on me.'

⁵⁰ John Hospers "Rule-Egoism," *The Personalist*, vol 54, no. (1973), pp. 391-391.

Chapter Ten

UTILITARIANISM

This chapter addresses utilitarianism, probably the most popular ethical theory at once enjoying widespread academic endorsement. It has been invoked since the nineteenth century in often heard appeals to the greater good or common good. Utilitarianism is a results-driven ethics. The utilitarian standard is often stated as the greatest good of the greatest number out of recognition that achieving the greatest good of every member of one's society may be impossible to achieve. The greatest overall good of society may result in the good of certain individuals falling between the cracks. The good of a minority might have to be sacrificed for that of the majority.

Utilitarian is quite different from Kantian ethics. Kant, as we saw in Chapter Seven, is concerned with the human right of any and all persons as rational goal seekers to be respected in the pursuit equally of their own respective final ends in themselves, never morally allowing any person to use another as a mere means to her or his own final ends. Kant disallowed the sacrifice of the goal pursuits of a minority for the sake of the greatest good of society seen as the good of the majority.

In Kantian ethics the basic currency or unit of moral accounting is *rational persons* and how they are treated. Utilitarians differ in that their currency or unit of accounting is *experiences* of regardless of who has them or how they are distributed over the range of persons in general. The intended utilitarian result of moral conduct for evaluating actions and rules is the greatest possible number of pleasurable or happy experiences spread throughout the largest society to which one belongs. Hedonistic utilitarians consider only pleasurable results, while idealistic utilitarians consider experiential results of action beyond pleasure, such as knowledge or the appreciation of beauty.

The best known defenders of utilitarianism are from the nineteenth century and include the hedonistic utilitarian Jeremy Bentham (1748-1832), who considered the only intrinsic good to be mere pleasure, and the John Stuart Mill (1806-1873) who distinguished between qualitatively

higher and lower pleasures based on the judgment of those who have experienced both. Both will be discussed in evaluating utilitarianism later in the chapter.

Utilitarianism has continued to be upheld by contemporary philosophers like Peter Singer. Yet Singer is a more pessimistic utilitarian than those of the nineteenth century. The present age is more pessimistic all around. Instead of holding merely that we should formulate policy for the greatest possible overall good, Singer holds that utilitarians may have to decide policy for the least amount of bad. If we cannot achieve good, at least we may be able to limit bad. Singer also holds that since pleasure or happiness is intrinsically good, it is good regardless of the species of living creatures who have it, and that it therefore includes the happiness non-human animals as well as Kantian rational persons.

Utilitarians count the widest possible range of happy or unhappy experiences belonging to anyone with whom they live in society, not excluding themselves. They promote the greatest possible good spread over the greatest possible range of living beings with whom they live. While Kant is held in higher esteem by philosophers than most utilitarian philosophers, utilitarianism is both more popular and more easily understood by the general public than Kant. The pursuit of the common good has been a rallying cry for the ordinary people more than Kant.

The ideal result of utilitarian conduct in legislating, in forming public policy, or in formulating private rules of practice, is to promote is the greatest non-moral good spread over as many humans or living beings as practically possible. Pleasure, happiness, aesthetic experience, and the experience of financial gain are intrinsically non-moral goods, but not immoral. They are psychological or economic goods rather than intrinsically moral goods. Yet they indirectly become moral goods in utilitarianism as the result of moral action by public-minded citizens, legislators, and policy makers, as well as by utilitarian moral philosophers and ordinary persons generally.

Combining Act and Rule Utilitarianism. Textbooks frequently distinguish between act utilitarianism and rule utilitarianism. The distinction is analogous to the one between act ethical egoism and rule egoism in the previous chapter. Act utilitarians as citizens calculate the results for their entire society of each act into the foreseeable future of that society. Rule utilitarians calculate the results for one's entire society of everyone ideally following their rules into the foreseeable future. Rule utilitarianism is often said to be preferable to act utilitarianism because of the greater difficulty and time required to calculate the consequences of each individual act.

The most attractive utilitarian position, however, is a combination of both act and rule utilitarianism. Act utilitarianism is used initially to select justifiable general rules. Once a general

rule is adopted, as long as the results continue to be good one no longer needs to return to act utilitarianism and reflect on what revised rule to follow. By combining act and rule utilitarianism, reflection by act utilitarianism can initially be used to establish rules for the greater good for all members of one's society, including every agent's right to have her or his own good to be treated as a candidate good to be included in the greatest good of the greatest number.

Once good rules are established, act utilitarianism for the time being has done its work. Rule utilitarianism can then take over, and the time devoted to reflection before acting can be reduced if not eliminated. Yet a rule utilitarian is not required to calculate rules for the greatest good for all future generations. Instead, as a rule utilitarian one is best advised to concentrate on the greatest good for the present generation and at most for the next one. Members of the next generation can then assume the responsibility to revert to act utilitarianism to adjust rules for the new generation and the one to follow.

The rules on which rule utilitarians decide are first public laws and secondly public executive policy for shorter term results. Thirdly individual utilitarians, basing themselves on self-knowledge, may calculate the experiential results their personal acts or rules intended to make their own respective contributions to the greatest common good. Considerations of patrimony or legacy may lead some utilitarians—those of greater accomplishment or means—to include in their calculations the results of their action or policies in the next generation or two after they are gone. But most are only concerned with the rest of their individual lives.

Utilitarianism Without World Governance. Nineteenth century utilitarians lived in an international regime of sovereign nation states, which blocked pursuit of the utilitarian common good of all humankind. Recent decades have seen the emergence of institutions of world governance such as the UN, the World Bank, the International Monetary Fund, and the World Trade Association. Further, collaboration between the great powers may be in principle possible through meetings of the G7 or G20.

So far, however, effective world governance on vital issues such as global warming is limited by the weakness of the institutions of world governance as well as by our limited knowledge of the results of actions and policies on the distant future. The weakness of such knowledge increases as we consider the results of laws and policies ever further into the future. If the good results considered by utilitarians are limited to those within the boundaries of single country, they settle for the greatest good for the greatest majority within that society. Utilitarianism is not inoperable because there is no world governance or there could have been no utilitarians in the nineteenth century. Limited resources and the frequent necessity of sacrificing assistance given to

some in order to facilitate assistance to others are problems recognized by utilitarians. These problems are included in the utilitarian calculus of the greatest good for the greatest number and do not invalidate the utilitarian position.

In theory, utilitarianism appeals to scientific research to discover which acts or rules most advance the common good. The basic virtue in utilitarianism is conscientiousness, i.e. diligence in researching which actions and rules most promote the common good. However, this is not a traditional virtue ethics like Aristotle's ethics—by which, as we will see in the next chapter, one acts on ethical habits learned if one is fortunate enough to have had a good family upbringing.

For utilitarians, such virtue ethics is misguided. Having one's heart in the right place is not sufficient without personal research or expert advice. Utilitarians object that good intentions are not enough because there is no guarantee that the average citizen has any reliable understanding of the long-term results of the rule or policy by which one acts. Virtuous habits that resulted in the greatest common good in the past may no longer do so in our fast-changing world. Yet a utilitarian may adopt *beneficence* as a personal rule of practice, i. e., doing good towards others and not just towards oneself. Habitual beneficence is helped by generating *benevolence*, a virtuous state of the soul motivating one to perform beneficent actions. But having goodness in one's heart does not tell one what rule most contributes to the common good. Doing good deeds often depends on trusting professionals or those in positions of legitimate authority.

Utilitarianism is compatible with democracy as long as the public is reasonably well-educated. Yet utilitarianism does not require democracy and is compatible with technocracy, direct rule by scientifically trained experts if the public is not well educated in the natural and social sciences, or at least insufficiently educated to respect others who are better trained to make utilitarian calculations for the greater good.

Laws and policy based on the best science typically tell us best what to do. But today science, unlike Nazi science, is limited in universities and research institutes by *human subject committees* to protect individual human rights in experimentation. The existence of such committees constitutes a human rights-based restriction on any purely utilitarian conduct of science and since World War Two has been institutionalized. This is evidence that utilitarianism rightly or wrongly no longer enjoys as much official public support as it once had. These committees formalize the growing influence of human rights-based ethics to correct strict utilitarianism. They do not refute utilitarianism as much as document a decline in its influence.

Public law and policy do not exhaust the rules of practice which utilitarians must decide. They must also decide on the personal code of ethics that is best calculated to have good results for at least as long as they live. Since the good of each agent can contribute to the greatest common good, utilitarianism does not privilege beneficence to the exclusion of self-regarding prudence and individual self-interest. Since people have different personalities and abilities, there is no single personal code of conduct for everyone which has the best results. One person by her or his preferences may decide on a rule of modesty to reduce public disagreements with others, while another individual with greater self-confidence may prefer as a rule to be more outspoken in order to be heard. The rule of rules in utilitarianism that remains in force is that laws, public policy, and rules of personal and professional conduct should be calculated to maximally promote the common good including different preferences of different individuals.

The greatest good of the greatest number may at times require one to make some self-sacrifice. According to utilitarianism, one ought even sacrifice one's life if, for example, it is the only way to save many other lives. The good of the greatest number could thereby be served. As an ethical utilitarian one ought be ready to voluntarily sacrifice oneself and not merely others. Otherwise one is not a true utilitarian, and others are in their right if they force the sacrifice of one's life. A textbook example arises if one is of the heaviest person in a sinking life boat with ten people. In a hypothetical scenario let us suppose that if you do not go overboard and drown, whether by your choice or by being thrown overboard, everyone will drown—a morally bad outcome for utilitarians. Advancing the greatest non-moral good of as many as possible is the standard of right and wrong. But the good of as many as possible is likely not be the good of all.

Utilitarians may all agree that the good resulting from moral conduct consists in intrinsically good experiences. Yet there would be no such intrinsically good experience to result from action or rules justified by utilitarianism in a world of mere matter in motion without beings capable of feeling. Good experience is non-morally good in itself. Yet it is indirectly morally good as the result of morally good utilitarian conduct. There would be nothing intrinsically good about music if no one ever heard it. Music is not the *means* to the experience of enjoying it. Rather, it is the enjoyed *object* of the listening. A non-moral good other than experience is either an object of enjoyable experience by as many as possible, or is a means to such an experience. Enjoying having no toothache is intrinsically good, but going to the dentist may be instrumentally good means to that end, even if the means is intrinsically painful or bad. Cost-benefit analysis, discussed below, will determine whether going to the dentist is on the whole good.

Public Utilitarian Regulation of Pursuit of Private Self-Interest.

Utilitarianism may be considered a public policy antidote to ethical egoist individualism discussed in the previous chapter. Even if the appeal to exclusive individual self-interest is theoretically untenable as that chapter argued, its appeal remains widespread in a free market economy. It has enjoyed popularity since the rise of industrial capitalism in the West under the influence of the John Calvin (1509-1564) and the Protestant work ethic associated with his name. Financial wealth has been interpreted as a sign of being chosen by God. More recently it has been defended in under the label of “libertarianism” in the United States by Robert Nozick (1938-2002).

That materialistic exclusive ethical egoism is commonly suspected in the market place is shown by the suspicion that most people have toward providers of goods and services who claim they are foremost serving us as their customers. The suspicion is that they are primarily serving themselves. There is little other explanation of the common assumption that in doing business with others we are well advised to first test providers of goods and services to rule out the possibility that they are chiefly serving themselves. Financially motivated ethical individualism is a naturally arising behavior pattern among players in a market economy, while it is countered by utilitarianism as an influential school of thought including educators, legislators, and policy makers and executors.

Governments that legislate and execute policies guided by utilitarianism typically act on the assumption that individual citizens do not share their utilitarianism but are instead motivated by a more exclusive ethical egoism. The greatest overall good is the consequence of morally right action. Yet realistically many if not most individuals are not moral in this sense. If utilitarian moral philosophers cannot convince them to change their minds, if such moral education serves no purpose in their case, utilitarian governments counter the risk of tax cheats, for example, by operating as if all its citizens were ethical egoists, even if it is not true of all. The standard for individual policy is postulated to be private self-interest, while that of public policy is assumed to be general welfare.

Utilitarian government legislators and policy makers tend to assume two ethical theories, one true and the other false, because there are two types of conduct. Those who psychologically can and do identify with the common good may follow utilitarianism ethics. Yet there are others who find it impossible to identify with and seek anything but their own exclusive good.

In the end, there is only one humanity with conflicting impulses. An ethical egoist can convert to utilitarianism, and a utilitarian may be corrupted and turn to a more exclusive ethical

egoism. Reformulating the utilitarian standard, we may view it as *de facto* an either-or standard. The standard is *either* the greatest overall good of society for those who can sincerely pursue that goal *or* exclusive self-interest for those who can pursue nothing else.

That many citizens can only pursue narrow self-interest means that, at least for now, they ought pursue nothing else. But that does not mean that the state ought not pursue the common good. Yet if many citizens, perhaps even most if given a chance, are exclusive ethical egoists, we must suspect that some government officials and their expert advisors are probably also exclusive ethical egoists.

How, then, can we depend on the government officials to pursue the common good instead of being corrupt, seeking to abuse their office and enrich themselves? The answer, for sincere utilitarians, is to institute laws that put the narrow self-interest of officials in the service of the common good by a credible threat of punishing corrupt officials. Such laws, if enforced, lead exclusive ethical egoists as well as utilitarians to contribute to the greatest good of all. Unless coercive moral re-education is resorted to, the greatest number must include ethical egoists among utilitarianism's beneficiaries. Egoists do not want to face penalties.

The problem is how to make and enforce such laws if some legislators and government officials are also corrupt. This is the ancient question of who shall watch the watchers. Or, if government regulators are selfish, who regulates the regulators? Since there is no easy answer, utilitarians recognize a serious problem they cannot avoid. The state pursues the general good while keeping in mind that many pursue only their exclusive individual goods. It audits tax returns on the assumption that many will try to cheat if they fear no consequences. Yet, again, who is going to audit the auditors to make sure that they will not be bribed? Ideally all should have a moral conscience raising them above the level of exclusive ethical egoists. If we all operated on the honor system the state would not have to audit citizens. Yet utilitarianism is made for the real world.

Consider a cost-benefit analysis. Elected officials should vote and policy makers execute only under the guidance of a scientific consensus, as long as a professional consensus exists on a given topic. If they do not, democracy is unjustified. Calculating the path to the greatest common good needs experts to undertake a scientific cost/benefit analysis for every policy or legislative proposal to assure that overall bad results do not outweigh the good. In such an analysis only the end can justify the means. Yet to many the idea of the end justifying the means seems to define immorality itself! Intrinsically immoral means used to achieve greater good—like war instead of the use of negotiation when negotiation could have an equally good result—taint any non-moral good result that follows.

Contrary to the view that the end does not justify the means, only the end can possibly justify the means! However, three conditions must be met for this to really be true. First, the end does not justify the means if the end is not truly realized. The means used by Stalin in collectivizing the Russian peasants, at the cost of a huge number of lives, was not justified by the end of realizing communism or even fully feeding the Russian people. For communism never came about.

Secondly, even if the end is realized, it can justify the means only if the good of the end outweighs the evil of the means. For example, if torturing someone were the only way to attain the knowledge to put terrorists off their track, this knowledge would justify the means only if the value of knowledge attained (perhaps serving to save thousands of lives) outweighed the evil of the means. But since torture is so bad, in each case a net gain should be proven by a standard that would hold up in a court of law, and would never hold up under current international humanitarian law. International humanitarian law administered from Geneva by the Red Cross is another sign of a decline in public support strictly for utilitarian ethics.

Thirdly, even if the value of the end outweighs the disvalue of the means, it is still not justified if there is a less costly way of attaining the same end. For example, if the peace attained outweighs the evil means of war, the end might still not justify the means if the same result of peace in a conflict of interest could be attained at less cost by negotiation.

An example of cost-benefit analysis is its use in the evaluation of capital punishment. It certainly protects the public from further crime by the person executed. Yet this assumes that the person executed was really guilty. Enough executions of individuals who later proved innocent have occurred to raise doubt as to whether the means of execution can be justified by the end of reducing crime. But if the executed individual is guilty, life imprisonment without parole would seem to have the same effect of protecting society and have less disvalue to the criminal, although it would probably cost the public more. Yet perhaps the criminal could do some good even in prison, and even if the aim of rehabilitation is not attained.

A second useful result attributed to capital punishment is that it helps deter others from committing crime. People see crime does not pay. Yet this claim is controversial. Take murder. Many murders are committed in the heat of passion, where the victim is often a friend or family member. And when people act out of passion, they do not reflect on the legal consequences because they do not reflect at all. A very different class of murders consists in those carried out by professional killers. Such criminals calculate that crime pays. Professional killers know that most never get caught or convicted. Thus capital punishment does not deter them.

Another alleged consequence of punishment would be reforming the criminal behaviorally

or ideally rehabilitate her or him in heart and soul, which cannot happen if the criminal is dead. All told, by cost-benefit analysis it does not seem that the ends of protection, deterrence, and reform or rehabilitation can justify the means of capital punishment.

In the nineteenth century, Jeremy Bentham tried to make hedonistic utilitarianism scientific by the quantification of pleasure, the non-moral good pursued by all moral conduct. An immediate way in which hedonistic utilitarianism is egalitarian is that it holds that pleasure, such as that of drinking a glass of beer, is not greater just because someone important like the President is drinking it. If the pleasure of drinking that glass of beer is intrinsically the same from person to another, a person's higher status does not mean that her or his pleasure in drinking that glass counts for more than that of others in tallying the total non-moral good in a society.

In another way utilitarian ethics is non-egalitarian. For one thing, not all human beings are equally capable of the same amount of happiness or pleasure. If so, the aim of a society cannot be equal pleasure for all. Human beings may all be equally capable of the pleasure of food, drink, and sleep. But not all are equally capable of enjoying opera or difficult forms of knowledge. After everyone is fed and housed, after everybody enjoys these common pleasures that do not require unusual education or refined taste, the overall score of non-morally good experience in a society can be increased by building museums or concert halls for the few—even though most people never go. Jeremy Bentham, was a hedonistic utilitarian, holding pleasure as the only non-moral good. He held that the value of reading poetry is the same as that of drinking beer if the amount of pleasure is the same. The utilitarian standard of the greatest amount of pleasure raises the question of how to quantify pleasure. In an attempt to make utilitarianism more scientific, Bentham sought to quantify the amount of pleasure in a given experience. He rated pleasures by different criteria.

- 1. Pleasure lasting longer is greater than one that is briefer.
- 2. Pleasure that is more intense is greater than one that is weaker.
- 3. Pleasure that is pure, unmixed with pain, is greater if not accompanied by pain.
- 4. A pleasure causing more pleasure after, e.g., growing friendship, exceeds one that does not.
- 5. Pleasure that is shared by many is greater than one that is not.

- 6. By human nature A pleasure occurring soon exceeds one that is deferred even if the two pleasures are intrinsically the same in quantity.
- 7. Equally by human nature a pleasure that is certain to happen exceed that is doubtful.

Two of these seven criteria can conflict. More intense pleasures tend to be briefer in duration, for example. But if one ranks a pleasure on all dimensions, a score for each pleasure is possible. Yet how exact such a score can be is questionable. Consider how restaurants might be rated in a ball-park way by incognito reporters on a one-to-ten scale. Bentham is commonly thought to have tried to over-quantify pleasure. Thinking so much about a pleasure one is having tends to decrease its amount. People who think much about the quantity of pleasure in their lives experience less pleasure. Pleasure begot is pleasure forgot. Go with the flow without so much analysis of the pleasure you are having.

Assuming agreement can be found on the amount of pleasure one is enjoying, a second question that arises is the fairness of its distribution between people. The utilitarian standard is the greatest overall good enjoyed in a society. What troubles many is that the greatest overall good can be distributed in unfairly. Given a hundred units of good in a society of three people, one person might have 70 units, a second 25 units, and the third just 5 units. Or, which seems fairer, each might have $33 \frac{1}{3}$ units. In both cases the total amount of pleasure would be the same, but one situation might seem to be less just than the other.

The utilitarian standard of the greatest good *for the greatest number of people* makes it sound that equality and fairness count. Yet not everyone has the same amount of pleasure, but everyone who has pleasure has her or his pleasure counted in adding the total pleasure of a society. But if the fairness of the distribution of pleasure counts, we no longer have *strict utilitarianism*. Strict utilitarians measure a society only by the greatest overall happiness in society, however distributed. Yet we are now being led to another norm: *fair distribution* of the maximum good society has to distribute. Our ethics now has two virtues: justice as well as the total amount of pleasure in a society.

If we need to add a rule of just distribution of good, we need a *criterion* such distribution to guide us. To say that people should be treated fairly with no indication of how this can be achieved makes no sense. Saying that we ought to be *just* does not tell us what in particular we ought to do. To only say that each deserves justice is to go in a circle because justice is *by definition* what one deserves, and we never know exactly what anyone deserves. We must now research alternative

criteria of just distribution, not just its *definition*. Equal income, need satisfaction, achievement, an equal chance to fulfilling one's ambition in life, or equal respect everyone's basic human rights?

And so we are led to a conflict between strict *utilitarianism* and *individual human rights*. It seems unjust for anyone to be sacrificed against his or her will for the overall good of society. Is it fair for one to be convicted just because the public perhaps feels falsely reassured that the criminal is no longer on the streets? That violates the human right not to be treated as guilty until proven innocent. That the sacrifice of an innocent person might advance the general good does not eliminate the injustice. It is unfair for anyone individual to be a scapegoat, punished for a crime not committed. If you knew you lived in a society that could make you scapegoat, you would live in fear. Or you might try make others scapegoats in order to protect yourself.

A prisoner named Wayne Williams has served a life sentence for serial murders in Georgia. He has claimed that his conviction only served to make people in Atlanta feel safer on the streets, while the real murderer was never tried. We do not know that Williams is innocent. The point is that being an innocent scapegoat is a scenario allowed by strict utilitarianism. Forced sacrifice of the innocent to the general good for national security also seems unjust—though no injustice occurs if one voluntarily sacrifices oneself.

It is also unjust in war to violate the human right to life of innocent civilians in the wrong place at the wrong time—especially dismissing it as “collateral damage” as the most efficient way to pursue national security. It is unjust unless security could not have been attained with less loss of innocent life. So strict utilitarianism, without adding respect for human rights, seems unjust. Yet this critique of utilitarianism is not a justification of strict human-rights based ethics. But it is part of the lead-up to Chapter Fourteen presenting a positive case for a strict human rights ethics, which allows that achieving the greatest possible perceived happiness in a society may be secondary to achieving respect for the human rights for as many as possible.

Utilitarianism cannot be fairly implemented in global society as a legislative program without world government. Only governments can legislate and issue executive policies for the greatest happiness of the greatest number. The United Nations as an intergovernmental organization cannot do that. It does issue yearly non-political, expert-driven rankings of nations, assigning a happiness index to each nation measuring the perceived average happiness of its residents. It also issues and expert sustainable development index to each nation, which seeks to measure each nation's progress in economic and social development relative to its use of renewable resources. The UN does not rank countries by any human rights index, which would necessarily be politically charged. Instead it renders yearly country-by-country reports of a human rights index database of

UN expert country reports in reply each country's periodic self-reporting on its progress in human rights.

Yet a problem affects non-strict utilitarianism combined with justice.⁵¹ The problem is that what passes as justice in a sovereign nation may not be justice in global society. True justice in a globalized world is global justice.⁵² Utilitarians believe that laws and policies should ideally be determined by a legislature following expert advice and subsequent policies of legislative commissions, national agencies, or executive orders. The problem is that the world is divided into about 200 largely sovereign states. Each country can pursue the greatest just good only within its territory. The unrealistic utopian alternative is world government legislating for the justly-distributed good for the whole world.⁵³ In the still current system of sovereign states, a state that pursues the greatest good on its territory can act against the greatest good of another state or the world. For example, a country pursuing its greatest good might use most of the upstream water in a river, leaving insufficient water downstream for another country.

Passing on to a second objection, how evident is the first principle of utilitarianism that pleasure or feeling happy is intrinsically good and its opposite intrinsically bad? Utilitarians believe that practically all people share this intuition. It may be viewed as the first principle of utilitarian normative ethical theory. Yet is the statement that suffering is intrinsically bad self-evident? Is the truth of any statement self-evident? Many statements—such as the statement that the earth is flat—have proven false. When any alleged source of knowledge, such as self-evidence or obviousness, has deceived us repeatedly, we should be suspicious of relying on it. In fact, as we shall see, the statement that pain is always bad is not self-evident because it, like many apparently obvious statements, is likely not only debatable but false. To say a statement is self-evident is dogmatic, not rational. Rationally we should be open to the possibility that our beliefs are false. Rationality is openness to the correction of error.

As for the statement that pain or suffering is always bad, forms of low-intensity suffering appear intrinsically good by lending depth and substance to certain statements by individuals with extensive experience of life. Socrates lamenting the human condition carries more weight than teenager saying the same thing. Another example is the pain of hot spices, which may accentuate the overall good of certain meals. Pain appears capable of being an intrinsic component of an experience that is overall intrinsically good. So “Suffering is intrinsically bad” has to be qualified. (Yet once we know that qualification has proven its worth in truth seeking, further discussion can always justify further qualification?)

John Stuart Mill, the most noted British utilitarian later in the nineteenth century, advocated

freedom of thought because it sometimes advances the greatest general good more than trained scientific experts.⁵⁴ Individuals who are not certified experts should be free to experiment and reflect on different self-regarding life styles for themselves to see which most advances their respective greatest good. Everyone is unique, while experts tend to generalize over all individuals.

The right to individual freedom of thought was justified by Mill by the utilitarian standard of maximizing the overall good of society by maximizing the good of all unique persons. This right was not by itself the moral ultimate standard, but was subordinate to utilitarianism. Freedom of thought corrects mistakes that cause human unhappiness. A medical doctor, not knowing the true causes of symptoms, may mistakenly advise one to retire. Or, noting real stress, the doctor may recommend retirement not taking into account that the patient assigns higher value to the pursuit of ambition than to relief from stress. Stress is at least low-grade pain. But if an individual is not a hedonist, endurable stress may be an inseparable part of the good life in intrinsically good experience of progressing toward an individual's life goal. Ask a professional athlete in a physically demanding sport.

Mill was also different from other utilitarians by distinguishing resulting non-moral goods qualitatively, not merely quantitatively as Bentham did. Mill held that the pleasure of reading poetry or going to the opera, even if the quantity of pleasure is the same, may rank higher than that of drinking beer. He distinguished lower-class from higher class pleasures. To know a pleasure is higher, we should not ask one who has only experienced pleasures like beer. We should ask the person of experience who knows both opera and beer. Mill was not a strict utilitarian upholding the sole standard of the quantitatively greater good. His standard took into consideration the higher or lower quality of experienced good.

I conclude with what seems a most fatal objection to utilitarianism. Mill in his book *On Liberty* justifies individual freedom of thought by assuming utilitarianism as a first principle rather than exercising freedom of thought to support utilitarianism. He justifies individual freedom of as a means of discovering what makes for the greater happiness of individuals in ways in which external expert counselors may be incapable.

An individual may know her- or himself best. Individual freedom of thought is presented as a way of augmenting the total amount of individual happiness and thus of the total happiness in society. This means that if Mill's utilitarianism is unjustified, his argument for freedom of thought is unjustified. His utilitarianism justifies only *restricted freedom of thought*, restricted to implementing utilitarianism. Yet utilitarianism unjustified by *unrestricted freedom of thought* is left unjustified as

a question-begging first principle. The question is whether utilitarianism is justified. Freedom of thought in true inquiry can question anything, including utilitarianism. Yet Mill's freedom of thought itself is justified only by assuming utilitarianism, which is left as the un-argued first principle that happiness is intrinsically good. (He attempted to argue for this principle, for instance by saying that happiness is *desirable* because it is the only thing that can be desired for its own sake. But most critics object that the desirability of happiness in the sense that it ought to be desired does not follow from its factual desirability in the sense that its universality can be desired.)

The only freedom of thought that could justify utilitarianism is *unrestricted* neutral freedom of thought that presupposes no doctrine like utilitarianism. If doing good is the final standard, utilitarians cannot answer the question "Why do good?" If there is a good reason that justifies doing good, doing good is justified. Yet doing good is then demoted to only the second highest norm. The higher norm is that of promoting and exercising as widely as possible quality freedom of thought in search of the truth. Either utilitarianism is justified or it is not. If the utilitarian norm is asserted without justification, no reason to adopt it exists. But if unbiased freedom of thought should refute utilitarianism, we conclude that it is false.⁵⁵ So utilitarianism is either arbitrary or false. Either way no reason exists to accept its norm as ultimate. Utilitarianism has no leg to stand on, and is simply refuted.

⁵¹William Frankena defended non-strict utilitarianism combined with justice. See W. Frankena, *Ethics* (Englewood Cliffs, NJ: Prentice-Hall, 1973).

⁵²See, for example, *Hegel and Global Justice*, ed. Andrew Buchwalter (Springer: New York, 2012)

⁵³Since world government is common seen as negative, far from a moral ideal, see Clark Butler, "World Governance, World Government," *Human Rights Ethics: A Rational Approach* (Purdue University Press, 2008, Chapter 14, pp. 223-246. I argue that better world governance is an available practical step towards non-oppressive human rights-based world government.

⁵⁴John Stuart Mill, *On Liberty*, 1859.

⁵⁵We have already suggested that happiness tinged with unhappiness over the human condition is a deeper and higher good than pure pleasure. Yet this is not self-evident, but is subject to critical reflection by freedom of thought.

Chapter Eleven

ARISTOTLE'S STANDARD OF PERSONAL HAPPINESS

Aristotle's (384-322 BCE) particular contribution to ethics is a community-minded ethical egoism, prefiguring what is today known as "communitarianism." This is also a form of ethical egoism, but not the exclusively individualistic kind described in Chapter Nine. As a communitarian version of ethical egoism, it holds that human beings are social animals by nature, each naturally identified other people in a community. An exclusive ethical egoist is identified with individuals sharing the same ethical theory, but they do not form a natural community like an Aristotelian city state.

Yet this community falls short of all humanity. Aristotle's ethical egoism theory is in part inclusive and in part exclusive. The moral ideal is identification with fellow citizens of one's city to the exclusion of others. Aristotle holds that, by our species nature, we are all rational animals. Our innate rationality is a universal human potential, even if many fail to actualize it. Yet he asserts that many are only weakly rational, while Greeks are highly rational. Thus persons differ by both the degree to which they realize their higher or lower inborn rational potential. Aristotle insists that women have less rational potential than men, and that non-Greeks have even less and so are "natural slaves." The Catholic Church, greatly influenced by Aristotle in ethics, qualifies itself by noting that Aristotle predated Christian egalitarianism.

Nation states are a post-medieval product of the modern world, so Aristotle was not an ethical political nationalist. He opposed states encompassing cities within one city singled out as the capital. He also opposed imperial states, though he was a tutor to Alexander the Great who created a vast Greek empire in place of Aristotle's ideal of the city state. Unlike an empire, a city state has citizens who share the same political constitution and a common culture and language.

An empire contains different nations over which one rules as the imperial nation. Aristotle held that the final moral standard for each is her or his own happiness. Yet since we are naturally social, one is happier when one's fellow citizens are happy. The final standard of right action is still the happiness of the agent, so your final standard remains yours, and my mine is mine.

I argued in the last chapter how a contradiction inhered in fully exclusive individualistic ethical egoism: everyone ought pursue her or his respective self-interest, but when the self-interest of one conflicts with that of another one must be both for and against the other. Since egoism is a

universal ethical theory, one should pursue your interest even if it is at the expense of mine, which I ought also pursue!

We see a sharp example of this in a civil war pitting brother against brother within a city. Yet such a war is not a failing of Aristotle's ethics, but of the citizens of a city to remain faithful to its public assembly. In his time the common sovereign political unit was the city state, i.e., the *polis*. His personal ethical standard included the best interest of his adopted city Athens. If a true Athenian identified with Athens for his or her happiness, the happiness of one Athenian would not conflict with that of his co-citizens, who by discussion come to common agreement.

Yet to a degree there remained a contradiction in Aristotle's ethics. As an *urban* ethical egoist, he held that every city ought to pursue the happiness of its citizens. But if the welfare of Athens conflicted with that of another city, say that of Sparta, Athens' welfare ought both to prevail and yet not prevail, since the well-being of all city states ought also prevail. (Were Athens, contrary to fact, a world city without possible rivalry with any other city, Aristotle's urban ethics would be free of the contradiction faced by its partially exclusive ethical egoism.)

We are most rational when we are in dialogue with other rational beings in the civil life of a local city state. The happiness of each rational animal is the *end-in-itself* that each pursues for its own sake. It is no longer a means to a higher goal. Happiness is a biologically built-in end, not a chosen end. Each chooses only one or another more or less successful means to happiness. Some choose money as their means to happiness. Yet this means is unlikely to make them happy if it serves no higher end such as social life with friends and family or informed citizenship.

Ask why you are doing what you are now doing. Why are you reading about ethics? For students, the answer might be that you want to get a good grade in a class. But then the question arises: why do you want to get a good grade? Suppose you answer that it is because you want to graduate. But then, why do you want to graduate? Because, you say, you want a good job. Why do you want a good job? Maybe you answer you want to have a high living standard. But why?

As such questions follow one another, the series cannot be endless. We will eventually be at a loss for an answer. The most we might utter is that we want our last stated goal *just because*: Just because we want it to live well. We start talking in a circle. I want a good life simple because I want it. Yet logically one cannot justify a goal simply by saying you want it. If your life goal needs a justification, it cannot justify itself. Nonetheless, your circular reasoning, which is not valid reasoning at all, has a useful purpose. It indicates you have found what you take as your highest goal, an *end-in-itself* that is no means to any higher end.

"Living well" is what Aristotle calls "happiness," your highest standard. You cannot always

be pursuing a means that is a means to some other higher means. In that case your means would remain unjustified. An unjustified means is not worth seeking for anyone human who realizes one's potential for being rational. The series of means to further means must stop somewhere. If it did not, no means would be a means to anything. It would be left hanging in mid air. Any means you employ would then be no means at all. The series of means must end in an end-in-itself that is no means to a further end, but that can justify all preceding means.

We often think that "happiness" is an overall feeling of contentment in which everything for the present is going our way. Yet this is not true happiness for Aristotle. Happiness is no feeling at all. Aristotle was a physician, not just a philosopher, and as such he identified happiness with good health. He brought the feeling of contentment in, not as the *definition* of happiness, but as a sign or *criterion* that you are in good health and so happy. If you do not have that feeling either because some localized pain, or because of a general feeling of being down, if it does not go away you should probably see a doctor.

Aristotle went on to identify happiness, understood as good health or flourishing (*eudaemonia*) with the exercise of all your natural faculties in a balanced way. His moral ideal was a sound body and a sound mind. Every organ or faculty has its natural purpose. The eyes are for seeing, the genital organs are for reproduction, and so forth. The Catholic Church has largely adopted the ethics of Aristotle, though with certain limitations. The Church calls Aristotle's ethics *natural law ethics*. To become happy, which is to behave as you ought, you must behave according to the unwritten laws of human nature.

It would be an oversimplification to suppose that a human organ has only one function. By a natural law the eyes are for seeing, but they can also have unrelated secondary functions that are equally natural. If a you optionally use your eyes to wink, you use them in a way to express yourself, which is compatible with their primary use for sight. Some women use their eyes in seduction, and there need be nothing unnatural and hence immoral about such a secondary use, since sexuality is part of human nature.

Aristotle's view that each organ has a primary natural function can be used to argue that homosexuality is immoral, although Aristotle nowhere condemns it. He was a pagan philosopher, and same-sex relations were a custom in pre-Christian Greece. This is reflected in the speech by by the playwright Aristophanes in Plato's dialogue *Symposium*. The genital organs by their very name have reproduction as a natural function. Yet it does not follow that their use for any other function is immoral, or that same-sex couples are necessarily unhappy or ill.

If happiness for humans depends on the natural laws of the human species, Aristotle's way

of promoting happiness and health by studying human nature recommends itself. Yet the natural laws of a species is not like the laws of modern physics, to which there can never be an exception. It is not possible for a body *not* to follow the law of gravity. But it is naturally possible for a human being to overeat, which Aristotle does criticize as a vice, a vice of excess.

For Aristotle, the law of human nature lies in the *potential* for exercising faculties or potentialities in a moderate and compatible way. So many human potentialities have been discovered since Aristotle by anthropologists studying the global range of all human societies that that it would be hard for an individual to moderately actualize all of them. It has come to appear narrow-minded to condemn a practice merely because it is not the accepted norm in one's own society. Yet some practices, such as robbery are incompatible with civilized city life anywhere.

For Aristotle as a physician, happiness is health. The health of other species depends on their specific natures. Yet what makes a healthy pig does not make a healthy human being. Pigs have a right to act like pigs, but we have no such right. Every animal has a natural right to exercise all its natural faculties in a balanced way.

For Aristotle, the nature of human beings—their essence—is to be *rational animals*. Rationality is thus an essential aspect of being human. It was Aristotle who introduced into our ordinary language the distinction between *essential* qualities and *accidental* qualities. Human beings are born accidentally male or female, barbarian or Greek. Yet Aristotle insists that children, barbarians, and women are at most weakly rational and only males can truly be rational. Indeed, since the distinctions between both *form* and *matter* as well as between *potentiality* and *actuality* in our ordinary language also come from him, he has a rightful claim to be considered *The Philosopher*—as he was considered in the Middle Ages, in the Islamic and then European worlds.⁵⁶

The essence of a human being consists in a hierarchy of potentialities, but does not necessarily include their actual realization. In other words, rational animals do not always behave rationally. Rather, they are only potentially rational. They are not gods, since they are not purely rational, but remain also animals, and even have a plant-like dimension. Such plant-like faculties, which are shared with flowers and trees, include sleep, reproduction, breathing, eating, drinking, and defecating. The animal-like faculties are mobility and sense perception to guide locomotion.

Our five external senses—sight, hearing, touch, smell, and taste—are closely connected with our potential for movement. Plants are stuck in the ground and lack the five human external sense organs, and any need for them. Within the hierarchy of potentials, our animal potentials are higher than our plant-like ones, but our rational capacities are higher still. Yet actualization of a higher potential presupposes that of a lower potential. A sound body that gets physical exercise is essential

to a sound human mind. On the other hand, eating and drinking in subhuman animals are unaccompanied by the potential for thinking theoretically.

The rational faculty is both theoretical and practical. Theoretical reason knows the truth by contemplating it for its own sake. Human beings are unique in this world in having curiosity and wonder about the truth. Practical reason knows the truth in order to guide action. An unhappy person is a disordered person in whom the plant faculty or animal faculty dominates the rational faculty. For example, an obese person may be someone in whom the gut rules over reason. Worse! Reason, no longer governing the person's behavior, is reduced to a mere means to rationalize eating more.

All seek happiness, but disagree as to what makes for happiness. Some say money, others say power over other people, and still others pleasure or honors. Yet, thinking that something will make you happy is insufficient to make you happy. Someone who thinks that money will make them happy and actually comes into some money may still often find they are unhappy, unless, that is, the money is dedicated to a higher purpose. To be healthy and happy you have to use your rational potential and know your species nature.

To be a sad but wise Socrates, contemplating unrealized human potential, is still better than try to be a happy pig. Sadness in contemplating the human condition can accompany a rational assessment. Perfectly enduring happiness is for the gods, and is beyond human ability. Even an overall happy human will have some unhappy days.

For Aristotle, happiness is a balanced exercise of all your faculties in which the rational potential actually governs and regulates the rest. Distinguishing between practical and theoretical rationality, we take governing as the natural function of *practical reason*. It strives to overcome apparent conflicts and produce a harmonious balance in the exercise of one's natural powers. There is no inevitable conflict among a human being's faculties.

Theoretical reason is the power to know the truth for its own sake even without any present practical application. It is motivated by natural human curiosity. Depending on the situation, use of your mind may detract from happiness if it means knowing the evils of the world around you. Some people may deceive themselves into thinking that ignorance is bliss. But for Aristotle, it is better to know than to be ignorant. Consider for example, whether, at the end of your life, it would be better to know if your husband or wife had been unfaithful? Aristotle holds that whoever has actualized the highest theoretically rational faculty would want to know. Such knowledge may cause pain and upset what had been a happy life. but is still better than ignorance. The aim is to end life with at least what Aristotle calls *greatness of soul* if not full happiness.

Indeed, for Aristotle we can never be sure that a person is happy until she or he is dead. Suppose that, toward the end of a predominantly happy life, great misfortune befalls your family. Your remaining days will be not fully happy. You may die somewhat dejected and at most hope to make peace with yourself, knowing you have done all you could for the better. Aristotle made the point by saying that a dove is a sign of summer coming, but one dove does not make a summer, just as one cold day in the summer does not make for winter. Summer itself is not continuously warm, but is so ‘only approximately and for the most part.’”

We are born with our potentials largely un-actualized. Yet we can learn to be happy. Happiness depends on *virtues* (morally good habits), not on reflecting on each situation and applying a general moral rule for a class of situations—the approach ethicists call rule consequentialism. That is why Aristotle’s ethics is said by moral philosophers to be a *virtue ethics* rather than a rule-governed ethics. By virtues that have been ingrained through moral education in our minds—such as honesty or generosity, we simply begin to *see* by habit what is the right thing to do in each situation.

Yet the distinction between virtue ethics and rule-governed ethics is not as clear as some moral philosophers think. The habitual virtue of honesty, for example, is an application of the general rule that people ought to tell the truth. The ingrained virtue simply makes it spontaneous to follow the general rule. One no longer needs to take time to reflect on the situation and the applicable general moral rule each time one is called upon to act. The time taken for such reflection risks missed opportunity, not being ready to act until it is too late.

Virtues are morally good habits instilled in us by our parents, assuming we are lucky enough to have good parents. If we are unlucky and do not have good parents as role models to imitate, as adults we may realize the fact and seek out other role models. Some people choose a spouse for that reason.

Vices, on the other hand, are morally bad habits. Typically, for every virtue there are two opposite vices, the vice of excess and the vice of deficiency. Here are some examples: too much fearlessness and you are foolhardy. Too little fearlessness and you are a coward. Too much control of appetite and you are insensitive to normal pleasure. Too little control of appetite and you are over indulgent. Moderation in eating and drinking is the *happy medium*. So, virtue requires that you hit the *golden mean* between opposite vices.

You should be moderate, but should not be moderate in virtue itself. You should be extremely virtuous, yet being virtuous typically lies in moderation: in not going overboard nor yet falling short of the mark. Yet, each of us is born with an *individual nature* as well as a species-wide

human nature. If you as an individual are born with a tendency toward cowardliness, you may try to overshoot the mark and aim for fearlessness. You probably will not attain true fearlessness because of your individual nature, but this may be your best chance for at least rising to the level of courage.

Virtues are different from mere *personality traits* like charm or a sense of humor. We are born with personality traits, while we learn virtues and vices by the spontaneous imitation of role models around us. Individuals also differ at birth in terms of their *talents*. And after birth they differ in the *ends* that they choose to pursue. That is why we may distinguish between the *species essence* (the general nature of your species) that you share with other individual specimens of the species and your *individual essence* (individual nature) by which you differ from others individuals in the choice (or non-choice) of a life plan.

There are four *cardinal virtues*. The first is *temperance*, exemplified by the particular virtue of the vegetative faculties shared with plants. Then comes *courage*, the particular virtue of the higher animal faculties. Thirdly, there is *wisdom*, the particular virtue of the highest rational faculty. I have already distinguished between practical reason, which guides action, and theoretical reason by which we seek to know the truth for its own sake. The fourth cardinal virtue is *justice*, the *complete virtue* of the human being, distributing to each part of us its due—the vegetative plant-like part, the animal part, and the rational part.

The justice of getting what you—or some part of you—deserves is termed *distributive justice* by academic philosophers. One ought to distribute to different persons, whatever *non-moral good* (happiness for Aristotle) that your society has to distribute, and one ought to do so according to whatever each member of that society deserves. For the moment we leave open the question of how to determine what each deserves or *merits*.

The ideal situation in political terms is that each individual human is not only a citizen of a good state, but even can be considered such a state “writ small”—just as, for Plato, the state is the individual “writ large.” To say this in another way, individuals are culturally an expression of their larger society. Each citizen is more for less perfectly that society in miniature. In the language of philosophy, each member of a society is said to be a *microcosm* of her or his larger society. The term “cosmos” means the universe, the whole natural world. Since “micro” means “little” and “macro” means “big,” the universe or cosmos is the “macrocosm.”

However, ordinary human beings without experience outside their local community are not *cosmopolitan*. They do not view themselves as *citizens of the world*. Locals who are not well-travelled tend to view their local town as the whole world, and are said to be *provincial* rather than *cosmopolitan*. Being provincial is not necessarily bad, even according to some great moral

philosophers. Indeed, for Aristotle, who identified with Athens as his city state, being provincial was a moral ideal. Other city states—including other Greek city states but above all non-Greek ones—were foreign, barbarian, and to be defeated, enslaved, or conquered by one's own city state. Thus, Athens created an empire of Greek city states before Alexander, Aristotle's perhaps unfaithful student who struck out for a Greek global empire.

Distributing non-moral good according to what each person deserves is the definition of justice in the sense of distributive justice. Yet to say you ought to get from your society what you deserve does not really tell us what you deserve. We need some *criterion* or earmark of just distribution to tell us that. The true criterion justifying just distribution has long been debated. It might be wealth, pleasure, need, opportunity, honors, or achievement. Yet for Aristotle the scientifically correct standard for distribution was the individual happiness of citizens.

Besides the question of the standard by which society distributes the goods it has to its members is the question of just distribution by each individual of the amount of attention and care given to each part of her- or himself—meaning the vegetative part, animal part, and rational part (both practical and theoretical). This question is answered by calculating how much of your energy and resources should be given to each part of your nature in order to maximize your happiness.

Alongside distributive justice, Aristotle distinguished the *compensatory justice* of giving back to somebody what you have taken away from him or her through crime (dealt with by criminal courts) or unintentional damage or harm to him or her (dealt with by civil courts). Thirdly, there is justice in exchange, *the justice of the just price*. For example, a gallon of milk that costs more than a family can afford to pay to feed a baby is being sold at an unjust price. With such examples Aristotle shows he did not hold that an item should always be sold at the highest price the market will bear.

I have said that temperance is the mean between dissipation and being insensible to normal pleasures. Courage is the mean between cowardice and foolhardiness. Wisdom is the mean between impulsiveness and so much fear of error that one never acts. Justice within the individual is the happy and harmonious balance between temperance, courage, and rationality. A human being is not happy by going off the deep end by doing little but weight-lifting, drinking wine, or being lost in theory most of the time. Yet beyond the cardinal virtues, there are also particular virtues, each with its vice of deficiency and vice of excess:

- Magnificence is the mean between vulgar spending and stinginess. It is virtue in matters of spending money. This was a virtue more affordable for aristocratic class.

- Pride is the mean between vanity and humility. Note: pride was a virtue in Aristotle's pagan, pre-Christian value system, while Christians came to speak of the vice of the sin of pride.
- Ready wit it is the mean between being a clown and being a bore.
- Friendliness is the mean between quarrelsomeness and getting a bit too friendly by invading another's space, say, talking six inches from another's face.

We can learn much from Aristotle. Many of his ideas can be taken over by different ethical theories, and in fact by whatever normative ethical theory proves true. Yet his ethics is open to criticism. First, recall the conclusion in the previous chapter that we reached about exclusive ethical egoism in a society of rivals egos and scarce goods. Insofar as Aristotle is also a somewhat exclusive ethical egoist, the same criticism applies to him. Aristotle is ego-identified with his city or country, but not with all humanity. (If Athens were a nation in today's sense, he would likely be an ethical nationalist, not a universalist or, in current terminology, a globalist.)

As a result, given a conflict between his Aristotle's city and another, he would fall into the contradiction of believing every city, like every individual in ethical egoism, ought to pursue the happiness of its citizens. He would then have to conclude that the self-interest of Athens ought to win out and yet *not* win out, since the self-interest of other cities, including the self-interest of Athens' enemies, like Sparta, ought to also prevail. Thus, Aristotle's ethics cannot be universally used in applied ethics without a self-contradiction in the world as we know it.

A second problem stems from Aristotle's belief that all human beings are rational, but not equally rational. Recall that foreigners and women are only *weakly rational*. But more than this, Aristotle thought that some human beings were *natural slaves*. They were rational enough to recognize their master's voice when they heard it, but not enough to rationally govern themselves. One problem is that, since rationality is a distinguishing mark of human nature, Aristotle seems to end up saying some humans are more human than others. This is like saying that some horses are horsier than other horses! However, logically, an animal is either in the class of horses or is not. There is no middle ground. There is no greater or lesser degree of being a horse. And the same is true with a human being.

And there is an objection to Aristotle that applies to all classical ethical theories, including all more or less exclusive ethical egoisms. My aim is to show that it applies to all classical and current ethical theories except human rights-based ethics. Here is the argument. Each normative ethical theory has some highest norm or standard or other. This is the standard of choice or

decision-making that justifies all other rules and all actions according to the theory. Thus, according to Aristotle, the highest standard for everyone is egoistic communitarian happiness. Since this standard is built into human nature, Aristotle holds that no one can do anything but pursue his or her self-interest, and ought not to do anything else. (Remember: “cannot pursue anything else” implies “it is not so that anything else ought to be pursued.”) Secondly, Aristotle believes that his personal self-interest includes the self-interest of Athens--his city, the one with which he identifies.

Every action ought to be a means to happiness, but happiness is an end-in-itself which is not a means to anything higher. If Aristotle merely asserts that standard to be the highest, the standard is arbitrary, and there is no reason to accept it. However, if the standard is instinctive, we cannot help pursuing it, which justifies the pursuit of agent happiness simply because it is inescapable. Yet if a reason is given to accept it, happiness ceases to be the ultimate standard. The reason that justifies pursuing happiness becomes the ultimate standard.

In sum, the highest standard turns out to be not the realization of happiness, as Aristotle thought, but rather rational discussion by which different lower standards (e.g. my own exclusive happiness vs. the happiness of my whole family) are all debated, criticized or defended, justified or refuted. Aristotle justifies agent happiness as the unchosen instinctive end in itself by his science of human nature. This science tells him that by the law of human nature we can do nothing else than pursue agent happiness. “Cannot” implies “Ought Not.”

An average human, who is no scientist of human nature, pursues his or her own happiness by being naturally led to do so. Scientists other than the average moral agent reflect on (or raise doubts about, or refute) what, without grounding it in any justification, the average person holds. Yet it is the nature of science as we know it to be self-correcting. So if Aristotle trusts his science of human nature, he ought grant that future results in this science might refute his particular ethics. Science is fallible, not grounded in fixed first principles.

If the actualization of happiness is just spontaneously assumed to be the final standard, there is no binding reason to accept it as ultimate. If it is refuted by discussion among moral philosophers or by changed by historical conditions, it is not an acceptable ultimate standard at all. If it is justified by discussion, it is an acceptable standard, but in that case the ethics of fairly discussing the truth or falsehood of all theories proves to be the truly higher standard. This new contemporary ethics, lying beyond any classical or traditional ethical theory found in the textbooks up to now, has been called *discussion ethics* or fallibilism. The contemporary the German philosopher Jürgen Habermas is among those who have given reasons to support it.⁵⁷

When Aristotle says you are incapable of pursuing anything but your personal happiness, the

reply is that by his own admission the practice of theoretical reason in discussion and logical argument is the crowning achievement that perfects your happiness as a rational animal. Yet, we display our capacity for theoretical reason and discussion even if it shows Aristotle's personal provincial happiness ethics to be false.

⁵⁶The conceptual framework of matter/form and essence/accident is given in Aristotle's brief text *The Categories* (<http://classics.mit.edu/Aristotle/categories.1.1.html>) and in the first book of his (*Metaphysics* <http://classics.mit.edu/Aristotle/metaphysics.html>)

⁵⁷"Habermas's Proceduralist Justification of Human Rights" in Clark Butler, *Human Rights Ethics: A Rational Approach* (West Lafayette, IN: Purdue University Press, 2008, pp. 77-104.

Chapter Twelve

THE COSMOPOLITAN COMMUNITARIAN ETHICS

OF THE STOICS

The ancient Greek ethics of Stoicism, which came after Aristotle, is a communitarian version of ethical egoism in which the final non-moral good pursued outwardly is ego-identification with fellow humans everywhere. Inwardly it is individual peace of mind. In reaction to the fall of the independent city states that Aristotle knew, Stoics rejected the Aristotelean ethical norm of individual happiness of a good citizen in a territorially limited good state. The result of morally right action becomes the psychological self-satisfaction of knowing one has done one's duty as much as possible to help create a more widely extended civilized world. A universal civilized world, known as the cosmopolis, is a public moral ideal beyond realization until enough human beings of good will allow reason rather than passion to govern their thought and action.

G. W. F. Hegel, shortly after the French Revolution, associated Stoicism with the ideal of universal freedom of thought. Yet he held that Stoic freedom of thought was only the thought of freedom, not its realization in the world. The realization of freedom by the world human rights movement began according to Hegel first with the American Revolution, a shot heard around the world. The path to its global realization was inaugurated by the French Revolution. Yet Hegel was overly optimistic in his view of the French Revolution. As a Bonapartist who supported Napoleon to his own death in 1831, Hegel believed to the end of his life that the French Revolution was a global revolution than could not be stopped by the defeat of Napoleon.

The truth is that, granting that Hegel was right that the Revolution was and is unstoppable, he was wrong in thinking that it would soon be globally successful. The age of human rights supposedly inaugurated after World War II by the UN Universal Declaration of Human Rights has been an age of globally far-reaching age of revolutionary human rights idealism that is not over even today. The new age of overtly actual nationalism since 2015—the year many Germans negatively reacted to the admission of a large number of Syrian refugees into their country—has shown that any post-1945 age of human of human rights, since it failed to establish human rights globally, was limited to an age of human rights idealism.

The Congress of Vienna in 1815 inaugurated a very real age of nationalism that kept the peace between the great powers for a century until 1914. The 1945-2015 age of human rights has been a surface phenomenon, an idealistic interlude age of human rights that has concealed a

continuing age of nationalism. World peace has been maintained since 1945 less by commitment to global human rights than by a balance of economic power between the continental nationalisms of America, Russia and China. European nationalism, upheld by French President Macron, so far has lagged. Yet the sub-continental nationalism of a UK separate from continent—threatened by a reunion of Scotland and Northern Ireland with the Europe—has little appeal to the twenty-seven remaining members of the EU.

The ever-so-slow realization of freedom, the world human rights movement, began first with the American Revolution in 1775 and continued globally with and after the French Revolution. Hegel was overly optimistic in his view of the French Revolution, which as a global revolution is far from over even today. As a consequence, let us suppose that Hegel is right in his understanding of Stoic ethics as merely the serene thought of an ideal universal freedom, a thought shaken by its unreality in light of today's continental nationalisms. To take a step further, if Jean Monnet as theoretician of the European Union was right that cosmopolitan political union arises only on the basis of economic integration, human rights ethics as the end of history can now at most be thought. The concluding chapters of this book constitute an attempt to think it.

As long as passion rules the world, Stoics fight the good fight against the way of the world. Their final ethical standard is the individual peace of mind that comes from knowing they have done their duty. This self-satisfaction is the natural reward for having followed one's duty. The self-satisfaction of a good moral conscience is a non-moral psychological good. This makes Stoic ethics a results-driven ethical egoism open to including all human beings, female as well as male, slaves as well as the free.

Activistic vs. Fallback Stoic Positions. There are two ways by which Stoic peace of mind may be attained. One way is to be an activist in an immoral world working to find a way by which the civilized world could be brought closer to realization in the cosmopolis. For example, a Stoic master may model better treatment of slaves by allowing himself to be instructed by the slave in conversation.

The second way of finding personal peace of mind comes after failure of a particular attempt to find a way forward. One concludes that there is nothing further one can do positively, at least for the present time. One's sense of having done one's duty as conscientiously as possible has the non-morally good psychological result of being content with oneself. One should, as the philosopher Descartes once said under Stoic influence,⁵⁸ resolve to change one's will rather than to continue to change the order of the world. In retirement from work in the world in one or another domains, the Stoic is rewarded by peace of mind.

The transition from the first stage of Stoicism to the second, from activist Stoicism to resigned Stoicism, comes upon lost confidence in one's prospects for further success as a Stoic in reforming the world. The frustration is due to the fact that the activist Stoic seeks to realize an ideal human society that is unrealizable, especially assuming the limited resources and technology of the ancient world. The decision by an initially activist Stoic is to let the way of the world take its own course without useless efforts. As a Stoic one may retreat into the privacy of one's life, carve a space in which to tend one's own garden and live out one's days in reasonable peace of mind.

Ancient Stoics are known for being resigned than activist. Their moral ideal was so high that they quickly concluded it was then unrealizable. A Stoic who would reform this or that institution quickly concludes that the ambition is naive. One's duty is to do so insofar as one can. If one begins with the moral idealism of youth, Stoic resignation quickly arises from a correction of initial optimism. One's position as a Stoic is not so much pessimism as meliorism. Meliorism is neither optimism nor pessimism. There is no assurance that one will succeed nor fail. Stoic meliorism means that, by the united efforts of women and men of morally good will, it is possible for tomorrow be a step closer to a civilized world than today, and the day after tomorrow better than tomorrow, but that moral ideal of a civilized world is most likely to remain far from being fully realized.

Yet one is not responsible for all the results of one's action in trying to improve the world. The results are in part beyond one's control. One does one's best and lets the chips fall where they may. Everything happens by natural laws, but despite one's efforts to inform oneself one does not know all the laws. Moral striving is like the target practice with a bow and arrow: one aims at the target as well as possible, but without fretting if a contrary wind prevents success.

Administrators, for example, are not fully responsible for the happiness of those they administer. It is difficult to make everyone happy. One is responsible only for making others as happy as one can. One has some success if gradual improvements can be made. Perhaps, that is why Stoicism was so widely accepted by those who administered the Roman Empire as we shall see.

Ancient Stoics were nostalgic in recollecting the bygone democratic citizenship of sovereign Athens. They idealized a substitute cosmopolitan citizenship in which all may have a voice in debating their destiny. Stoics did not surrender personal responsibility to scientifically trained experts to approach their moral ideal, like utilitarians much later would do. Stoics emphasized conscientiousness and duty-mindedness. Although they renounced the ideal of the independent polis—which was no longer realizable after the imperial conquests of Alexander the Great—they

preserved something of that moral ideal by raising it to a global level. They substituted the *cosmopolis* for—literally the world city—the *polis*.

A major difference between the polis and the cosmopolis is that, however briefly, the moral ideal of the polis was historically realized in ancient Greece, while the cosmopolis had never been realized. The Roman empire aspired to be a global empire, but only advanced by small steps toward the ideal of the cosmopolis without realizing it. Stoic ethics was a results-driven ethics, but the result that motivated the Stoics like the Emperor Marcus Aurelius was individual tranquility of knowing they had joined the good fight without having securely attained the goal. Earnestly aiming at a morally ideal world society resulted not in its attainment, but only in personal tranquility of mind.

The Stoics believed that human morality does not need to be taught like most special natural sciences because, by the light of natural human reason, all humans inwardly know what it is. Since we are all moral beings, we all grow up to be implicitly aware by the age of reason what moral striving is. By the human nature, people do not need any explanation of their natural desire for freedom, equality, and fraternity as a means to tranquility in a universal ideal society. At most, some need their moral duty to be made explicit or recalled. Stoic writings strengthen the moral will of weaker-willed people.

By the initial inspiration of Stoicism, the final standard of right and wrong, tranquility, comes from striving to realize on earth the cosmopolis, the ideal universal human city. The cause of the emergence of this universalistic moral ideal was a change in the political landscape. The sovereign Greek city state had disappeared. The emergence of an ideal cosmopolitan society seemed at least remotely possible to natural human reason by human effort to reform the far-reaching empires that replaced the city state.

Yet the cosmopolis was more difficult to realize than self-government in a local city. Before the internet and the possibility of virtual online meetings, citizens of the world could not physically assemble in a single forum to discuss policy. Now such a global forum is more realizable than in ancient times due to the technology of online forums. People from different ends of the world can come together face-to-face in virtual assemblies in real time. What difference this will make is still to be determined.

The rise of empire and the ideal of the cosmopolis altered the meaning that “citizenship” originally had in the polis. Since people were now governed by distant imperial capitals beyond their control, citizenship in the political sense of self-government declined. The Roman Senate thus became a “rubber-stamp” senate. Senators in Rome had little idea of what was happening in remote

parts of the empire. They lacked the knowledge to challenge whatever the emperor—or US President today—said with his far-reaching tentacles throughout the empire.

Though citizenship in the sense of self-government declined and all but disappeared, citizenship in the Roman Empire grew in another way. Citizenship has always gone beyond voting. Political citizenship declined, but legal citizenship survived and became ethnically diverse. As a Roman citizen one could defend one's interests and rights (what Roman law called “permissible actions”) by appealing to Roman courts. In this sense Roman citizenship still meant something. For instance, as Roman citizen the Apostle Paul, who was instrumental in spreading Christianity throughout the empire, was arrested in Jerusalem. By appealing to his Roman citizenship and he was able to access a Roman court and be released.

The Stoic worldview held that God, also known as Reason or Logos, was the cosmos outside which there was nothing. God was also known as Necessity, the necessary natural laws of the cosmos. To the extent that the cosmopolis existed, it was an expression of divine reason. The cosmos could come to know itself by the cosmopolitan thought of human beings. The Stoics believed that we should use our minds to study the natural laws of the cosmos and act morally in conformity with those laws. In this way we escape the frustration of trying to do what cannot yet be done by natural law. We may never fully realize the cosmopolis, but we may achieve serenity, peace of mind in trying, and in the comforting knowledge that we have tried. The thinking human being at the center of the cosmos is an agent by which the cosmos knows itself, by reproducing within her or his mind replicas of the natural laws of the cosmos lying outside of the human mind.

By the time of the ancient Stoics the local city state was replaced by empire. Primarily by conquest, empire meant placing under one government at least the entire civilized world. Of the two major empires after Aristotle, the first was under Alexander the Great who had been Aristotle's pupil. The second was the Roman Empire. Both aspired to world government by vast conquests. The longer-lasting Roman Empire, without the communication technology of today, governed the greatest continuous extent of territory of any government in history, without achieving world government.

Stoic ethics was used by the Roman Empire as a rationale for its aspiration for world government. Yet the Empire grew by conquest rather than by peaceful negotiation. Thus Rome never embodied the Stoic virtue of universal fraternity. Stoicism originated in Athens, the ancient philosophical capital of the Western world. But Stoicism later found its greatest success in the educated classes of the Empire. It became the widely accepted ethics of those who administered the Empire before its fourth century conversion to Christianity. The Romans, among their conquests,

had a special place in their hearts for Athens and posed as the protectors of Athenian liberties. Though Athens, conquered by Rome, had sent a delegation of philosophers to Rome representing difficult schools of thought, the school thought most widely adopted in Rome was Stoicism.

The ideal of cosmopolitanism was popularized in Western languages by the Stoics. The ideal is still looked upon fondly today by advocates of globalization, but has been opposed since 2015 by a rebirth of exclusive ethical political nationalism. To be a cosmopolitan is to be a citizen of the world, someone of education who feels at home wherever he or she goes. A cosmopolitan Stoic can converse comfortably with persons throughout the diverse cultures of the world. The opposite of being a cosmopolitan is to have a small-town mentality, to be provincial and ill at ease in a big city.

The ethical norm of the activist version of Stoicism was the good conscience of knowing one has striven to gradually realize the cosmopolis by increasing one-on-one relationships of mutual respect between individuals. Action was right or even obligatory if it advanced the cosmopolis. Yet, this goal proved difficult due to the means of conquest and the Empire's failure to embrace the entire world. Within the Empire, the cosmopolitan ideal was corrupted by power politics and institutional instability in transitions to a new emperor.

The Stoic response to frustration was to reduce one's ambition. The cosmopolis could not be achieved by individual Stoic slave-owners striving to overcome master-slave relationships by dialogue with slaves or their emancipation. Human beings still largely showed a weakness of moral will. Slavery, not eliminated by some Stoic masters who sought to treat their slaves more humanely, could only be abolished by a revolutionary overthrow of established institutions, but that was not yet technologically or economically feasible.

Since there was no serenity in moral striving to do the impossible, the ancient Stoics retreated to their fallback position. The ideal republic of thinking persons, the cosmopolis, hovered above the real world with its messy politics, struggle for power, and military adventures. Stoics sought serenity by resigning themselves to an immoral world rather than by seeking the serene good conscience of moral heroism against what seemed impossible odds. They tried to block this real world out of their minds, and to serenely cultivate Stoic oneness with the cosmos and its natural laws in the privacy of their minds. There a Stoic, without the fear of punishment, could privately think whatever he wished about the powers that be in the real world. True freedom, the public exercise of freedom of expression as a human right on earth, was never attained.

No wonder that the philosopher G. W. F. Hegel, shortly after the French Revolution, associated Stoicism with freedom of thought, but held that Stoic freedom of thought was only the thought of freedom. The realization of freedom, the world human rights movement, began first with

the American Revolution and continued globally with the French Revolution. Yet, as noted, Hegel was overly optimistic in his view of the French Revolution which as a global revolution is not over even today.

On occasion, Stoic Roman masters or even an emperor, by being mild and respectful, elevated a slave into an equal thinking being capable of enlightening as well as being enlightened in conversation. However, in an earthly society, the slave would return to being a slave, and the emperor would remain an emperor. The emancipated Roman slave Epictetus (50-135 AD) was a Stoic philosopher. The Roman Emperor Marcus Aurelius (121-180) was a Stoic philosopher. But systematic master-slave relations were left unaffected by exceptional Stoic moral striving. At least, through Stoic moral philosophy, the Roman Empire realized that it was not a perfect society.

Stoicism was the first major Greco-Roman school of thought to assert egalitarianism, i.e., the essential equality of all human beings. It was the first major school of philosophy to morally condemn slavery. Slavery contradicted natural law, which held that all human beings had a spark of reason enabling them to govern themselves. By contrast, Aristotle owned slaves and believed that some people are born with insufficient reason to govern themselves. They at most had enough reason to recognize their master's voice when they heard it. The sixth-century Roman Emperor Justinian (482-565) held that slavery violated natural law, but that it was a custom that human society had not been able to dispense with. If one cannot change a near-universal custom, one ought not to try.

One reason why ancient Stoics could not contribute to the abolishment of slavery was the fact that it taught that slaves, as essentially thinking beings, were already free. They had no need to be emancipated because slaves enjoyed freedom of thought in the privacy of their minds. An ill-treated enslaved man had the freedom of thought to despise his master. Yet so long as the slave kept this thought secret he would be free of penalties. Stoics put less passion into the effort to abolish slavery than later Christians. They did not try as hard as they might to push back the limits of the possible. That is why Hegel, as noted, said that Stoic freedom of thought was only the thought of freedom, not yet its realization.

Hegel held that the French Revolution adopted basic Stoic values and sought to bring them down to earth in universal human rights by true social revolution. The slogan of the Revolution was "freedom, equality, and fraternity." For Stoics, all human beings are free because they have freedom of thought. One has freedom of thought in any situation as long as one's thought remains private. Yet if others do not know what one is thinking, one cannot teach them anything if one is right, just

as one cannot be corrected by them if one is wrong. Freedom of thought needs to become public, and in public it needs to be protected as a human right.

The Stoics held that all human beings are equal because they are all equally thinking beings, including women and foreigners previously disparaged by the Greeks. We may have different languages and more or less effective means of expression, but we all have thoughts that, given patience, can be interpreted. Our common possession of freedom of thought makes us all members of the same ideal fraternal community, the cosmopolis, the human brotherhood or sisterhood.

Slavery violates natural law. It exists only where legislated civil law and international customary law fail to conform to natural law. By natural law human beings are rational and, thus, have a power of self-government. Hence ideally no human being should be governed by an external master. There is a difference between being a rational *person* and being a *thing*. Things can be bought and sold, but only persons can buy and sell. To buy a person implies treating a person as a thing. That is as contradictory as treating a circle as a square and, thus, denying that it is a circle. While contradictory facts do not exist in the real world, contradictory beliefs do. The institution of slavery is a result of a commonly held contradictory confusion between things and persons.

Three Types of Law. Stoic philosophers made a classical and still influential distinction between these three kinds of law. *Natural law* is eternal, and the natural law of human nature is the moral law. Morality means putting our will in conformity with natural law rather than trying to force natural law into conformity with our will. We may try to violate natural law, but, in the end, we will fail. If humans try to violate gravity by flying, law of gravity will inevitably catch up with them. One natural law is that everyone is born to die. Some try to evade aging by face lifts or anti-aging pills, but the approach of death still catches up with them, and they are dejected and distraught. Historically, humanity has tried to violate the natural law by which every rational person ought to be self-governing, but, sooner or later, master-slave relations prove unstable. The aspiration of humans to be really free on earth can lead to slave revolts as soon as the opportunity presents itself.

We need to distinguish between natural laws in modern physical science and in Stoic ethics. If the law of gravity in modern physics were only once violated, there would be no universal law of gravity. But consider the Stoic natural law by which we survive through our intelligent labor, by making the things we need and owning them rather than surviving by instinct like the bees. Robbery violates the Stoic natural law here without nullifying it. The law still holds as courts bring criminal behavior into compliance with the law of human nature.

Natural law is the highest moral standard for evaluating the two other kinds of law. Another type of law is the *international customary law* of civilized nations. The Stoics referred to it in Latin as *jus gentium*, the law of the peoples. This type of law is the second in rank to natural law. It is the characteristic of the international law of civilized peoples that, like natural law, is not legislated. There is no world government that could legislate it. Rather, such customary law just gradually emerges and spreads spontaneously between nations. It is morally judged by its degree of conformity with natural law. Slavery was in ancient Stoic times an irrational customary law of nations that did not conform with natural law.

One example of international customary law is that diplomats of one country to another should not be arrested in the host country. For arresting them, as the Iranians did to US diplomats in 1979, violates the natural and customary law of diplomacy, the peaceful settlement of disputes by negotiation. Another example is that the goods of foreign merchants should be protected by the laws of the host country. The attempt to violate this law does not conform with the nature or natural law of international trade. Letting the goods of foreign merchants be legally unprotected in one's own country tends to bring international trade to a halt. Trade depends on trust.

The third type of law is man-made *civil law*, originally meaning city law. This law is legislated by a sovereign government. It is intentionally man-made. We have noted that legislated laws of a country can violate the international customary law of civilized nations. This customary law is, thus, the moral standard by which legislated laws are judged. Therefore, we have a hierarchy among the three types of law. The law passed by a government ought to conform morally with civilized international customary law, which ought to be put in conformity with natural law. *Moral progress* in history depends on repealing laws that do not conform to the customary laws of nations, and on reforming the customary laws of nations to conform with natural law.

We follow natural law by reason. Only an irrational blind passion leads us to violate natural law in the short term. But when we violate it, natural law reasserts itself. For the Stoics, reason alone is commendable and passions are evil—even the Christian passion of compassion. Typical Stoics are cool, calm, and collected. Facing adversity, they have a straight face, a stiff upper lip. As intelligent beings, they identify with intelligible natural law.

Natural law lodged in the human mind in the form of knowledge reflects the natural law of the cosmos. If Stoics encounter local human law or international customary law that violates natural law—but that for the time being cannot be changed—they show tranquility by resignation to these aberrations. Tranquility is in the self-interest of the Stoic who must endure evil. Yet Stoics upholding calm reason without Christian compassion for the worst off may lead them too quickly to

conclude that the suffering cannot be alleviated. Conversely, Christian compassion never surrenders in pushing back the limits of what is rational.

Stoicism Today. is an ethics of consolation that has helped many people get through difficult times. In the 1957 film *The Bridge on the River Kwai*, the actor Alec Guinness played the role of a Stoic British officer in a Japanese prisoner camp. More recently, Vice Admiral James Stockdale, the highest-ranking prisoner of war in North Vietnam, reported how his Stoicism steeled his will in the face of adversity and prevented him from being broken and identifying with the aggressor during four years of solitary confinement. Senator John McCain once viewed himself as a Stoic in facing his ordeal as a North Vietnam prisoner of war. However, he was first of all an American nationalist who resorted to Stoicism only as Plan B until he could escape. As long as he understood any small step in a plan of escape, he intelligently maintained some tranquility of mind by accepting a situation he could not yet change.

Stoicism is very close to the familiar Serenity prayer: “God give me: 1. the power to change the things that can be changed for the better; 2. the courage to accept the things that cannot now be changed; and 3. the wisdom to know the difference between things that can be changed and things that cannot be changed.” This, not of Stoic origin, prayer encapsulates the essence of Stoicism.

Stoic resignation has been viewed as “sour grapes philosophy:” the fruit high on the tree is not worth having. Yet, Stoics do not deny that such fruit is worth having. They just believe that if, for the time being, these fruits cannot be reached, we should not break down in tears. We must calmly remain at our station with its duties and patiently await the time to act. The moral ideal of the cosmopolis is not a sour grapes ideal, but a moral ideal worth attaining. Even if we have no duty to progress morally towards it due to the world’s declining state, we still have a duty to limit evil and strive to reverse a decline into barbarism. Only a lazy Stoicism is sour grapes philosophy.

Stoicism remains a viable ethics today for people in difficult situations they cannot change. It can provide consolation for individuals with terminal illnesses, for example. For the rest of us, reading daily the newspapers may justifiably make us either activist or resigned Stoics. This depends in part on your assessment of your ability to change things. It also depends on your character.

What the resigned Stoics considered the impossible moral ideal of the cosmopolis contrasts with the original Stoic obligation to implement, step by step, the cosmopolis on earth. When the cosmopolis is taken to be realizable, its pursuit merges with the contemporary world human rights movement aiming at socially and legally protected freedom of expression in public. If you think you can make a difference by joining the world human rights movement, you will continue daily to

read the newspapers and seek opportunities for positive action. You will stand by the original Stoic position, the realization of the cosmopolis as your means to serenity. Otherwise you will stop reading, adopt the Stoic fallback position, and retreat into your private little world with the serene conviction that the outer world cannot be changed. There are both types of persons. The cosmopolis cannot be realized without being implemented by what we today call human rights, protecting freedom of thought and its public expression everywhere.

Stoicism is the morality taking satisfaction in doing one's duty in pursuit of the cosmopolis, remaining with a good conscience at one's post until called away by the nature. The best example is the Emperor Marcus Aurelius. He remained at his post, defending the empire and the cause of civilization against German tribes, while he could have retired to his villa and kept his enemies in Rome at bay. The cosmopolitan cause was progress towards universal freedom of thought and expression equally enjoyed by all, Yet after the satisfaction of doing one's duty well one may be called away by from one's post by one's enemies, ill health, or an environmental calamity. A time for retirement comes with resignation to the way of the world for which one is not responsible.

Stoicism is an exclusive ethical egoism for all, both for those who succeed in enjoying the serene good conscience of staying at one's station and its duties and for those who with a good conscience withdraw from public life in the face of insurmountable obstacles. Endeavoring with self-satisfaction to build a better world is the first stage of Stoic ethics. The second stage is retirement with serenity from disabling stress in order to pass the baton to others.

The final moral standard is a good conscience whether in continuing to aim well in the pursuit of duty or in justifiable resignation and retreat into private life. Doing one's duty in the name of the cosmopolis may lead to unhappy confrontations with the powers-that-be in this world, and these clashes may outweigh the serenity of knowing that one has done one's duty. The Stoics articulated the moral ideal of global justice, but did not commit themselves unconditionally to its pursuit in the world. The judgment as to whether pursuit of the cosmopolis has become too steep a mountain to climb, as to whether one should retire from the struggle permanently or temporarily for the sake of tranquility, remains a matter of difficult subjective judgment for which each individual is responsible.

As a Stoic, the disengagement of identifying solely in private with a small circle of family and friends may eat away at one's serenity by the inability to erase the memory of having been once identified with all fellow human beings, and having on certain occasion experienced the good conscience of having remained at one's post, fighting the good fight. Afflicted by a bad conscience, a Stoic may even come out of retirement.

There is a time for taking the fallback Stoic position at the end of life when the baton must be passed to others, a new generation. However, adopting the Stoic resignation in the prime of life, abandoning the struggle toward realization of the cosmopolis merely because moral idealism of youth is hard to live up to, may show a lack of courage. Depending on one's character, the regret over taking the easy way before being forced to do so may disturb one's serenity in private life as long as one lives.

Stoic Anticipation of Human Rights Ethics. The question is whether to keep a good conscience by striving with cosmopolitan dialogue as the end in view is the highest standard of right and wrong. Stoicism implies that if there is no personal satisfaction in doing one's duty there is no duty. "Ought" implies "can," but in a qualified sense "can" implies "ought." If one can do one's duty, it follows that one ought do it. Serenity is a quiet form of pleasure that comes from a good conscience, from knowing that one has kept one's word in fraternity with others and has advanced as much possible the cause of the cosmopolitan dialogue realizable on a vast scale by today's information technology. Stoic serenity is pursued for a good reason, such as surviving in a prison camp for the sake of future occasions to do one's duty by dialogue in the quest for individual and collective success.

Stoicism in antiquity was an anticipation of human rights-based ethics. The major difference today is linguistic. Human rights ethics substitutes the concept of historically constructed human rights for the ancient concept of natural law and implied natural rights. The fact the meaning of «natural laws» or «laws of nature» has adapted to the prestige of the modern natural science since the Newton means that *natural* rights can no longer be understood is violable. Yet rights are by definition violable, so the prestige of modern natural science has rendered the concept of violable «natural rights» incoherent. It has forced modern Stoics like Hegel to adopt «human rights» language as a replacement of what used to be inalienable «natural rights» language. Stoic ethics is understandable as a modern anticipation of human rights ethics if it harmonizes with the prestige of «natural laws» in modern physics and surrenders «natural rights» discourse in favor of «human rights» discourse.

The highest standard is the ethics of giving Stoicism and normative ethical theory generally a fair hearing in discussion, either justifying it, refuting it, or leaving it to hang in the air with no foundation. Stoics pursue public service with a serenely good conscience, but with the option of withdrawing from service into private serenity as soon as public service no longer affords serenity. But non-Stoics challenge this claim. Immanuel Kant held we should pursue our duty if we can even if we are not inclined. Serenity is a questionable ultimate standard. Yet, should Stoicism seem to

win the debate, in truth it yields to the ethics of fair and unbiased discussion as the final standard of right and wrong. My argument is that it yields to human rights-based ethics.

In sum, Stoicism seems to say that you should first enjoy a good conscience in doing your moral duty as best as you can in realizing universal liberty, equality, and fraternity down to earth. But, doing your duty as long as you are in health is not an end in itself, not the ultimate standard. The reason you should do your duty is that following it avoids the guilty feeling of not having earnestly striven to do your duty. The feeling of guilt is a form of pain that can exceed the self-satisfaction of continuing to discharge one's responsibilities. You go around with a self-punitive thought that disturbs your tranquility of mind. You feel a mental disturbance of knowing that you have not done what you ought, even though you were still capable of doing it.

Some strong-willed Stoics will manage to accept without complaint, so to speak, the card that the fate has dealt them in the struggle for good. They will uphold liberty, equality, and solidarity in situations that would seem hopeless to others. So, the question has arisen: if doing your duty gives you only pain, what should you do? The Stoic answer is that striving to realize the cosmopolis not really your final duty. Your real responsibility is to personal serenity. We must allow for individual differences. If striving to realize the cosmopolis strains you more than you want, you should no longer do so. Stoicism's moral consequentialist pursuit of the satisfaction of knowing you have done your duty ends in the support of debate or, better, of dialogue--the human rights-based ethics of dialogue between any and all theories on an even playing field, open to all who feel concerned by the issue at hand. The thesis of this book is that activistic Stoicism, empowered by today's science and technology, has a good chance of winning an honest debate.

⁵⁸Rene Descartes, *Discourse on Method*, Paragraph Four.

Chapter Thirteen

THE ETHICS OF AGAPE LOVE

This chapter, as is equally true of the other chapters in the book, addresses people of all religions or none. Philosophical ethical theories have existed since Socrates while religions have existed since the dawn of humanity.

Long before any ethical theories, religions already conveyed ethical norms. Philanthropist author John Templeton (1912-2008) has argued that *agape love*—universal self-giving reciprocal love of all by all—is can be found in eight world religions both in their concept of God and in their highest moral standard.⁵⁹

Yet Templeton's claim is more modest than it first appears. He is right that self-giving love can be *found* in diverse world religions. Yet this chapter will show that diverse traditions can also be found by searching any world religion in depth. The chapter surveys the evidence for Templeton's attractive claim because it has gained some popularity. But it concludes that that deep theologies of the world religions can be made to agree only by being quite selective in the choice of representative theologians from any given world religion.

Textbooks on ethics in the West commonly critique religious ethics in the form of the divine commandment ethics which is prominent in the three Western religions, Judaism, Christianity, and Islam. But *agape* ethics is another kind of religious ethics discoverable in world religions of the East as well as the West, and standard surveys of ethical theory rarely give it attention. This chapter seeks to show a benefit for the global implementation of human rights-based ethics that could follow by *comparing* religions rather than just *contrasting* them.

On the one hand, people from all world religions who find themselves in an esoteric *agape* tradition—like Gandhi in Hinduism and the Dalai Lama in Tibetan Buddhism—find a good reason to join the world human rights movement. On the other hand, people who do not find themselves in such an esoteric tradition should not feel any duty to join in order to be inducted into the human rights movement.

'*Agape*', from the Ancient Greek term, denotes a pure kind of love that is universal and unconditional, and that and persists regardless of circumstance. It is a mistake to suppose that *agape* ethics is found at a depth level *only* of Christianity. This chapter first establishes an *agape* theological ethics as a minority but intellectually challenging position in Christianity, and then documents it in other major world religions. It is of interest that *agape* ethics is possible only the

minority of non-traditional Christians who deny God the Father as Thomas Altizer does in his book *The Gospel of Christian Atheism* (1965). It will be argued that agape ethics is blocked for *orthodox* Christianity—not to be confused with Eastern Orthodox Christianity whose former capital was not Rome but Constantinople. Mircea Eliade (1907–1986) is a well-known Rumanian Eastern Orthodox thinker who finds agape theology among people on the ground in his native country.

Agape ethics has a place in this book because its presence, within the different frameworks of different world religions, anticipates contemporary human rights-based ethics. Agape love itself is prominent on the surface of Christianity as the *law* of love. In the *Gospel of John* Jesus says: “A new commandment I give to you, that you love one another: just as I have loved you... By this all people will know that you are my disciples.”⁶⁰ Yet as a surface phenomenon agape love as *commanded* by Jesus in orthodox Christianity it is worse than superficial. It is logically impossible. Self-giving love as commanded is an impossibility. The fact that it commanded by external authority from on high makes it external to those to whom it is commanded.

Agape Heresy in Christianity. The best known symbol of Christianity, the Cross, symbolizes Christ’s self-sacrifice for humans beings who cannot save themselves. The symbol of the Cross implies that humans, by the natural law of human nature, are incapable of such love. They are only capable of it by rebirth in Christ. To be an orthodox Christian is thus to be frustrated if not open to such rebirth. The ideal ethics of agape love is generally reachable only by the second coming of Christ or rebirth in Christ for a minority. Since according to the New Testament love is commanded as the law of love, the New Testament fails to break fully loose from the Old Testament. Being reborn in Christ, putting on Christ, can only be a miracle for Christians if a miracle means a suspension of the laws of human nature that otherwise govern.

In commanding the “law of love” Jesus actually creates a contradiction in terms. The nature of law is such that it can command only external behavior. Love, however, contains an inner dimension of feeling and compassion that cannot be commanded. Secondly, the motive behind obedience to law is in contradiction with true spontaneous self-giving love by rebirth in Christ who is love. The motive in acting to obey any law is exclusive self-interest, the avoidance of punishment. But the motive behind agape love is self-giving without any selfish calculation.

In religions other than Christianity, by meditation and scholarship individual thinkers can discover agape love without self-contradiction precisely because it is not commanded to them. Love cannot be commanded. Agape ethics has a place in this book because no obedience to love commanded as a law is found in the most widely followed traditions of non-Christian world religions.

Renowned religious studies scholar Huston Smith (1919-2016) has held that world religions are on the surface different, but deeply one.

The fundamental distinction is not between religions; it is not . . . a line that . . . divides religions great historical manifestations vertically [progressively], Hindus from Buddhists from Christians from Muslims, and so on. The dividing line is horizontal. . . .⁶¹

Smith's argument is that real horizontal differences exist in history, organization, canons, days of the week for worship, and rituals of world religions. Yet world religions at a depth level agree in their highest moral ideal. They can differ in ways that are negative, as in historical wars both between and within them between their branches. If we can assume that a respected thinker like Huston Smith is more trustworthy than the opinions of the majority of a given religion's orthodox believers, periodic headlines about the violence due to religious conflict are tragic. Yet Huston Smith, though highly regarded, is wrong to think that world religions vertically agree although they horizontally disagree. In no religion does one minority of deep but esoteric thinkers exhaustively define a world religion's essential meaning.

The declining number of those who believe the earth is flat shows that science can educate. Yet the number of creationists who reject scientific biology also shows the limits of evidence-based education. Attempts to teach comparative religion objectively in universities reinforce undeniable evidence of religious diversity contrary to any illuminating identity of world religions in diversity.

Theology, not being ethics, cannot ground love as a moral norm. Some people no longer follow their religion and yet retrain the ethical norm of love found in their religion.⁶² Were human rights purely a legal concept, religions could lend no support to them. Yet if today's predominantly legal concept of such rights masks at a deeper level a moral concept, several religions of pre-modern origin do have esoteric branches that converge with the cause of human rights today.

This chapter addresses first a possible depth interpretation of Christian language, and only then addresses in the same spirit other world religions. This interpretation is found by meditation and dialogue beyond any doctrinal creed. The term 'agape' is not applicable merely to a single world religion like the Mircea Eliade's term 'cosmic Christ'.⁶³ Further, 'agape' love is preferable to "altruistic" love which implies only self-sacrifice, while "agape" is unconditional love of all by all, including oneself as well as perceived enemies. It is reciprocal self-giving, not uni-directional.

Christianity and Islam became missionary religions beyond the limits of dialogue, seeking to convert. By some translations Jesus told disciples to go into the world and convert in the "Name"

of Christ.⁶⁴ Yet if Christ is the logos made flesh as the Gospel of John says⁶⁵, conversion in his name is conversion in the name of reason. Agape love also allows a non-religious, though not anti-religious moral commitment.

‘Logos’ has its original source in ancient Greek philosophy. Yet it can come to express in sacred language what in a universal secular language can be called dialogical human rights (together with its reciprocal duties). Logos discourse easily slips into dia-logos discourse, since ‘dia’ in Greek means the same as ‘through’. Understood in this way, agape ethics is in the consequentialist tradition in ethics. The surrender of exclusive egoist self-identity can mean identification with all other human beings in mutual assistance.

The secular language of human rights can serve different religious as well as non-religious traditions in communication with one another, and can be used in translation back into diverse historical sacred languages. Those who have faith can be comforted, trusting that by the goodness and power of God human rights will in time be implemented. Those without such religious faith must place the fate of these rights with less optimism in the hands of human beings of good will.

Agape love in non-orthodox Christianity does not consist in showing undeserved mercy to a fallen humanity by Christ on the Cross. Voluntary human rights intervention for an other is justice, with reciprocity when the recipient is in similar need. Orthodoxy varies from church to church. It does not mean true belief, but what is deemed true by a church. The orthodox Christianity of Saint Augustine, like that of Calvinist Protestant churches, treats Christ’s pardon of sin on the Cross as merciful uni-directional self-sacrifice to pay for human sin, grounded in original sin due to the Fall.

Though agape love is not uniquely Christian, the concept of orthodoxy—of the one true authoritative belief outside of which there is no salvation—is uniquely Christian. It has its source in Christianity’s emergence in the West as a spiritual parallel to the hierarchical Roman Empire. The Roman idea of such orthodoxy altered original Christianity.⁶⁶

In order to make sense of agape love it is essential to clarify original Christianity by posing a question about the orthodox belief of two branches of the Western church, its Roman Catholic and Calvinist Protestant branches. The initial teaching of Jesus was to offer rebirth in his body and spirit, but the people were not ready to accept and obey his offer of boundless self-giving love. So he had to go away by the Roman way of the cross until they were ready. The «Second Coming» can be interpreted as rebirth in the spirit of agape love as offered by Jesus.⁶⁷ This avoids interpreting the Cross as divine mercy of the forgiveness of sin.

True rebirth in agape love ethics cannot be commanded by the external authority of even Jesus. Such rebirth cannot be baptism of a child before reaching the age of reason as an adult. As so

Jesus pardoned the people as children—however adult they were they were chronologically—and promised that in the fullness of time he would send them a counselor, the holy spirit, who would lead them into all truth. Into rebirth in his spirit by the logos made flesh.

Human rights-based ethics two thousand years later can be agape love ethics by way of the logos as reason rather than pure faith. From the Gospel of John it may be seen that Jesus erred in commanding rebirth before the people were ready, and that he corrected his error in a very human form of learning from his error. For it allows his original agape love to be seen as an anticipation of moral rebirth in inner respect for human rights in the place of mere compliance.

Viewing world religions at a depth agape level, John Templeton makes a good case that agape love is one tradition found in eight world religions. There are of course other traditions in these religions. Opposite more orthodox traditions in the same religions are more popular. The difficulty of explaining esoteric traditions is reflected in the fact that “religion,” by its Latin roots, implies being *attached* to creeds and rituals. It can be equally difficult to change the minds of a purely secular public free of religion which is closed to error correction. Elementary ethics textbooks typically omit Christian, Jewish, Islamic, Zoroastrian, Hindu, or Buddhist agape love ethics or neo-gnosticism. In the following paragraphs I seek to make up in a small way for that omission, but without endorsing agape ethics as a wide avenue to human rights ethics.

Hinduism and the Self-giving Love of Gandhi. Parmenides’ metaphysics of changeless Being is an ancient Greek rational theology (5th century BC) close to Shankara’s theology of changeless Brahma in Indian Hinduism (8th Century AD). Parmenides basic reasoning runs as follows. Being and only being necessarily and eternally is, since if being were not it would not be being. Sensory change like everything that occurs is caused. Apart from being is only non-being, which can cause nothing. Hence sensory change and the whole world of such change impossible. For the effect of eternal being can only be changeless being.

Plato’s refutation of Parmenides and recognition of the reality of *becoming* in the sensory world won out in ancient Greek thought and in the West. Yet the prestige of Shankara and of the Brahman caste system have survived in India—despite rejection of caste by the assassinated Indian nationalist leader Mahatma Gandhi and by India’s Constitution.

If only being or Brahma exists, a changing self or sensory thing is non-being or nothing, since logically there can be no middle term between being and non-being. What appears to be an *other* of being is either non-being or being in disguise. If the apparent other is one’s own being in disguise, by meditation it becomes possible for a mystic to find him- or herself by contemplating

what seemed to be in a seemingly other being. There cannot be two beings, since two beings are indistinguishably and changelessly the same being. If one is not nothing, one is being, and any apparently other is none other than oneself. This Parmenidean line of reasoning akin to Shankara's. It is not a logic of self-giving agape love to a real other. It is a logic absolute identity of self and an other that is none other than oneself. Each dissolves into the other.

However, India is an increasing economic and military power on the Western model in the global corporate world in cities despite the resistance in remote areas of India. If national discussion in India were less insular, if it unfolded rather before a global audience, Plato's rejection of Parmenides might extend more widely to India. It might lead to a more general rejection of Shankara's Brahminist belief in an illusory sensory world, the world in which low castes and casteless untouchables suffer. As India becomes an economic power competing with others in the real world of the five senses, urban non-Brahmanists might deflate Shankara's prestige nationally. Parmenideanism is clearly inconsistent with the assassinated Gandhi's self-giving agape love of *others*,⁶⁸ since Shankara like Parmenides denied the existence of others.

Agape Ethics in Buddhism. Any claim that all world religions interpret God at a depth level as agape love assumes that all persons are distinct equal, and equally beloved. Hindus who converted to Buddhism shed the caste system which discriminated against those not reincarnated as Brahmins. The original Buddhism of Buddha was atheistic in the limited sense of denying a transcendent creator God. He denied one Being by equating reality—the absolute outside which is nothing—with momentary changeless events (dharma). Buddha's atheism excludes the risk of disappointment and suffering stemming from attachment any alleged enduring being capable of change, including the Creator God of Western religions.

Buddha was a moral teacher. And teachers claim a right to freedom of expression. Yet Some Buddhists less instructed in meditation worship him as God in the form of statues. Deification of him, the teacher, can be a way of approaching his teaching, the difficult path of detachment from whatever seems to endure, by self-surrender to the nothingness or nirvana, the unreality of the commonsense world of things and people with enduring identities. What is real, in a widely influential interpretation of Buddha's teaching, is merely unchanging successive events (dharma), each always now but always different.⁶⁹ Let it be, let it go without clinging.

The denial of any changing but enduring thing or person attributed to Buddha explained each enduring thing or person as reducible to a discontinuous series of real unchanging events. This series has no fundamental reality in itself. It has only the derivative existence of a collection of real events, this, that, and the other momentary entity. The contrary Western assumption of

fundamentally real persons or continuous selves with rights and responsibilities functions in original Buddhism only as something postulated for practical purposes and simplicity in referencing. Though we normally think of persons as fundamentally real, for Buddha they were only postulated. The assumption of theoretically non-existent continuous persons—each with a set of rights and responsibilities—has become a presupposition of dialogue between assumed persons as practiced by Buddhists teachers.⁷⁰ The practical assumption of persons includes recent defenses of the human rights of Tibetans by the Dalai Lama.

In the West, Alfred North Whitehead (1861-1947) agreed with the Buddhist world view of nothing but events. Each event briefly exists without change. An event that exists for no time at all would exist not at all. No event, which is what it is through all its characteristics, can survive change. Tom at one moment is not Tom at another. Each at a given moment has a property not shown by any prior Tom event. This is to restate correctly with Whitehead and Buddhists what common sense claims incorrectly in speaking of continuous change. Ethically this restatement requires agape love in the form of helping one another through Buddha's teaching aiming at release from attachment to illusory ordinary enduring but changing persons and things. We are taught by Buddhist ethics to let go of the past and present in order to avoid the suffering of attachment to what no longer is.⁷¹

Zoroastrianism. The ancient Persian religion of Zoroaster, who cannot be precisely dated, was a religion of *trust* in the triumph of good over evil. Zoroastrians upheld free expression, built schools and hospitals. Moral goodness was an ideal inspiring a human commitment in agape striving and mutual aid under the leadership of Ozmad, who was a god of good without being all-powerful. He was a personal good god with finite power who, like Superman, calls upon human support to win against Ahriman, the God of evil. The personification of moral good as superhuman with non-morally good results (peace in a potentially universal empire, schools, hospitals, etc.) needs no theoretical proof. It may be taken as a practical postulate bolstering human moral effort against evil. If we ally with this god of good, the commitment imposes a duty to fight evil.

Zoroastrians, largely expelled from Persia by Islam, survives as an industrious minority in Mumbai, India, and elsewhere. For Hindus the world of the five senses was an illusory world in which it did not matter economically who prevailed. Yet Hindus in larger Indian cities have become more like Zoroastrians—for example in Mumbai where a number multinational companies maintain headquarters. Long before India recently became a world player in globalization, Zoroastrians created an ethical religion. It is an ethics of good doing works in the sensory world whose reality they never doubted, and in which success or failure in the struggle for good against evil is real. A

contemporary Zoroastrian, Kambiz Sakhai, writes this on the practical rationality of the Zoroastrianism:

Zoroastrian appreciation of reason as the best guide to truth is well-known. Zoroastrianism is a rational worldview in that it rejects blind faith and a slavish approach towards any authority. It is also rational in being founded on communicative reason. It is the kind of reason that requires dialogue and mutual understanding. Zoroastrianism invites its adherents to enter a dialogue and argue in a rational manner in support of their claims. Thus, the Zoroastrians are not only supposed to provide reasons in support of their beliefs, but also to provide their opponents with the equal opportunity to defend their positions in a rational manner. The force of the better argument is the only kind of force considered legitimate in this religion.⁷²

Sakhai uses here the language of German philosopher Jürgen Habermas (1927-), Germany's influential defender of the UN Universal Declaration. The global human rights movement might—but for the Greek victory over Persia under Xerxes I—be traced to Cyrus the Great,⁷³ founder of the Persian empire. Cyrus proclaimed the world's first human rights declaration to govern his multinational empire. Yet unlike Athens in Greece, there were no rival schools of thought in any one Persian city.

Jewish Kabbalah. Divine commandment ethics is the public face of Hebrew ethics. The mystical Jewish tradition known as Kabbalah has gone beyond the publicly dominant image of God as a transcendent Lord. It discovers a secret meaning of the Bible. It uses meditation on the Biblical letter as a path to mystical communion with God rather than to submission to His law. Kabbalah flourished in the Middle Ages. It both borrowed from other religions and influenced them. A Christian mystic, writing on Kabbalah, speaks of a communion, not union,⁷⁴ with God, thus without being pantheistic like Brahmans who follow Shankara in India. In Kabbalah there is no oneness with God without distinction from Him.

Kabbalah means love of an other as of oneself. Both the one who loves and the beloved partake of divine love. Love embracing even those who have been one's enemies in the end becomes divine self-love. Love, if divine and infinite, embraces all and so lacks any alien other to love. Love of another self like oneself is love of oneself in the other, which brings Kabbalah into close proximity to agape Christian ethics. The Hebrew name of this branch of Judaism is not Christian, but in content Kabbalah is hard to distinguish from Christian agape ethics

Islamic Sufi Ethics of Agape Love. A widespread personal belief among Muslims, spanning the divide between its Sunni and Shia branches but today controlling no Muslim government, is Sufism. It starts with the Koran and claims to follow Islamic law, Sharia. Yet, due to Sufi doubt regarding some of the Koran's surface meaning, by meditating on verses Sufis perceive hidden

meanings. A mystical Islam arises seeking communal oneness with God, not submission as implied by the term “Islam” in classical Arabic. Love of oneself and of Allah in one’s love for others is the Sufi ethical norm. One Sufi writes:

For the Sufi it is divine love that beckons her.... the seeker’s spiritual evolution ideally culminates in... a collapse of boundaries between the seeker and the Sought. Here the Sufi holds sacrosanct God’s promise: ‘My servant continues to draw near me through free acts of devotion until I love him. When I love him, I am the eye with which he sees, the hearing with which he hears, the tongue with which he speaks and the hand with which he grasps.’ In this harmonized state of Oneness, the actions of the Sufi in the world reflect the beautiful qualities of God.... In fact, for an individual on this path, spiritual transformation also significantly occurs through embodying certain types of behavior in relation to other people. To enable refinement of the character, the Sufi is encouraged to cultivate social interactions based on, among other things, qualities of love, mercy, justice, compassion, generosity and gentleness. The goal of a Sufi is “to love every life as your own.”⁷⁵

Surmounting the surface clash of religions means going beyond the visible to the invisible. One Sufi seeking to unite religions was Pir-O-Murshid Hazrat Inayat Khan (1882-1927):

...His [God’s] predisposition of love made Him project Himself to establish His dual aspect, that He might be able to love someone. This made God the lover, and manifestation the beloved; the next inversion makes manifestation the lover, and God the beloved. This force of love has been working through several evolutions and involutions, which end in man who is the ultimate aim of God. The dual aspect of God is significant in Zát and Sifat, in spirit and matter, and in the mineral, vegetable, animal, and human kingdoms, wherein the two sexes, male and female, are clearly represented. The dual aspect of God is symbolized by each form of this wonderful world. This whole universe, internally and externally, is governed by the source of love, which is sometimes the cause and sometimes the effect. The producer and the product are one, and that One is nothing but love.⁷⁶

I include these depth traditions in great world religions because the ethics they offer is often claimed to be rationally based. The teaching of Buddha and Confucius are examples. Some form of divine commandment ethics with a creator God is included in textbooks by authors who are not creationists. They do so because important Christian and Muslim rational theologians have argued that a creator God can be proven. By contrast, in 1956 the Jewish psychoanalyst Eric Fromm has made an influential rational case for agape ethics—embracing care, respect for the other, self-respect, and responsibility as a rational solution to life’s problem.⁷⁷

Proponents of rational theology educated more in comparative religion than in contrasting religions are relatively few. These few are in a dialogical quest for consensus with rational theologians of other religions. Mutually contradictory creeds cannot all be right. We distinguish

from among rational theologians in general those who are specialized in comparative religion. They may be rooted in one religion, but they also engage in cosmopolitan discussion with colleagues from what are, on the surface, rival religions to see if, underneath the differences, there is a shared foundation. If the minimal theological essence of some enlightened branch of every religions were captured by the same rational theology, the clash of civilizations together with its violence could be laid to rest.

The essential minimum of Christianity for a thinker like the German G. W. F. Hegel (1770-1830) included little more than the divinity of Christ the logos made flesh in agape love. The Catholic rational theology of Saint Thomas, by contrast, seems not to have captured the same essential minimum, since he held that the Incarnation of Christ in the world, unlike the existence of the Creator, was revealed only to Christians. In this he differs from Hegel. The rational theology of Hegel, an ordained Lutheran Minister, was rooted in the *Gospel of John*. It captures the above essential minimum by equating Jesus with reason as the logos made flesh. Yet Hegel does not represent what most Christians still believe. Ending Christian discrimination against other religions could depend on popularizing something like Hegelian rational theology as the essential minimum of both Christianity and other religions despite different languages and sacred texts.

Depth interpretations of religious traditions fall under what is known as rational theology. They start with the literal surface meaning of sacred texts. If in dialogue rational theologians from different world religions doubt the surface meaning of a passage of their sacred texts, their commitment to preserving both reason and their own respective religions can move them to look beneath the surface meaning for a credible deeper meaning. Theologians who are not in wide dialogue risk yielding to a pseudo-rationalization directed at local audiences rather than retaining true rationality.

After its examination of the surface meanings, rational theology is also the interpretation of sacred texts. This process is guided by reason seen as a universal human capacity. Rational reinterpretation can also follow upon meditation on texts or passages leading to a mystical experience of communion with God. Yet mystical experience that is unspeakable is inconsistent with dialogical reason. A precondition of showing that world religions are at root all one is the ability to express such experience in a language intelligible to rational theologians of different religions.

Sufi, Kaballah, or neo-Gnostic Christian traditions are theological as well as ethical traditions. No proof of a God as the Creator is supported by any professional consensus in philosophy. As for a possible infinite cosmic spirit of agape love, that spirit would have to include

not only human beings but also atoms, particles, and all matter to qualify as infinite. Something like this is defended by contemporary panpsychists. But the argument is intricate and unlikely to win over a popular audience.⁷⁸

The only way to ground but apparently diverse global self-giving ethical traditions is through rational theology seeking to show that one is who one is only in and through other selves. One embraces all others with whom one stands in relation in one's concrete identity. Since the individual human self is a social self, one cannot love oneself without love for others, including those considered enemies.

The argument for agape ethics that Mircea Eliade found in Rumanian Eastern Orthodox Christianity goes further than mutual love by human beings. It claims to discover one's identity as inseparably related to the entire cosmos, not only to all other people. Yet to go beyond self-giving love between people and make agape love cosmic is not necessary in support of human rights ethics. For most it would be an obstacle to make human rights ethics depend on such an esoteric cosmology or theology. All ethical theories considered thus far face objections for which no answers have been found, and this includes agape theology. The case to be built for agape ethics is an unnecessary challenge for all for whom a more accessible ground for distinguishing right from wrong is needed.

To conclude, there is with no easily accessible case for people generally in support of esoteric rational theology, whether Hindu, Buddhist, Jewish, Muslim, or Christian. Further, self-giving theological ethics depend on faith that "the truth will set you free" without offering any predictable date. Liberation ideologies based on a future liberating agent—e.g., the Revolution, the descent of the third Age of the Spirit—are similarly faith-based without a reliable delivery schedule. Theology is neither necessary nor desirable as a precursor for a teachable expert consensus in ethics. It is unwise to place one's trust in an ethics reliant on intricate theology which is not generally understood and accepted. Rational theology cannot be the foundation of a professional consensus among ethicists teaching elementary ethics—not least because it tries to prove too much for the purpose. And so, in the following chapter, we will build a case for human rights-based ethics without theology.

It is possible take the idea of agape ethics already present in a world religions, and from it try to derive a human rights ethics abstracted from any of the religions and theologies that long ago prepared a way for it. But the audience of esoteric Judaism, Christianity, Islam, Hinduism, etc. is not a universal audience. Its audience is limited fellow members of a historical religion who are uneasy with literal interpretations of its sacred texts.

⁵⁹John Templeton, *Agape Love: A Tradition Found in Eight World Religions*

⁶⁰John 13:31-35

⁶¹Huston Smith. Preface, in Frithjof Schuon, *The Transcendent Unity of Religions* (Wheaton, IL: Theosophical Publishing House, 1984, p. xii

⁶²Bertrand Russell

⁶³Eliade

⁶⁴Philippians 2:10

⁶⁵Gospel of John 1:14

⁶⁶See "Dialectical Logic in World History," in Clark Butler, *The Dialectical Method: A Treatise Hegel Never Wrote* (Amherst, NY: Prometheus Books, Humanity Im- print, 2011. Pp.137-163.

⁶⁷"I am the bread of life; he who comes to me shall not hunger, and he who believes in me shall not thirst. But I said to you that you have seen and do not believe.... A new commandment I give you, that you love one another; even as I have loved you." 6:35-36; John 13:34 *The Oxford Annotated Bible*, Revised Standard Edition (New York: Oxford University Press, 1962).

⁶⁸Gandhi is widely quoted as saying that the best way to find oneself is in the service of others «The best way to find yourself is to lose yourself in the service of others.» <https://www.goalcast.com/2017/03/20/top-20-inspiring-mahatma-gandhi-quotes/>

⁶⁹A fundamental concept in Buddhist [metaphysics](#) is the assumption of the existence of [dharmas](#), cosmic factors and events that combine momentarily under the influence of a person's past deeds to form a person's life flux, which he considers his personality and career.... The dharmas are thought to function momentarily, producing the empirical phenomena of the world, which is illusory, but to exist outside the empirical world.... the Sautrantikas (those for whom the [sutras](#), or the scriptures, are authoritative) maintained that the dharma factors are not eternal but momentary, and the only actually existing dharmas are the ones presently functioning. "Sarvastivada," <https://www.britannica.com/topic/Sarvastivada>

⁷⁰Tenzin Gyatso, His Holiness the 14th **Dalai Lama**, "Human Rights, Democracy, Freedom," <https://www.dalailama.com/messages/world-peace/human-rights-democracy-and-freedom>. downloaded, May 18, 2020.

⁷¹assumed continuous persons, history as story of freedom

⁷²Kambiz Sakhai, "Iranian Religion: Suhrawardi, Hafiz and Zoroaster" http://www.iranchamber.com/religions/articles/suhrawardi_hafiz_zoroaster.php

⁷³Cyrus. Charter of Cyrus the Great: The first Declaration of Human ...www.persepolis.nu/persepolis-cyrus.htm

⁷⁴Marcia Montenegro, "Kabbalah: Getting Back to the Garden," *Christian Research Journal*, volume 28, number 2 (2005). Published online: Kabbalah: Getting Back to the Garden (Page 1 of 3) www.christiananswersforthenewage.org/Articles_Kabbalah1.html.

⁷⁵Sa'diyya Shaikh, "Islam and the Path of the Heart," http://www.religiousconsultation.org/Islam_and_the_path_of_the_heart.htm

⁷⁶Pir-O-Murshid Inayat Khan, *A Sufi Message of Spiritual Liberty* A Sufi Message of Spiritual Liberty - Internet Sacred Text ... <https://www.sacred-texts.com/isl/misl/misl.htm>

⁷⁷Eric Fromm, *The Art of Loving*, (New York: Harper & Row, 1956). Robert Augsburger relates Fromm's concept of love to that of Jesus in an essay entitled "Love" in *The Complete Book of Everyday Christianity*, eds. Robert Banks and R. Paul Steven: "Love of self and love of other are complementary (Downers Grove, IL: InterVarsity Press, 1997): "A true concern for one's welfare cannot be divided from concern for the welfare of significant others, and true self-love motivates one to see others with equal respect. Eric Fromm has articulated this perspective...." <https://books.google.fr/books?id=Zla9DwAAQBAJ&pg=PT658&dq=eric+fromm+and+Christian+love&hl=en&sa=X&ved=0ahUKEwjN04H6vbvpAhX76eAKHS6mCd8Q6AEIMTAB#v=onepage&q=Fromm&f=false>

⁷⁸Clark Butler, "Panpsychism and the Dissolution of Dispositional Properties," *Southwest Philosophy Review*, vol. 26 no. 2, pp. 87-108 (2010)

PART FOUR

HUMAN RIGHTS-BASED ETHICS IN THEORY AND PRACTICE

Chapter Fourteen

HUMAN RIGHTS-BASED ETHICS

Previous chapters have critiqued a wide range of classical and popular normative ethical theories, not always defended by noted moral philosophers. The present chapter on human rights-based ethics is proposed as a product of a process of elimination despite the many insights gathered from these theories along the way. This is thus the chapter to which the conclusions of previous chapters have pointed. I do not appropriate the normative ethics presented here as personally my own. The argument is rather that it is the ethical theory which best supports the norm presented by the central world organization, the United Nations in the 1948 Universal Declaration of Human Rights. Nor do I say that no one else has constructed an ethical theory along the lines of the one presented here. But I find a tendency in contemporary philosophy to multiply ethical theories beyond necessity. This is a tendency toward what might be called a diversity of ‘identity ethics’. Feminist care ethics as first discussed below is one example.

Recent decades have seen the rise of a new approach to ethics rooted in feminism, that offers a distinctively different approach. Within what is called care ethics discrimination against women is reversed in a shift from abstract legal equality to moral sensitivity to others from which men also can learn. Care ethics goes beyond human rights law, but not beyond human rights ethics which calls for compassion, especially for those worst off.

The approach is rooted in the conviction that women, exemplified as maternal figures whether due to instinct or a social construct, are more caring and nurturing than typical males. Males are portrayed as more unfeeling, more direct, and less sensitive to their environment around them, and more stoical.⁷⁹ And due to their historical dominance in business, males are attracted to legal obligations and formal contracts. In this way, males are considered to plunge ahead with tunnel vision, while women are seen to be more cautious and more sensitive to the surrounding context in general and to human relationships in particular.⁸⁰

The legal profession has dominated the human rights movement since 1948 by its creation and execution of international human rights law treaties. This reinforces among some feminists a false purely male image of the human rights movement. Feminists can rightly point out that these treaties, theoretically legally binding on ratifying states, do little on the ground to change human relationships. This is one reason why some feminists argue for the superiority of care ethics over

human rights-based ethical theory. Care ethics also often advocates that men as well as women should be sensitized to the approach. It stresses personal commitment and relationships to others locally, But it does not ignore the importance of commitment to individuals abandoned by local communities on the other side of world.

Human rights-based ethics and care ethics are at a minimum complementary. This is because human rights based ethical theory is of little worth unless it is practiced, and its practice consists in creating caring relationships with others. However, some care ethicists differ from human rights ethicists as a consequence of a gender-based identity politics based on their experience as victims of in male-dominated society. By international human rights law women are presented as a minority meriting special protection, the only minority that is actually a majority in the species. A recurrent message of this book concerns the dangers of domination of the human rights movement by the law profession and treaty obligations between states. Instead it upholds human rights *ethics* to counter-balance the human rights *rule of law* referred periodically throughout this book.

Even more than being complementary, at a deeper level human rights ethical theory is in substance itself a form of care ethics. Care ethics goes beyond human rights law, but not beyond human rights ethics which calls for compassion to complement reason, especially in the case of the worst off. Discrimination against women is combated by a shift from an abstract legal equality of the sexes to moral sensitivity from which some men can learn. After all, morality cannot depend solely on written treaties and constitutions.⁸¹ Each of us ought to assume a personal obligation to do what is possible to care for the needs of all others. Real justice is not abstract. Care ethics offers a way to fill the gaps in justice if persons on the other side of the world are not cared for in their local communities. Human rights ethics implies the opposite of disregard for others, whether face-to-face or remotely, in the practice of ethical theory.

Well before the emergence of the feminist movement in the 1960's in the United States, 'CARE packages' of food beginning in 1946 were sent by men and women in America to war-torn Europe and eventually beyond. That was the year after the UN Charter was ratified with its commitment to human rights. Respect for human rights is not a legal abstraction. It is caring by men as well as women.

Inquiry as Sound Common Sense. Human rights ethics is about caring, but not merely caring, since caring must be rationally guided or we could have compassionate caring for the wrong people.⁸² Yet human rights ethics is far from being one philosopher's creation like Kantian ethics. Human rights ethics belongs to the global public domain. Its thrust, as mentioned in previous

chapters, is to promote in the general public domain the ethics of the philosophy of science of Charles Peirce and others since the nineteenth century. The nineteenth century American philosopher Peirce said that the truth is what researchers will agree on at the end of the history of inquiry.⁸³ He meant that the current consensus in any field of science is a target theory. It is a target theory for any wishing make a name for themselves by raising doubts about the established consensus, and wishing to propose a new theory for further target practice. In his essay «The fixation of Belief,» Peirce's holds that the cycle of belief, doubt, inquiry, and revised belief is reduced wherever dialogical freedom of expression in belief and inquiry is curtailed.

When Karl Popper proposed falsifiability as the criterion of any scientific theory in 1935,⁸⁴ he implied that science fails to function anytime freedom of expression in the possible falsification of belief is repressed. Hegel, Popper's *bête noire*, curiously advocated the same thing, understanding publication as the courage to put one's ship out to sea and see with what fate it meets among critics.⁸⁵ When the Belgian rhetorician Chaim Perelman (1912-1984) said that to test a belief is to address oneself as much as possible to those competent to judge in the universal audience,⁸⁶ he argued for a global public domain in which to put a theory at risk by leaving no stone unturned in any country.

The German logical positivist Otto Neurath (1882-1945) was the first to claim that the various ships our belief systems liken us to "sailors who must rebuild their ship on the open sea, never able to dismantle it in dry dock, and to reconstruct it there out of the best materials."⁸⁷ Once we go out to sea with our system of belief we must repair the ship of our beliefs at sea as best as we can. We will never reach any safe harbor of certain belief, much as we had no such belief when we left port.

The scientific method, described by Peirce as the long arm of common sense, was seen by him as a search for contradictions, whether they be contradictions internal to a theory or between a theory and observed facts. Karl Popper's related description of the scientific method as a quest for the *falsification* of belief—rather than being a logical positivist quest for *verification*—is found in his post-1945 ethics of the *open society* or global public domain. It is also found toward the end of the twentieth century in the discussion ethics (*Diskursethik*) of Jürgen Habermas.⁸⁸

One explanation as to why care ethics has been thought to be contrary human rights is because the Universal Declaration is more concerned with individual rights than with duties or responsibilities. It is also worth recalling that the Declaration uses sexist language, repeatedly mentioning «man» It scarcely mentions 'responsibility' or 'care' even though human rights logically implies them. Yet rights and responsibilities are as inseparable as right and left. Unfortunately,

“human rights ethics” betrays its Western roots, and a cultural bias that prefers to speak of ‘rights’ rather than ‘duties’.

A more precise name for the ethical theory could be “the ethics of equal care for the rights of all.” I retain the name “human rights ethics” because it connects with the prevalence of “human rights” in post-1945 language, and because of the prior authoritarian prevalence on a duty consciousness the Declaration combats. Talk of “duties” by itself had come to have a less positive ring among the Western allies than talk of “rights.” Rights talk became a corrective to a prior prevalence of duty towards those at the top of Axis authoritarian hierarchies during the War. If this prevalence recedes into the past, “human rights ethics” should be commonly understood as short for an ethical theory of the duty to respect the universal rights human individuals. Human rights ethics leads to caring for all others as sources of learning, extending to compassion for the worst off from whom learning is equally possible.

The United Nation system of human rights protection includes the Red Cross operating by a compassionate humanitarian ethics as well as by international humanitarian law, addressing the greater needs of those in crisis situations. Although the Red Cross was founded by women nurses, it is not irrelevant to note that employs men, too. Though not a perfect institution as a bureaucracy, its inspiration has not vanished. No separate chapter exists here on care ethics, since human rights ethics is human rights care ethics under another description. Human rights ethicists act both locally and globally. Despite the preferability of acting locally so global intervention is unneeded, the availability of international human rights law, commissions, and courts along with international humanitarian intervention is an important back-up if local communities fail.

The post-Nazi era made human rights the highest norm of the international community, to the extent of making it hard to not turn on television news and find reporting on a human rights issue. Human rights violations aroused the compassion of millions. Yet justification of human rights before the court of human reason assists the ethical cause of caring. Compassion, identification with the suffering of others, has had a large role in motivating care for the rights of victims. Those with compassion suffer with others found to suffer. Yet compassion can be directed towards the wrong people.⁸⁹ There was compassion among some of the Nazi Youth for Hitler even toward the end of his hopeless defense of Berlin. There are other examples of compassion for those not deserving it. And so, compassion does not necessarily promote respect for human rights if it is not rationally regulated. Another limitation of compassion is that victims sometimes feel no suffering. Children may be happy with weather- (or pandemic-) related school cancellations, but they are victims of

reduced education.

Here reason must limit and guide compassion. A good reason is certainly needed if one is asked to give or risk one's life for human rights, as soldiers are at times asked to do. Yet even the best reason must be more than a *positive argument* for human rights, but must also be a *negative argument* against the contrary moral theories in prior chapters. It must be an argument not just for *human rights*, but for *human rights ethics*, an ethics directed toward implementing universal human rights to respect.

Human Rights East and West. Human rights and freedom of expression in particular have in the Orient been criticized as Western cultural imperialism. Yet we do not speak of English or Jewish physics because it is traceable to Newton or Einstein. Human rights are «European» merely because accidents of geography assigned their global promotion to Europe. The global human rights movement is accidentally European in its historical origin, but is universal in its validity.

There is no *Asian value system* making individual human rights *Western*. Some Asian politicians, claiming to speak for their peoples, have assigned collectivistic Asian values to them while failing to recognize protests by some of their own most vulnerable citizens. No woman who is raped is so collectivistic as to claim no right to physical integrity and ownership of her body. Yet some Westerners believe that women in traditional cultures are not interested in their own human rights, that they accept what they have suffered as normal. But complaints by the same women have been heard when men are absent. Those who have heard such complaints cannot doubt that the universal validity of human rights.

The idea of human rights was already present in the Far East. Classical China recognized the virtue of humanity (*jen*). Everyone in the original Chinese ideal, recalled by Confucians, enjoyed dignity wherever in the social hierarchy. Yet the central right of freedom of expression in China has been only intermittently respected. Since the British empire and its cultural imperialism are gone, a 2020 pro-democracy campaign in Hong Kong is a human free dissemination of ideas. It not British cultural imperialism.

For a couple millennia China has been steeped in *duty-consciousness*, not the West's individual *rights consciousness*. A Confucian is grateful to his country's tradition that made him who he is, and to which he owes a debt of the rights or privileges he has. Rights consciousness in the West became excessive in more grievances, litigation, strikes, less repression of individual self-expression in hate crimes. In the dominant Western countries rights are moral benefits, while duties are moral burdens.

Human rights would be more respected if they relied on a universal sense of duty. A global human rights culture of the future requires that the West be able to export freedom of expression and at the same time import a greater (less Western) sense of duty and social responsibility. Yet this point applies only to the leading Western powers, since duty consciousness is well established, for example, in Catholic South America.

Human Rights Conceptual Framework. So far we have been looking at the cultural context of Human rights. Turning to basic terminology and concepts, what is a right? Minimally, sociologically, a right is a type of action recognized as socially approved as valid, whether or not it is truly valid. This makes for a *social right*. Such a right is constructed first by staking out a claim to some freedom, or service, or some good. Of course, the example of slavery, considered to be entirely legitimate in the US Old South, shows social rights are not always valid. Social rights merely as such are enforced not legally but rather through social disapproval of violators. Only if social rights become legally enforced do they become *legal rights*, the second type of rights. Thirdly, beyond social and legal rights, there are moral rights. A *moral right* is a legitimate social right, not just a right deemed to be legitimate. It may or may not be actually enforced as a legal right.

Human rights are universal moral rights. The first step in a three-step process in constructing a human right is to stake out a claim to some freedom of action, service, good or product. The second step is a human rights movement which ideally results in social recognition of the legitimacy or validity of the claim. A socially recognized claim is by definition a right, but it may not be legally recognized or enforced. Legal enforcement of the claim would be the third step. A socially recognized claim is enforced only by social disapproval of those who violate the claim.

There are two types of moral rights. The first type is a human right understood as an inclusive moral right of all. The other kind, though, consists not in human rights but in *exclusive* moral rights. Rights are generally options, not duties, but they imply a duty to respect them when the option is assumed. The right to citizenship in a country is not a duty. Yet if one takes the option, the right is exclusive, since foreigners lack the rights of citizens. The right of citizens to services rendered by one's country is to the exclusion of non-citizens.

Proceeding now to a typology of human rights, I make the case that the *general* human right is freedom of expression. This is the first freedom in President Roosevelt's 1941 Four Freedoms Speech, and likewise the first to be mentioned in the Preamble of the Universal Declaration of Human Rights. This primacy of freedom of expression colors my comments on all human rights in

the Declaration at end of the chapter.

Reasonable people can see that to realize one's goals one needs to know the world in which one lives in order to close the gap between it and one's goals. Equal freedom of expression practiced in discussion, along with more specific human rights, is the method for closing the gap between the world and one's goals.

The distinction between the above general human right and its particular specific forms bears an analogy to the distinction in biology between life generically and the particular species of life. Specific human rights both protect and apply freedom of expression. They protect freedom of expression on an even playing field in a cooperative quest for truth. They empower those who otherwise would not be equally audible partners in discussion or negotiation. Freedom of expression generally includes specific human rights.⁹⁰ Rights other than freedom of expression will be presented below as special or particular forms of that general right.

We cannot get outside our minds to compare our beliefs with the facts. We wait until our belief system ends in contradiction—internally or with empirical fact flying in our face—to rework our system of belief in a dialogical exchange of free speech acts. The purpose is to surmount contradiction and proceed with our revised belief system until we must repair it again. Agreement with the repair is our tentative, provisional signpost pointing to the objective truth.

Grammatically «human rights» are referred to in the plural. But conceptually, as we shall see, the UN upholds their indivisibility, denying any hierarchy apart from the priority of free expression over more specific rights. This suggests one basic human right, freedom of expression as distinct from specific forms of its exercise.⁹¹ Freedom of expression contrasts with private Stoic freedom of thought. No one can be punished for one's private thoughts. Only public freedom of expression can be punished, and that is why it needs protection.

Universal rights were once Biblically grounded as natural rights in an appeal to the image of God naturally existing in every human person. Yet in recent years a smaller portion of the population, particularly in the Western industrialized world practices Genesis-based creationist theology. The Evangelical movement in the United States stands out as the main exception.

Freedom of expression contains four fundamental subsidiary rights:

- *First.* Everyone has a right to be included in any discussion of personal concern before it results in any consensus that is perceived by a discussant to have an impact on her or his life. A right to

discussion behind closed remains in place if a decision under discussion is not perceived by discussants to have an impact on someone outside the discussion circle. But everyone, as a general principle, has a right to decide for oneself whether a discussion is of concern to oneself. If one has not been included in a discussion of concern to oneself before implementation of its conclusion, anyone who discovers that it has a negative impact on one's life has a right to have the implementation of the decision suspended for a resumption of discussion in which one is included.

- *Second.* Upon being included in a discussion everyone has a right to have one's discussion partners reveal any known consequences for oneself of any proposed choice or conclusion. No one should hide the fine print.
- *Third.* There is also a right to have one's discussion partners reveal to one all known *alternatives* to a proposed decision or conclusion. Ethical decisions in discussion imply informed consent.
- *Fourth.* One has a right not to be coerced to accept a decision affecting oneself unless the decision has been professionally made on grounds of its necessity to protect one's health or the rights of other persons. If one is a child, a decision can be suspended merely based on a professional consensus that it is not in one's best interest as a child. As an adult has a right to act contrary to one's self-interest, a freedom to be wrong with the possibility of self-correction. One also has a freedom *not* to follow a consensus as to what one ought to do, as long as the decision by a professional consensus does not negatively affect the rights of others. A consensus among discussion partners is a recommendation, not a command except in courts of law.

Truth pursued in dialogue depends on the stubborn facts, not on wishful thinking. We approach the truth indirectly, correcting one error after error. We zero in on the truth best by discussing issues freely with flesh and blood others, but with no certainty of ever finding it. The process of eradicating error and false beliefs is aided by the fact that you can more easily ignore errors, gaps and contradictions in your reasoning in the privacy of your mind more than in discussion with external voices. Dialogue means reasoning not by oneself, but through give and take in respectful and peaceful communication with other people

Yet there are limits to the right to freedom of expression conceive as the right of rights. Merely venting pent-up emotion is not a prohibited expression of free speech. It is commonly permissible, though it is not morally obligatory. Yet it is prohibited if it violates the human rights of others, especially if it threatens their security. No right to free expression exists to encourage violations of human rights such as racism, sexism, war mongering, or even showing disrespect for the religious belief of others. It is upheld by the European Union's view of what is permissible on the internet, though not by the United States—largely because Nazi hate speech was rampant in Europe but not in the US.

I go beyond most official explicit statements of freedom of expression by stressing the value of freedom of expression in the dialogical context of pursuing the truth about one's situation and its opportunities. This stress, as I will endeavor to show in the next chapter on human rights education, helps motivate people to exercise not only freedom of expression but all the other human rights it covers in the pursuit of personal success in life.

The general right to freedom of expression exists under particular descriptions. For example, it exists as the right to security (eg., a cry for help), a right to rest and leisure (e.g. conversation with friends and family), or as a right to a free press. Under different descriptions, each applied right is a responds to different standard threat to freedom of expression. This account, reconciling the multiplicity and indivisible oneness of human rights, is perhaps the key innovation in the present conceptualization of UN human rights.

Freedom of expression threatened by a lack of food tends to make what one says a carbon copy of the thought others on whom one depends for a handout, even to the point of begging. We need not ask your opinion if it is not an independent opinion of yours, but need only ask the one who feeds you or on whom you are dependent. One has a right to free expression in the particular form of a right to food on your table without relying on any charity with strings attached. You exercise free expression *by* enjoying an independent livelihood, *by* not being persecuted for the public statement of your beliefs, or *by* being freed from other restraints on equal freedom of expression.

Freedom from each of restraint on free speech establishes freedom of expression under another particular description. Human rights other than that to freedom expression are modes of that right. Applied human rights ethics is research to discover new particular rights under the one general right, or even more particular human rights under particular rights already in the list given in the Universal Declaration.

The right to drive a car to get to work in a city without public transportation is more an application of the right to work in the Declaration than an independent human right. Allowing applications of a human right that are not themselves human rights helps limit the multiplication of human rights about which some critics of human rights have complained.⁹²

Particular human rights accidentally differ due to varying threats to free expression one can encounter. If extraterrestrials exercised optimal free expression without needing protein, no right for them to freedom of expression by way of a right to protein would exist. Further human rights under the right to free expression are found by research into the ways in which dialogical freedom of speech can be restricted. If a right to food existed without fueling freedom of thought, it might be an important animal right, but not a human right. Reducing human rights to free expression makes justification of them far simpler, since no need exists to justify independently each of a few dozen of rights in the Universal Declaration. We need only justify the one basic right.

Universal free expression enables maximal testing of any hypothesis. Each rational goal seeker knows the importance of having the truth about the situation in which one acts as a condition assuring successful pursuit of one's goal. The pool of dialogue partner one can recruit can include people drawn from distant locations with whom to discuss remotely by the internet. The greater the pool from which one can draw, the more likely a good critique of one's own idea.

To maximally defend any belief would be to convince motivated investigators drawn from the universal audience of human rights-protected individuals who are free to speak. The universal audience would need to exist for human rights to optimally exist. Only today, through technology linking members of remote societies, is this audience really possible. This was once an unrealizable moral ideal. We now have the resources, if allocated ethically, and so a moral obligation to use them. If any African's free expression is blocked by avoidable starvation, disease, dictatorship, poverty, or illiteracy, no hypothesis is as well-tested as it might be. Science including the science of ethicisms is then underperforming.

The pursuit of truth is the pursuit of human rights. Upon abandoning any appeal to self-evidence, a rational consensus protecting free expression is the only credible truth criterion left. Truth seeking by respecting human beings is a cognitive-moral norm. The norm maximizes chances for finding truths on which individual success depends without ever guaranteeing truth will be *known* in the strong sense by an irreversible consensus. The standard simply maintains ethical truth seeking. Science that suppresses the free expression of those not sharing the consensus of other researchers in a given field is not science. The universal right to free expression is a precondition of

maximal justification, refutation, or suspension of judgment. Since human rights are universal, they exist nowhere if not everywhere. Human rights, because they are by definition universal, cannot exist in but one country.

Without universal human rights, only a human rights movement can exist. Human rights may progress towards universality one country at a time. Were human rights to be universally implemented by all states, a general global social contract would exist. I respect your free expression and all that is implied thereby on condition that you respect mine. Just such a contract for mutual assistance in approaching the truth is needed to successfully act in all sorts of practical domains. Human rights ethics implies reciprocity in mutual assistance. I do not infringe on your rights if you do not infringe on mine. Negatively, I take no food off your plate if you take none off mine. Yet human rights are also positive: I put food on your plate when you need it, and so will you do in return.

The ethics of creating and respecting human rights is creation of the unbiased justification, refutation, or suspension of belief in interaction by human beings with one another. Human rights are the other side of the coin of fair truth-seeking. Respecting them is truth-seeking under its ethical description. This dialogical ethics is not pursued for its own sake, since human rights ethics enhances progress toward truth-seeking. To practice human rights ethics today when they do not actually exist is to join the global human rights movement, acting locally one-on-one *as if* human rights existed universally. A morally good consequence of respecting such rights consists in having taken a small step toward universal implementation.

The moral and cognitive points of view, separated by Kant as we saw in Chapter Eight, now come together. Respect for rights is the ethical path to truth. We seek knowledge in dialogue by respecting rights as an integral part of truth-seeking. A single cognitive-moral point of view here emerges. We can refute free freedom of expression only contradictorily by exercising it! And as a result free expression cannot be refuted.

To try to refute human rights rationally ends up embracing what has been repelled. In logic this is called the fallacy of arguing in a circle. The attempted refutation is circularly self-refuting. If such circular reasoning, presupposing what we reject, is used to justify human rights, it can only fail. One can justify the right to freedom of expression only by presupposing it.

Put otherwise, the logical demonstration of human rights uses the method that logicians call

indirect proof to argue circularly and presuppose what one rejects. Indirect proof is also known *reductio ad absurdum*, reduction to absurdity. In an indirect proof of the validity of human rights the position of opponents to freedom of expression is first assumed. Then an attempt is made to reduce their position to self-contradiction. For opponents to freedom of expression can justify the rejection of freedom of expression and hence of human rights generally *only* by addressing as many motivated investigators as possible and respecting their freedom of expression! Once opponents of free expression, and thus of human rights generally, understand the argument above, they may drop their opposition.

Yet not all people are actually logical. Facing anti-dialogical protest, the human rights movement must on occasion draw a line in the sand and engage in a form of combat. That is why war in the form of humanitarian intervention on occasion becomes unavoidable.

To see the point most clearly, let us adopt the viewpoint of the worst adversaries of basic rights, of those who hold they have nothing to learn from anyone else. These are people who appeal only to privately self-evident intuitions, never to dialogue presupposing human rights. Yet they can correct their mistaken rejection of the testimony of others by accidentally overhearing to their surprise something said by another. This reveals a previously unconscious readiness to learn from others, contradicting individual self-sufficiency in truth seeking. A logical person seeing the self-contradiction may convert to the proven possibility of learning by hearing others.

If one accepts correction by experts one happens to hear, or by other people we happen to respect, the implication is that we can learn from hearing in general. The proof one comes to accept shows that, outside the circle of one's existing dialogue partners, there are others from whom one might learn. The proof of this is an experience most of us haven't had. On accidentally overhearing what another says, an idea lights up in one's head because of the reply of another found to a question one had asked oneself without finding an answer by oneself. If on hearing an idea from an outside source that answers a question of one's own, why could one not hear enlightening answers from a still wider circle of discussants? In the end total strangers anywhere today on the internet might be a source of answers. The discussion circle of those from whom one can potentially learn can grow to until it includes all humanity. Leaving no stone unturned, one is led to respect the rights of all others to maximize one's own capacity for enlightenment.

Fixation on a claim to self-evident knowledge in the privacy of one's mind is a good definition of evil. Too often it allows dismissal of the other's belief, refusal to give another a hearing, writing the other off. For example one conclusion drawn by some terrorists has been that

the earth should be cleansed of the false beliefs of infidels.⁹³ Pseudo state authorities of the violent jihadist organization ISIS have justified killing others simply because they are infidels and apostates. More generally, if you seriously ask any question and one replies to you saying that the answer is obvious, the other disrespects your right to free of expression.

My aim here in this book is not just to make the case for human rights as a moral standard, but rather for human rights as the *sole* moral standard, eclipsing all other ethical theories. This is to ground human rights norm as the only defensible final moral norm. In previous chapters I have used the negative argument of refuting ethical theories other than human rights-based ethics. If the utilitarian norm holds but is justified by the higher norm of fair dialogue, utilitarianism is refuted! If all ethical theories but human rights ethics assert ultimate standards that can be refuted in the same way, human rights ethics alone survives. Not all possible ethical theories have been discussed. Yet all but human rights ethics would likely meet the same fate.

Human rights ethics eliminates conflicts not only between ethical theories, but also between human rights. There is but one human right hiding under different descriptions. The right to free expression exists if necessary by access to the courts to protect free expression, but also by the right to take part in democratic free elections to warn governments of possible voter rebellion to government abuse of freedom of expression. The particular ways of singling out freedom of expression do not conflict, but help apply human rights to all situations in which they may be violated.

The right to free expression in its different manifestations is the highest objective norm. Yet apparent conflicts can arise between my *subjective* exercise of freedom of expression and yours. By talking without stop and preventing you from talking, I violate your subjective exercise of free expression. An *objective human right* holds as a right *to* some object, to some freedom of action, service, or good, without regard to who exercises the right. A *subjective human right* is the right to exercise of an objective right by a particular subject or person.⁹⁴

Dialogue declines in the face of conflict, insecurity, and a lack of access to life necessities. Insecurity reduces the wide range of topics for free thought due to concern for safety. Likewise famine nullifies freedom of thought by reducing the range of urgent topics one needs to think about to solely thought about where one is going to get one's next meal. Fighting to take a neighbor's land is a violation of the right to peace. If priority is given to the right to freedom expression, no permanent hierarchy exists among the various ways in which the right is protected. It all depends on the situation. A changing hierarchy may exist from situation to situation. One person in her or his

situation assigns more importance to redressing political human rights, while another assigns higher urgency to respect for due process rights.

Thus conflicts between the subjective human right to free expression by different human subjects are resolved by a different hierarchy in different situations. Sometimes the exercise of freedom of expression, objectively the most important right, is outweighed by the subjective right of many to security. Paradigmatically, the right to the security of many in a crowded theater preempts the free of expression one individual yelling “Fire!”

I am not saying human rights ethics can never be refuted. The human rights procedure for protected fair dialogue could, like any theory, have a hidden contradiction. Or pharmacology might find memory and intelligence boosting pills that only a minority could afford so that dialogue before a potentially universal audience would lose interest for this minority. The procedure of human rights-protected dialogue open to universal participation must always be examined, whether the examining is intended to further qualify it or to abandon it. So far I have not found a good refutation to it. Human rights-based ethics seems to be the last standing position in normative ethics. It remains a target theory for any would wish to take aim. But the reader must judge.

Assume for the sake of argument that human rights ethics survives criticism, with even criminals having human rights despite violating them. Following Rousseau, in an ideal *global* village, criminals have contracted to receive a right to be restored as upright agents who respect the rights of others. The Universal Declaration asserts a right to due process, resulting to punishment if the accused is found guilty. This is a human right to be punished if guilty, and an ideal right to rehabilitation. Rousseau was the first to speak specifically of human rights (les droits de humanité). He is equally known for proposing “popular sovereignty” by the consent of the governed in direct democracy, governed by the “general will” understood as the will of the majority. Despite the “natural goodness” of human nature, he realized that such goodness is realized only in a people educated to block the majority from endorsing excesses like high crimes against humanity.⁹⁵ In Rousseau’s time in the eighteenth century, however, there were no effective ministries of national education, and the atrocities of the first years of the French Revolution that drew inspiration from Rousseau’s words made many suspicious of premature abandonment of a country to popular sovereignty.

National education is not clearly in good hands in democratic countries today. In the United States pupils and students in different neighborhoods are paid differently. Yet if popular education in local, national, and global citizenship and civility could be assumed, Rousseau's skepticism of democracy beyond a single city like his own Geneva could be explained by his unawareness of contemporary media of universal communication. These media now call to our attention Marshall McLuhan and his idea of a "global village". With no idea of an eventual global village by contemporary media of communication, Rousseau was pessimistic that democracy and human rights were possible in a large nation of his time like France.

Due to the potential of today's communication media, a global village in which democracy and human rights survive generally is practically possible, though still far from actual. The Universal Declaration and subsequent human rights treaties are in principle Rousseau's social contract on universal scale. Yet France issued a new mandate for moral and civics education at all levels of national education after the Paris terrorist attacks of 2015. But the uncivil disruption by strikes and mass demonstrations blocking transportation since then show that, in a historically leading country in global human rights, it is not only terrorists who need more education in civility.

We have been discussing *human rights*, but it is important to follow Rousseau in distinguishing them from the earlier idea of *natural rights*. More generally, it is useful to comment on human rights terminology etymologically. "Human rights" language is from the late eighteenth century but notions of "natural law" go back to classical Athens. Even the term "rights" as a noun, did not exist in antiquity. Yet the idea was implicitly present. Roman law spoke of "permissible actions." Human rights differ from natural rights by being historical constructs.

Though human rights is not an ancient concept, they are linked to *persons* as their possessors, and the term "person" does go back to antiquity. "Person" originated the ancient Greek term for a theatrical *mask*, happy for comedy, sad for tragedy. In Rome a mask symbolized an actor's *role* assumed on a stage. In Roman law "persona" meant all roles assumed by individual *role-takers* on the stage of legal procedure: *protagonists*, antagonists, judge, prosecutor, the accused, defense attorney, and jury member. And in the Middle Ages, echoing the Ancient Greek sense, a "person" came to mean not a role, but a role-taker, an individual agent capable of assuming different roles and dropping one role for another. That is what it means today.

Shakespeare said all the world is but a stage. We are its actors,⁹⁶ but also the spectators, judge, and jury. Each person has various roles, and each role comes with its rights and responsibilities. Thus, a person is definable as an individual with rights and responsibilities. The Greeks are the source of "human rights," but a source more in Greek theatre

and then Roman law rather than in philosophy.

Some still mistakenly say that “human rights” are a today’s term for what were once called “natural rights” based on natural law. Rights cannot exist in a state of nature, within a lawless jungle.⁹⁷ A pre-social state of nature is governed by natural laws of cause and effect from physics, chemistry, biology that are understood today to operate without exception. A further point is that the Stoics understood «natural law» differently from today’s natural science: natural laws could be violated. A thief violates the natural law of human nature.

Stoic natural law gives us a natural right to personal property, the product of our labor and trade. Unlike ants we are not innately programmed to behave merely by natural instinct. Yet the thief’s violation of property is fleeting in a society under civilized customary law where he is pursued, arrested, and returned to compliance with natural law. The international customary law of civilized nations approaches the institutionalization of Stoic natural law, but imperfectly since some terrorists are not prosecuted.

Nature itself “enforces” the natural causal law of gravity. Human nature “enforces” natural law understood in the ancient sense as a human drive like hunger or thirst. Yet “enforces” is in scare quotes, since nature is impersonal, not a personal agent. Only persons can make, respect, enforce, and recognize the validity of claims.

“Natural rights” are incoherent, since only the free voluntary acts of persons can stake out, recognize, or validate claims, and thus make them into rights. Still “natural rights” are a predecessor and one source of today’s idea of human rights. Rights are not natural because they arise in human history, and do not exist from time immemorial due to unchanging human nature. They are social constructs based on contract, and exist by conventions that can come and go.

Natural laws by modern science are eternal. If human rights were due to a natural law similar to the way gravity is due to a Newtonian natural law, rights would be eternal, too. Rights depend on the historically situated social recognition of claims. As mentioned, the first step in creating a right consists in persons staking out a claim whose validity is not yet socially unrecognized. This can serve to create a time-bound human rights social movement. That is why eternal “natural rights” is a confusion of terms. Society creates rights, but it can also take them away. They are fragile. The right to free speech is inalienable only in an ideal speech situation.

Contrary to the US Declaration of Independence, no self-evident rights exist. All is discussable, nothing is evident. By the same token no *inalienable rights* exist. If rights could not be

taken away from us, they would need no protection. We should thus not speak of *natural rights*, but only of natural propensities or drives.

Talk of natural rights brings us to Thomas Hobbes, the seventeenth century English philosopher, indisputably one of the founders of modern political philosophy. Hobbes is best known for one book in particular, *Leviathan*, published in 1651, in which he sets out a radical version of social contract theory in which his conception of natural rights extended from his conception of man in a “state of nature.” “Natural rights” has been used in different ways. I distinguish three concepts of such alleged rights. For *Hobbes* a “natural right” (a drive) is a right to do what by human nature we cannot help doing in a given situation.

Natural rights are closely related to the concept of natural law (or laws). During the Enlightenment, the concept of natural laws was used to challenge the divine right of kings, and became an alternative justification for the establishment of a social contract, positive law, and government (and thus, legal rights) in the form of classical republicanism (built around concepts such as civil society, civic virtue, and mixed government). Conversely, the concept of natural rights is used by others to challenge the legitimacy of all such establishments.

The idea of natural rights is also closely related to that of human rights; some acknowledge no difference between the two, while others choose to keep the terms separate to eliminate association with some features traditionally associated with natural rights. Natural rights, in particular, are considered beyond the authority of any government or international body to dismiss. Natural rights are everlasting, human rights are not.

I may not like what human beings cannot help doing by their natural propensities, i.e., what Hobbes called their natural rights. I cannot blame a cat for a mess on a rug if I have left it without a litter box. I cannot blame a homeless person who breaks into a house as the only way to escape from the cold. Tolerating others who do what they cannot help doing, in exchange for their *tolerance* of us if we do what we cannot help doing, would lead at least to *peaceful coexistence* between us, a non-negligible value. Yet peaceful coexistence can mean not caring what the others do if they do not interfere with us. Suppose mutual interference occurs as people do what they cannot by help doing. The solution is, if possible, to change the situation creating the conflict, thus restoring peaceful coexistence. Yet though peaceful coexistence is better than *war*, it falls short of dialogical human rights which I defend as an opportune to develop an interest in others’ beliefs as a chance in mutual assistance to test one’s own.

Before leaving Hobbes let us see how his idea of natural rights can lead to the present idea

of human rights in the chapter. He held we had a natural right to *pursue* life, limb, property, and security, but not that we have a natural right to the *success* in such pursuit. I replace “natural rights” talk with talk about natural drives or propensities, which help define human rights. *Given a natural drive to eat, a human right to food is the success of the drive.* We have a natural drive to breathe, but so far only an ideal internationally declared human right to breathe clean air everywhere

No declared human right to eat ice cream concluding a human rights struggle has arisen because this right has not been repressed. Not all drives engender human rights. A drive to revenge against violators of our human rights exists. But, given true courts, no one holds this should lead to a human right to revenge. Drives are morally neutral facts of nature. We do not argue from existing drives that they ought succeed. Human rights are the successful exercise of selected natural pursuits, whose exercise either constitutes or supports the equal opportunity to exercise of human rights. No natural law-based (propensity-based) human rights exists across the board because some natural drives are anti-social. Yet knowing natural drives is important because we must by the laws of human nature be capable of exercising a human right for their exercise to become obligatory. One cannot help pursuing some line of thought or other. The human right to freedom of thought depends on a drive to exercise freedom of thought. Human rights add to this drive the right to successful, socially enforced outer public expression of the inner drive.

“Natural rights” also have a non-Hobbesian sense. They can be Aristotelean natural rights *as* rights to happily exercise essential *species faculties* in a balanced way. In this sense, for Rousseau as well as Aristotle, human nature is good, and human beings bad only by bad education. Yet a bird has a natural right to fly, and a lion a natural right to roam free. A problem with human right ethics based on *species nature rights* is that it equally assigns a shark a right to bite, microbes a right to spread a pandemic. Only faith in providence or pure luck assures harmony between the exercise of one species’ faculties and that of another species.

A third meaning of “natural rights,” having nothing to do with Hobbes or Aristotle, arises in common language when “natural” is contrasted to *artificial*. A right is not always better because it is artificial as opposed to natural. The artificial man-made family institutions of some ancient Greek antiquity city states like Athens allowed the father a life and death power over everyone in his domain. Artificial vs. natural rights depend on a case by case analysis. Sharks have a natural non-artificial right to bite from which we must protect ourselves.

Articles of the Universal Declaration. The UN Universal Declaration is presented as a declaration of the moral law for our times. The problem I have cited has been that the UN has declared rights without articulating good reasons. Throughout this chapter, I have interpreted the

UN-declared rights in the Universal Declaration as falling under the aegis of one basic right: freedom of expression. I will use a six-fold classification of human rights from Universal Declaration to comment on each of these rights in light of the primacy of the right to freedom of expression. Human rights can be classified as *civil rights* including the right to security and property (Articles 3-5, 18-19), legal-access rights (6-17), *political rights* (20-21, 28), *public service rights* (21), *economic rights* (22-27), *educational and cultural rights* (26-27) *public works rights* which are infrastructural rights implicit in most other rights. For example, education requires school buildings. Economic rights overlap with all other rights that cost money, like the right to education and to an equal legal defense.

What are called civil rights center on property. Their main function is to protect products of mental and physical labor. By mental labor, one begins by gaining muscular coordination and reworking the circuitry of one's brain in all learning. By appropriating one's brain and body through investing labor in them, one is able to invest labor in things outside one's body. Rightful ownership of one's body leads to rightful ownership of personal property outside it. The right to property as a civil right is a right to *securely* possessed property. The right to the security of one body and property is itself a basic civil right.

The next and largest category of *legal-access rights* does not refer to rights that are legally enforced. Rather, they are rights by which we access the law to defend civil rights and other human rights. And *political rights* enable citizens to have some control over government to prevent it from violating all non-political human rights. Political rights are rights to participate in democracy by free democratic elections, the right to assembly, right to hold office, and the right to an international order in which all declared rights can be promoted and/or protected.

The second largest range of rights is that of *economic rights*. These are human rights by which the state is the guarantor of last resort in meeting subsistence needs. Economic rights are the most controversial human rights. They are a mandatory tax-supported universal insurance policy. In a functioning welfare state even those who never draw welfare benefits are on welfare in being protected should they ever require benefits. Economic overlap with other human rights insofar as their promotion and protection has guaranteed costs. It should be remembered, however, that these and other rights are ideal universal and equal rights. The Universal Declaration is an agenda for their promotion and implementation over the long run and is not itself world-wide enforceable law.

The 1948 Universal Declaration innovates on the 1789 French Universal Declaration, by asserting that a people's security lies in knowing that its subsistence is protected by taxes, in the process making possible the exercise of dialogical thought in the quest for truth without fear. They

appeal to the idea that he who wills the end wills the means. If the end is the public exercise of freedom of thought, the means includes subsistence as well as security costs. The fruitful exercise of free thought in dialogue deteriorates in a frightened population lacking welfare rights because of anxiety over the morrow.

Resistance to teach the Universal Declaration in the US might decline if welfare rights were considered as hypothetical ideal rights depending on the result empirical research rather than absolute rights ascertainable by philosophy alone. Following the 2020 pandemic such discussion may begin.

Finally, *Public works rights* are rights to roads, schools, libraries, and recreational facilities which support the optimal public exercise of dialogical freedom of thought and other human rights. *Public service rights* are rights to the staffing of public works, including the salaries of state employees. All six types of human rights presuppose the state as the guarantor of the last resort. The moral justification of the state is to protect human rights. But this function does not prevent the state from delegating the protection of human rights to private parties, unless of course the quality of protection suffers.

Despite the indivisibility of ideal human rights in international declarations and law, as ever there are ideological conflicts between the types of human rights. Controversy has raged, for example, between the *libertarian* right to the product of labor and economic welfare rights. Welfare can be funded only by taxation of the product of labor. A second ideological conflict appears between civil and political rights, since public financing of elections, justified as a way to level the playing field between candidates is through taxation. However, such conflicts can be surmounted by an appeal to freedom of expression as the one primary right. Appeals to self-evidence have deceived us, so ought not be trusted. An ideological conflict between human rights does not mean those rights themselves objectively conflict. Ideological conflicts mean that their objective meaning can be subjectively distorted.

If the primacy of public free expression is justified as the condition of collaborative truth seeking, other human rights are ways of exercising that primary right. How many types of human rights and applications of them exist depends on empirical research into all ways in which dialogical freedom of thought can suffer. If it universally suffers without literacy, healthcare, free elections, security, or welfare rights, in each case different modes human rights or applied human rights are called for.

The right to food is an important animal right, but is a human right by equalizing the potential for freedom of expression. Those who do not eat can think of little else than food. We exercise the right to dialogical freedom of thought by a right to food, as well as by physical security, free elections, etc.. The right to food and to free democratic elections, for example are the same general right to free expression under different particular descriptions. The right to food is shorthand for the right to public freedom of expression *by means of a right to food*. If this seems doubtful, try having a dialogue of concern to all in an underfunded economic refugee camp.

Though different types of human rights do not conflict since they are alternative modes of but one basic human right. Yet one individual's exercise of a human right may conflict with another individual's exercise of the same right. There are conflicts between two persons subjective right to the same object, e.g., to the same property. Such conflicts appear before courts of law.

We distinguish between subjective and objective rights, between the subject or person who has a right and its object of the right. My subjective exercise of free expression at present may give priority to freedom from starvation and yours to freedom from political repression. The right to freedom of expression is an *objective right* regardless of who exercises it. Freedom of expression is its direct object. An objective right, a right to this or that, can be abstracted from its exercise by this or that person subject.

Subjective exercises of one human right by different persons may conflict. My right to my house excludes yours to the same house, and the conflict needs to be adjudicated. My right to speak in a situation may exclude your moral right to speak at the same time and place. Given a clear and present danger your right to speak in an emergency may preempt mine. Exercising the right to security is one way of exercising the basic human right to freedom of thought. For dialogical freedom of thought and expression in extreme insecurity can reduce thought to the mere thought of survival. Though the objective right *to* security in general is justified only as a mode of the objective right *to* free expression, your subjective right to security in a situation threatening your survival may preempt my subjective right to free expression. My speech might interfere with efforts saving your life.

The Universal Declaration seeks to codify the moral law for our time. Yet its validity is not eternal. A declared human right to housing in the Declaration presupposes non-universal sedentary, non-nomadic life. Since human rights do not exist, they function only as a standard for moral progress. The Preamble declares human rights as ideal rights that are *inalienable* from an ideal speech situation. Constructing human rights is in part the construction of this universal audience.

The Preamble with the rest of the Declaration asserts a right to freedom of expression as dialogical in truth seeking. «Come now, and let us reason together...»⁹⁸ Yet it does not bar subjective purely expressive freedom of expression speech that is not hate- or war-mongering or otherwise in opposition to any declared right.

In conclusion, human rights ethics proposes a scientific normative ethics based on the discussion procedure of natural and social sciences as broadly understood by Charles Saunders Peirce as his successors in the philosophy of science as the «long arm» of sound commonsense. In principle a similar thinking procedure can be followed by the man or woman on the street. What has its source in commonsense can be reapplied to commonsense to further clarify its meaning.

That said, however, the purpose in ethics is not, as in the theoretical sciences, to find one true theory on which all specialists in a scientific discipline can agree. It is rather for each to find the best means to personal success through mutual assistance for as many as possible. If I do not help you, I may deny myself the record of your personal achievement or failure from which I may learn something. This is to really the subtitle of the present book: *For The Greater Success of the Greatest Number*

Human rights ethics is a consequentialist ethics for personal success.⁹⁹ Healthy people want personally successful lives as the end in itself, not the maximization of pleasure. It is also an ethics for the greatest success of the greatest number. Yet no ethical theory serves its purpose without a workable method of moral education as proposed, for example in the next chapter.

Human rights ethics supersedes classical theories based on evident first principles exemplified by the utilitarian nor of the greatest happiness of the greatest number. Such principles have been merely asserted without being proven as the necessary starting points of proof. Not everything can be proven, since if everything needs to be proven nothing can be proven. Proof gives way to unending argumentation with no rock bottom foundation. Science itself has abandoned such foundationalism. It has abandoned the appeal to self-evidence or *intellectual intuition* of the truth of unproven first principles.

Theories are justified, refuted, or suspended only until further notice by the self-justifying norm of what the German philosopher Jurgen Habermas has called discussion ethics (*Diskurs Ethik*). Any attempted refutation of human rights discussion ethics could proceed only by ethical discussion itself, with all parties presupposing morally the right to freedom of expression in dialogue in all its forms as practical postulates of reason. No human rights in the Universal Declaration and beyond are dogmas. They are only practical assumptions in fair discussion on an

even playing field. No refutation of the ethics of freedom of expression can be sound. As has been argued throughout these chapters, any such attempted refutation circularly presupposes and reaffirms the same ethics it would refute.

Normative Ethics is one of the oldest branches of philosophy. Since Pythagoras, the question has been asked as to whether what philosophers do is science or only the love of science or knowledge. The problem for ethics, as a branch of philosophy in describing “philosophy” as only the love of wisdom, is that it is apt to be frozen forever an unrequited love of right conduct without dependable knowledge claims as to what right conduct and moral obligation is. The twentieth century has shown how devastating this can be: ethics risks being expelled from academia and even ridiculed due to ethical relativism or ethical pluralism by colleagues in the sciences.

Normative ethics viewed as opinion, ideology, or doctrinal faith can signal a chaotic slow-motion World War Three or return to the Middle Ages—in the name of, nationalism, antisemitism, radical Islam, white supremacy, or whatever, including killing sprees for no good reason at all. There is evidence on American university campuses, for example. There was a time when professional studies departments required their majors to take elementary ethics in a philosophy department taught by faculty trained in normative ethics. That time, I know from experience, on some campuses is past. Some other departments have begun to prefer to teach their professional ethics courses as modules internal internal to their own departments by faculty with little or no education in normative ethics. What they teach risks not going beyond compliance with professional codes, even at on occasion reluctantly with minimal compliance to avoid penalties and meet an externally imposed corporate obligations to be *socially responsible*.

However, the teaching of elementary normative ethics inside philosophy departments in large part to blame. What would you think of physics if the elementary course mainly taught 2500 years of conflicting theories, really mere opinions, about the nature of the physical world? That is what way some elementary ethics students feel about ethics after leaving the only elementary course in ethics they will take. Since the paradigm shift in the nineteenth century way from the classical concept of science, science has become hypothesis testing. As has been defended in this book in the wake of Karl Popper and others in the philosophy of science, a theory is but a hypothesis, with no self-evident axioms, premises, foundations, or doctrines. Normative ethics to be respected academically must become procedural and non-doctrinal. Hypothesis testing in ethics, as in theoretical science and courtrooms, is the best tested hypothesis of all.

⁷⁹Rachet Rettner, “Men’s and Women’s Personalities: Worlds Apart, or Not So Different?” *Live Science*, May 30, 2013. <https://www.livescience.com/36066-men-women-personality-differences.html>. Downloaded May 4, 2020.

⁸⁰ “The morality of rights relies on the abstract concept of justice to guide behavior. The morality of care, as the name suggests, seeks to guide decision-making in a way that takes care of others, examining real-world conflicts and contexts to resolve moral dilemmas. As such, it can supplement the abstractions of justice, protection, and benefit to provide ethical guidance....” Philip Alcabes and Ann Williams, “Human Rights and the Ethic of Care...,” *Research and Practice*, 2 Yale J. Health Pol’y L. & Ethics (2002). <https://digitalcommons.law.yale.edu/yjhple/vol2/iss2/2>

⁸¹In 1980 I had a female student, the daughter of one of Tito’s generals, at the University of the Zagreb in Dubrovnik who claimed that women’s rights in Yugoslavia were protected because it was written in the Yugoslav constitution.

⁸²«The whole of science is nothing more than a refinement of everyday thinking’ Albert Einstein, ‘Physics and Reality’, in *Ideas and Opinions of Albert Einstein*,» trans. S. Bargmann (New York, Crown Publishers), p. 290.

⁸³ Charles S. Peirce, “The Fixation of Belief,” *Popular Science Monthly*, vol 12 (1877), 1-15

⁸⁴Karl Popper, *The Logic of Scientific Discovery*, 1959. First German edition 1935.

⁸⁵G.W.F. Hegel, *The Phenomenology of Spirit*, Preface, [get page no.](#)

⁸⁶ Chaim Perelman, “Can the Rights of Man Be Founded,” *The Philosophy of Human Rights*, ed. Alan Rosenbaum (Westport, Conn.: Greenwood Press, 1982. Perelman limits freedom of expression to “normal people” with the “competence” to judge.

⁸⁷ Otto Neurath, (1973) [1921]. “Anti-Spengler” in *Empiricism and Sociology*. Vienna Circle Collection. 1. Dordrecht: D. Reidel. [doi:10.1007/978-94-010-2525-6_6](https://doi.org/10.1007/978-94-010-2525-6_6).

⁸⁸“A proposition is maximally credible, if and only if, all who could inquire into its truth effectively form—with neither constraint nor restraint—with neither concealed consequences nor alternatives—a rationally motivated consensus to accept it as more likely true than any known alternative proposition.” Clark Butler, *Human Rights Ethics* (West Lafayette: Purdue University Press, 2008), p. 84. This does not mean that everyone must agree or even consulted for a proposition to be maximally credible, since some lack the capacity to “inquire into its truth” effectively.

⁸⁹As a member of Hitler Youth Alfons Heck’s adoration of Hitler survived imprisonment by the Allies who forced him with others like to watch in disbelief films depicting Nazi atrocities. <https://www.facinghistory.org/holocaust-and-human-behavior/chapter-10/betraying-youth>.

⁹⁰“Since the man of common sense appeals to his feeling, to an oracle within his breast, he is done with anyone who does not agree. He has just to explain that he has no more to say to anyone who does not find and feel the same as himself. In other words, he tramples the roots of humanity underfoot. For the nature of humanity is to impel men to agree with one another, and its very existence lies simply in the explicit realization of a community of conscious life. What is anti-human, the condition of mere animals, consists in keeping within the sphere of feeling pure and simple, and in being able to communicate only by way of feeling-states.” G.W.F. Hegel, *Preface?*, *Phenomenology of Spirit*, 1807. To speak of freedom of speech expressly, it is the first freedom in Franklyn Delano Roosevelt’s 1941 *Four Freedoms Speech*.

⁹¹Michael Freeman incorrectly suggests that I make freedom of speech central due to being an American obsessed with the First Amendment of the US Constitution. This chapter should disabuse anyone of that. [Reference to be given in Freeman’s review of my 2012 book.](#)

⁹²Maurice Cranston, 00

⁹³”Thus the jihadists widely employ *takfir* - the branding of others as infidels who deserve death.” “How ISIS terrorists neutralize guilt to justify their atrocities.” *The Conversation*, October 6, 2017, <https://theconversation.com/how-isis-terrorists-neutralise-guilt-to-justify-their-atrocities-66593>. Downloaded May 4, 2020. Many Islamic scholars hold that Koranic sword verses are taken out of context, and were meant to apply only to those guilty of apostasy. Other verses of the Koran prescribe the death penalty for apostates. If such states taken out of context are false interpretations of the Koran, the questions for Muslim scholars is why it Koranic statements can be so easily misunderstood by taken them out of context. In 2003 The European Courts of Human Rights judged that Islamic law discriminating against infidels and apostates contradicts the European Convention on Human rights (ECHR), and indirectly the Universal Declaration of Human Rights on which the ECHR is based.

⁹⁴In arguing that there is but one indivisible human right I meant an objective human right. There are many subjective human rights, e.g., your right to your car, my right to mine.

⁹⁵“la nature a créé l'homme bon, libre, et perfectible, la vie sociale l'a corrompu, sa réforme passe par la réforme des institutions sociales et le développement de ses facultés naturelles par l'éducation, au sens large, et l'instruction. Robespierre, *Observations générales sur le projet d'instruction publique...*, in *Oeuvres Complètes*, éd. sous la dir. de M. Bouloiseau, G. Lefebvre, J. Dautry, A. Soboul (Paris: PUF, 1967), Tome V, *op. cit.*, pp. 207- Robespierre's fate illustrates well popular sovereignty without national civics education.

⁹⁶Shakespeare, *As You Like It*, Act 2, Scene 7

⁹⁷Hobbes on state of nature

⁹⁸ *Isaiah*, 1.18

⁹⁹The theory in *Human Rights Ethics* (2008) revised as a “consequentialist rather than Habermasian “deontological” procedural ethics appears in Clark Butler, “A New Ethical Consequentialism,” *Proceedings of the XXIII World Congress of Philosophy*, vol. 75, 2018. [https:// www.pdcnet.org](https://www.pdcnet.org). (Philosophical Documentation Center)

Chapter Fifteen

HUMAN RIGHTS EDUCATION

An ethical theory fails if it remains pure theory without being acted upon. This chapter proposes an educational method to complement the ethical theory of the previous chapter. That theory proposed reasoned support for the Universal Declaration. The Universal Declaration, despite its protection of motherhood, children, and education in Articles 25 and 26, lists certain adult human rights that have no match in the list child rights, like the right to vote, work, and travel from and back to one's country unaccompanied.

Why has the United States never submitted a National Action Plan in for human rights education to the UN as requested by the UN of all member states? After all, the United States was founded on eighteenth century Enlightenment human rights ideals and since the 1970's it has explicitly rededicated itself in its foreign policy to them. In 1945 US ratification of the UN Charter's prohibiting discrimination against any minority became part of the supreme law of the land through Article Six of the US Constitution, making all US treaties part of the Constitution, in principle annulling all contrary Federal law. Yet civil human rights litigation in the 1940's appealing to the UN Charter failed when US courts found the Charter was not self-executing without further legislation providing for its execution.

The fact that the United States has never responded to the UN call to all member states to submit a National Action Plan in human rights education is all the more obvious when you consider that two US non-governmental organizations (NGO's), the University and College Consortium for Human Rights Education (UCCHRE) and Human Rights Education USA (HREUSA) jointly submitted a report to the UN in 2017 which states:

There is currently no comprehensive national framework or action plan on human rights education. There is neither a government focal point for Human Rights Education nor a National Human Rights Institute with a mandate to provide and ensure quality human rights education.... Across higher education institutions for professional training curriculum standards related to human rights education are disparate and unregulated. ¹⁰⁰

This failure is in part due to the nation's standing as a historical homeland alongside France of the modern global human rights movement. Since the United States has been sensitized to civil rights since Declaration of Independence, various US national non-UN action plans in human rights have taken the form of executive orders and legislation responding to domestic civil rights social movements on the ground. Notable amongst these movements have been the civil rights movement after World War II and successive waves of the American feminist movement since women got the right to vote after World War I.

Most of the countries that have submitted action plans to the UN are, unlike the US, recently independent non-Western nations that owe their existence to decolonization or resistance to Western economic domination, as in the case of China. These countries experienced the development of national human rights movements largely in national liberation movements reacting to foreign colonial or economic domination.

Article One of the UN Charter and Article Twenty-One of the Universal Declaration assert a democratic right to self-determination by free elections, and Burkina Faso, for example, includes its adoption of the Universal Declaration in the Preamble of its constitution. Other national action plans submitted to the UN address many other human rights in the Universal Declaration beyond national self-determination. Anti-trafficking anti-corruption campaigns in ex-Yugoslavia are examples, like anti-congenital mutilation campaigns in West Africa.

The absence of a US national action plan for human rights education submitted to the UN is in part due to the United States's understanding of human rights as limited to civil rights, thus excluding UN economic human rights. The United States has also responded to domestic social movements with national legislation to combat discrimination against minorities.

The enforcement of civil rights legislation and executive orders with the aim of compliance is a form of training. The United States has a record of Federally implemented civil rights training. The 1946-1948 Presidential Committee on Civil Rights under President Truman led to desegregation of the military and Federal work force by executive order of the President. A US Supreme Court decision desegregated schools in 1955, and Truman's earlier call for a permanent Commission on Civil Rights led to its creation in 1957.

The power to appoint independent members of the Commission is shared by the President, the Senate, and the House of Representatives. The members of the Commission have been largely nationally unknown international lawyers with the notable early exception of Father Theodor Hesburgh, the President of Notre Dame University who chaired the Commission from 1969 to 1972. Not an attorney. he was educated in the natural rights ethics of the Catholic Church, and was

active in the Civil Rights movement.

The civil rights Act of 1964 signed by President Lyndon Johnson prohibited segregation in public facilities and enacted equal opportunity among employers. Martin Luther King's image appeared on postage stamps and in the names of bridges, but riots in Los Angeles in 1992 and nationally in 2020 in reaction to police brutality put an end to any impression that the civil rights movement has succeeded and could be celebrated as over. The problem is that human rights training is not human rights education preferably based on nationally understandable human rights-based ethical theory in the civics curriculum of public schools, and in the elementary ethics curriculum of elementary ethics in higher education. Training only creates pressure to comply to avoid penalties and a temptation to evade compliance when gaps surveillance by external authority are detected.

It seems that the UN position that equal enjoyment of civil rights depends upon preexisting economic human rights was not appreciated by a majority of the US population, at least until 2020, when polls taken during the pandemic of that year indicated majority support for "Medicare for All." More generally though, civil rights do depend on economic human rights. Exercise of the civil right of freedom of expression on a more equal plane with others depends on health care costs, educational costs, legal representation costs in litigation. Universal freedom of expression of more nearly equal quality is an economic right because good teachers must be paid. The government cannot equalize this freedom of expressions insofar the quality of its use depends on natural differences in talent. Yet if equal exercise of freedom of expression fails due to ill health or poor education, the Federal government has already implicitly recognizes more nearly equal freedom of expression as an economic right. Yet there is no explicit official governmental recognition of this linkage.

It is true that accredited colleges and universities have long depended on Federal Pell grants for tuition, Federal student loans with low interest and favorable payback provisions, and Work Study grants to subsidize student income. Though education is under the jurisdiction of each State and municipality, the US Department of Education has become since 1980 able to influence States that ignore guidelines that the Federal government sets for colleges and universities to qualify for Federal subsidy of higher education. Though the dependence of equal civil rights on economic rights is not yet explicitly acknowledged by the Federal Government, its *de facto* existence through executive policy and extra-Constitutional positive law means that a US Commission on Civil Rights, with no change of name, has become a more encompassing Commission including economic rights.

Equal civil rights are the end for which economic human rights are the inseparable means. In recent years course descriptions for elementary ethics invariably imply that the course is not a one on the agreed elements of any field of knowledge but, rather, is a course on the history of conflicting schools of thought in moral philosophy. And these are disagreements between which students are free to choose sides. Yet, these continuing conflicts still preclude agreement on the elements of normative ethics. Higher education curriculum committees *could* revise the course description of elementary ethics so it teaches right and wrong, and does so not according to the opinion of the teacher but according to the authority of United Nations originally founded on an Allied consensus on human rights in the Universal Declaration. Yet business interests on which universities depend for donations would likely object.

A random survey of descriptions of elementary ethics courses yields terminological variations on the ~~same~~ common theme of still competing theories: “Introduction to Ethics is a study of the basic theories, methods, and problems of moral philosophy” promises Bergen Community College. “Topics such as the following will be considered: different conceptions of the good life and standards of right conduct”, offers Purdue University. This course will be a “general introduction to ethical theories and topics such as whether there are objective moral distinctions...” assures Portland State University. And Rutgers University says that their course will “will introduce you to... questions about right and wrong and good and evil that have puzzled and provoked thinkers for hundreds of years. Similar promises are made by Klamath Community College whose course “studies attempts by philosophers to account for the difference between right and wrong...”; Utah State University: “We will spend most of our time discussing three of the major traditions in ethical theory—Consequentialism, Deontology, and Virtue Ethics” and the University of Massachusetts-Amherst which promises careful “Consideration of some of the most important theories about right and wrong....”.

Given the centuries-old continuing debate between schools of moral philosophy on fundamentals, it is not surprising that the United Nations has not assigned human rights education to moral philosophers. Moral philosophers, for the future relevance of their profession, should pay attention to whatever reasoning may support the only globally declared and ratified ethical standard in the history of humankind.

Immanuel Kant asked why research by metaphysicians into the objective nature of reality still failed to qualify as a science after over a couple thousand of years of efforts, unlike the universally recognized success of science like physics. “If it [metaphysics] be a science, how comes it that it cannot, like other sciences, obtain universal and permanent recognition?”¹⁰¹ The same

question can also be raised regarding the age-old search for moral knowledge. After all the research since Socrates' founding of moral philosophy, one would expect agreement on some the fundamentals regarding what is morally obligatory if ethics is to qualify as a field of knowledge.

Enforcement of the law and of administrative policy may result in outward compliance if people, but it cannot accomplish a change of heart. For that, true human rights moral education is needed,—education that is, as distinct from training. The non-governmental organizations cited above note that the great majority of teacher “training” programs, schools of social work, and military academies alike, fail to incorporate human rights education in their curricula. Yet given that the idea of human rights was introduced as moral philosophy by Jean Jacques Rousseau in 1762 rather than as sociology, teacher training programs in schools of social work cannot be expected to have the qualified teaching staff to provide human rights moral education. Yet faculty members qualified to provide such education can be recruited in philosophy departments among teachers of elementary ethics.

Today, courses in Elementary ethics or Introduction to Ethics are common to virtually all colleges and universities in Europe and the United States. They are usually also a requirement for philosophy students who need a rigorous to preparation in them for higher level ethics coursework. It's sort of obvious that students studying ‘higher level’ ethics will also start with introductory ethics. My aim with this book is to promote the case for such courses to also include the study of a UN human rights-based ethics. Not *uniquely*, *but* also.

The UN Ethics of Moral Progress toward Human Rights and Against Retrogression. The Preamble of the Universal Declaration presents human rights as a moral “standard of achievement for all peoples and all nations.” However, it does not claim that this standard will ever be fully achieved. Ethics is about what ought to be, not about what is or even what will be. Yet notions of ‘what is practically possible’ does underlie all such texts, as standards for the ideal conduct of people. Ideal human rights cannot be obligatory upon those for whom the ideal is not practically possible.

The Preamble goes on to assert that “progressive measures” towards its declared standard of achievement are realistic. Even if only by small individual and collective steps, it is realistically possible, both locally and globally, to make tomorrow an improvement on today. Yet, realistically, any theory of moral progress must allow for possible setbacks. Moral progress is not an upward straight line. Since 2016 resurgent political ethical nationalism and terrorism, followed by the pandemic of 2020, result in moral progress taking the form of limiting and in time reversing moral retrogression.

The Preamble states that “progressive measures” consist in “teaching and education” on the part of “every individual” or group of individuals (“organ of society”) all aiming at promoting universal respect for the declared rights. Fifteen hundred years ago, the Roman emperor Justinian, speaking in light of the technological and industrial limits of his time, could hold that it was practically impossible to eliminate the slave labor that blocked prevented progress by the gradual descent of cosmopolitan equality to earth. However, the 1948 Preamble, by asserting that the contemporary challenge is educational, implies that progressive measures are no longer technologically impossible.

The question is who is going to pay for more nearly equal education across the land. A possible answer for the United States is introduction of valued-added tax (TVA) at every productive stage of the supply chain in the place of retail sales tax paid by the consumer at the end of the chain. Giving the increasing concentration of wealth within the top one percent of the population, taxing the bottom ninety percent recalls the adage that you cannot draw blood from a turnip. A TVA valued added tax is already used by over a hundred and fifty countries, but they might be advantageously introduced it like the United States. Such a tax is a less painful way of obtaining public funding from those who still have funds to give to than raising income tax in the highest bracket. TVA can be also given a human face by being reduced or eliminated for life necessities and high-value consumption at the end of the chain—like food, medical care, education, and the consumption of national cultural.

The Preamble anticipates human rights research beyond the Declaration itself, since a stated, indeed the only stated requirement, is that the Declaration be kept “constantly in mind.” The Declaration is by itself an educational document even if it lacks the ethical theory it calls for in the name of education. And its subject matter is clearly ethics understood as universal moral rights.

The globalized world of today is unlikely to be reversed due to resurgent nationalism and the 2020 pandemic. World trade in goods may decline as wages in China rise and as national sovereignty is protected by less outsourcing of production and by reduced physical travel by air. Yet there will always be quality products and raw materials that nations need but cannot efficiently and affordably produce locally. Globalization in the exchange of services and of information, with no physical transportation of goods and people, will surely continue. Information technology allows virtual travel by teleconferences between persons who are remote. Mutual trust between nations globally is based on a universal essential ethical minimum of agreed rights and obligations. UN human rights-based ethics as the sole available universal ethical minimum to sustain the

international collaboration in addressing common problems. Obligations and rights restricted to one nation or religion are legitimate so long as they do not violate the UN ethical minimum.

Yet some philosophers have used the disarray in moral philosophy as an argument for skepticism regarding ethical knowledge. In an essay entitled “Against Human Rights” moral philosopher R. G. Frey uses this disarray to deny that the Universal Declaration is an exception to general skepticism about the possibility of moral knowledge:

...we do not agree on our moral principles, as even a cursory glance at present-day American society confirms. Nor can the assumption that we are moving toward a consensus in principles be allowed to pass. In cases of abortion, euthanasia, suicide and physician-assisted suicide, capital punishment, homosexuality, surrogate motherhood, and much more, widespread and deep disagreement exists.... Second, we do not agree in our moral theories in which our principles find a home.... utilitarianism, Kantianism, contractarianism, types of virtue theories, etc., are in competition....¹⁰²¹⁰³

The French philosopher Gilles Deleuze (1925-1995) has written mockingly of human rights, saying that:

The reverence that people display toward human rights--it almost makes one want to defend horrible, terrible positions. It is so much a part of the softheaded thinking that marks the shabby period we were talking about.... Human rights, after all, what does that mean? It's pure abstraction, it's empty. ...we say "human rights," but in the end, that's a party line for intellectuals... without any ideas of their own....To act for liberty, to become a revolutionary, this is to act on the plane of jurisprudence. ...justice does not exist, and human rights do not exist. ...those who are content to remind us of human rights, and recite lists of human rights... are idiots. It's not a question of applying human rights, but of inventing jurisprudences...¹⁰⁴

Deleuze proceeds to depict human rights as the “invention of jurisprudence” by pointing to the emergence since 1948 of an environmental human right, under the right to health care, to smoke-free public facilities, including a passenger seat in a taxis. He interprets the proliferation of environmental human rights as a power play by ‘the many’ against the individual, illustrating the argument with the comparison of an individual’s freedom to smoke at home and taking a taxi seat as one’s temporary rented abode.

Chemists use their credentials to speak with authority and academic freedom on everything chemical. Philosophy, however, is about everything in general and nothing in particular. With this in mind, Deleuze illustrates the attachment of philosophers to academic freedom of expression on all

topics. He also illustrates their reluctance to be coopted by any official state ideology, even if it is the French foundational motto: *Liberty, Equality, and Fraternity*.

No matter what the specialization of a philosophy faculty member is, it is assumed that they all have teaching competence in elementary ethics and can always be called upon by the departmental or university administration to teach sections of the high enrolling course such as elementary ethics. Those with an assumed competence but no specialization in ethics are the most likely to teach the elementary course as the intellectual history of schools of thought. Those with a specialization in ethics are likely to have done original research, but are reluctant to give expression to their research in an elementary ethics course to avoid being viewed as imposing their personal opinions on students.

Deleuze held a view in ethics influenced by Nietzsche that privileged the right of each individual to give the fullest expression of the power of one's personality. His comments in his essay entitled "On Human Rights", show no awareness of Article 26 of the Universal Declaration: "Education shall be directed to the full development of the human personality." He speaks in objection to so-called Third Generation environmental human rights to healthy surroundings. He shows no awareness that the Universal Declaration is a living document, calling for the discovery of ever more particular forms of its generally stated rights, including serious consideration of the right to suicide eventually exercised by Deleuze himself.

Teachers of elementary ethics are free to redefine themselves as ethicists. If they did, they would move beyond the mere love of wisdom—as much as teachers of elementary formal logic as an established science have separated from *philia-sophia* even while remaining in philosophy departments. Lending academic support in ethicism in a state founded on human rights, however imperfectly, is not collusion with an empire of evil. It is an opportunity to bring the Universal Declaration closer to implementation. Closer, I say, by exercising responsible academic freedom in critiquing governmental and customary practices, as the supreme courts of appeal do in different way.

Psychology, like moral philosophy, is divided between different schools of thought. As a consequence therapists in psychological counseling are increasingly eclectic. They may draw freely on different schools of thought depending on what works the benefit of each given client. Yet the consequences of moral philosophy as a debating society and exercise in critical theory are more detrimental than the division of psychology into schools of thought. For every ethical rule of conduct addresses all humankind. And the danger of rehearsing unresolved academic conflicts about right and wrong as part of a course on the fundamentals of ethics is that it may undermine any

UN authoritative guidance relying on a globally shared ethical minimum. Articles 22, 26, 27 (clause 2), and 29 of the Universal Declaration stress the right of the individual to develop the creative expression of her or personality as much as Nietzsche, except that Declaration makes individual self-expression dependent on the equal right of all to their own personal self-expression.

The 1948 Preamble calls for human rights to be “protected by the rule of law” ~~which~~, and prominent, among the declared rights, are legal access and due process rights—rights that have been developing gradually in the Western world from the Magna Carta in the early thirteen century.

In the non-Western world decolonization came swiftly after World War II without being foreseen by the Western colonial. The colonial powers did not prepare suddenly independent new nations for self-rule under any constitutionally established rule of law to block arbitrary rule by men. The rule of law in unstable newly independent countries like South Sudan or Kosovo became intermittent tutelage by teams from the Western international human rights law profession.

The decolonization of the British, French, and Soviet empires and the re-balkanization of the Balkans were factors in the UN’s declaration of 1995-2004 as the Human Rights Education Decade. Yet after that decade was over the UN could not report ‘mission accomplished’. Far from it. In the UN’s concluding report on the decade, the list of achievements gave way to a list of shortcomings that prompted continued efforts that are continuing today.¹⁰⁵ And from 2005 through 2019 these efforts have concentrated on training programs for selected occupational groups:

- A school of education faculty who teach primary and secondary school teachers (2005-2009),
- Teachers and educators themselves, plus civil servants, law enforcement officials and military personnel (2010-2014),
- The above groups together plus media professionals and journalists (2015-2019).

In addition, the period from 2000 to 2024 is to focus training programs on youth.¹⁰⁶ Two weakness of the programs since 2005 stand out. First, human rights education is understood as human rights training neglecting the basic difference between training and education. To *train* is to teach skills by role modeling and behavioral conditioning, while to *educate* is to give convincing reasons for believing in the need behavioral change. The reduction of education to legal training programs is apparent in the UN Rule of Law method of human rights education in recently

independent countries. The teaching of human rights has become a training program for governmental workers and others in compliance.

David Marshall, an international human rights lawyer at the New York Office of the High Commissioner for Human Rights (speaking merely for himself after having participated in a Rule of Law Mission to South Sudan) has written:

...would the international rule of law movement not be better if it were run and if it were run and staffed by anthropologists, sociologists, and linguistic and cultural experts? Is the rule of law about understanding and working with societies, or is it about understanding and building institutions around law and legal practice. 107

However, a better and less costly way to help fragile new nations is to bypass all foreigners and bring native facilitators/teachers into native schools after they have been educated abroad in both international human rights law and normative ethics by fluency in an international language.

Two other weaknesses of the UN human rights education programs since 2005 stand out. The first relating to the issue already mentioned, is that they are training programs that fail to educate by giving understandable good reasons to change of behavior. The fact is, as Hitler Youth has shown, one can be trained to do anything. One can be educated only by understanding and acting by a theory endorsed by independent professional researchers. To train is to teach skills often by role modeling, by seeing what others do and doing likewise. Human rights education addressed to people on the ground, rather than merely to law students, is to communicate in non-technical language a theory that justifies exercising and respecting human rights. Any reduction of education to training eliminates a function for normative ethics in human rights moral education.

The second weakness in current UN human rights education is that UN training programs from 2005 to 2024 address occupational groups at their worksites or age groups by asking local officials to step aside and watch role models from the West or at least educated in Western universities. This ignores the fact that members of these groups live and spend more time at home with their families than at work or in school. As the Universal Declaration states, the family is “the natural and fundamental group unit of society and is entitled to protection by society and the State” (Article Fifteen). This means that both the state and its occupational groups are artificial, while the family has come under the sovereignty of the artificial institution of the state since the dawn of history. Early childhood character formation, to be consistent with later moral education in school, is a state responsibility normally delegated to parents during a children’s most formative years before school age. Parenthood is oldest and most important of occupations.

The case for human rights-based ethical theory in the previous chapter is incomplete

without a credible method and program for human rights education beyond sound logical arguments. The intended audience of this book is not limited to specialists in moral philosophy, but includes the broader, educated reading public. The aim is to present a method of human rights education by practical group activity capable of attracting a wider non-academic audience, if not everybody.

The 1990's were a turning point for the United Nations. At this time, the initial human rights optimism after the end of the Cold War had dissipated with human rights crimes multiplying in the nearby Balkans and elsewhere as the 1993 Vienna World Conference on Human Rights was taking place. The Vienna Declaration and Program of Action resulting from the Conference, responding to renewed disregard for human rights standards in various parts of the world, stressed rededication to the Universal Declaration.

The Vienna Declaration restated the UN mandate to promote and protect human rights. Weaknesses had appeared in their promotion in newly formed countries outside the "international community" of victorious Western allies in World War II. These countries were often less sensitive to increasingly long-past and geographically distant Nazi atrocities. Within the UN, by the end of 1993 the pessimistic urgency to protect human rights from high crimes against humanity over promoting them by education to all emerged with the transfer of primary responsibility for human rights education from UNESCO, the original UN educational arm, to the Office of the High Commissioner of Human Rights (OHCHR) created the same year by the UN General Assembly. The UN High Commissioner's Office on Human Rights ominously states that "the rule of law is the vehicle for the promotion and protection of the common normative framework.... The rule of law is the implementation mechanism for human rights, turning them from a principle into a reality"¹⁰⁸ This is to say that protection by the rule of law against crimes against humanity has posed the primary form of human rights education! UNESCO might be supposed as the primary UN agency to If law and order prevail in some countries, internationally we increasingly live in a world of human rights crimes. The international human rights law profession did its best to stem the tide by international human rights treaties. The OHCHR also sent training programs into the field wherever it was invited to go. Yet but the increasing frequency of violations has left the human rights law profession increasingly overwhelmed. Globally as well as domestically, the rule of law administered by the law profession can succeed only if violations are the exception instead of the rule. Statements by the OHCHR itself show that the precedence of promoting over protecting human rights has given way an opposite priority of protecting them over promoting them. With UNESCO inactive in the educational promotion human rights by ethical theory, the office of the

High Commissioner has attempted to make legal work in human rights protection double as human rights promotion by education.

Statements by the UN Office itself charged with safeguarding human rights, the OHCHR, show the precedence of promoting over protecting human rights has given way to the opposite priority. The Office of the High Commissioner for Human Rights (UN Human Rights) is the leading UN entity on human rights. The General Assembly entrusted both the High Commissioner and that Office with a unique mandate to promote and protect all human rights for all people. The United Nations human rights programs aims to ensure that the protection and enjoyment of human rights is a reality in the lives of all people. UN Human Rights also plays a crucial role in safeguarding the integrity of the three interconnected pillars of the United Nations – peace and security, human rights and development.¹⁰⁹

Yet, over a decade after its founding the OHCHR completely omitted *promotion* in its Action Plan: instead the 2005 OHCHR Plan of Action identified some key challenges in human rights *protection*. These challenges include armed conflict and violence, impunity, democratic deficit and weak institutions. The Plan also outlined strategic priorities guiding OHCHR in its work in addressing these challenges. These strategies include the elaboration of approaches leading to greater country engagement to be pursued through inter-alia work on the *rule of law*.

The above “rule of law” method of human rights “education” includes the threat of punishing high government officials guilty of the opposite of promoting a human rights cultures domestically. The European Court of Human Rights, the International Criminal Court and its domestic equivalents, economic sanctions against states systematically violating human rights norms, and military interventions by the international community are prime examples that punishment is far from absent from UN human rights “education” by the rule of law. The following statement by the International Criminal Court is clear:

Some of the most heinous crimes were committed during the conflicts which marked the twentieth century. Unfortunately, many of these violations of international law have remained unpunished. The Nuremberg and Tokyo tribunals were established in the wake of the Second World War. In 1948, when the Convention on the Prevention and Punishment of the Crime of Genocide was adopted, the United Nations General Assembly recognized the need for a permanent international court to deal with the kinds of atrocities which had just been perpetrated.¹¹⁰

Yet a regime under the rule of law also has non-punitive tools of behavior that, depending on the situation, can be more effective than trying to punish all who are guilty. When the guilty

party is not an individual but a large collectivity, such as opposing sides in a civil war, there is often guilt on both sides. Legal prosecution is overwhelmed when crime is massive, and methods of truth-and-reconciliation and amnesty can be fruitful by not trying to right all the widespread wrongs of the past

Alternatives in human rights training to punishment under the rule of law include both “negative” and “positive” reinforcement of desirable behavior change. Negative reinforcement of aimed at compliance with human rights norms means a delay of a promised reward until behavior improves. As soon as good conduct is demonstrated, the suspended reward is restored. Positive reinforcement means the addition of a new reward or benefit to a government when behavior improves. In neither case is “punishment” applied in the sense of an adding an unprecedented negative consequence of bad behavior by human rights norms. Both positive and negative reinforcement are potentially useful in “positive behavior intervention“ supporting human rights-compliant behavior.¹¹¹

Other techniques of behavioral reinforcement and conditioning in human rights training include role modeling provided by the United Nations for government workers in newly minted states like South Sudan. Courtroom role players like judges, the police force, and prison personnel in such a country may receive training by judges, police, and prison staff sent on assignment from countries with good established records of operating by best practices in respecting human rights under the rule of law, instead of the arbitrary rule of whatever men happen to be in power. Civil servants sent into a country that has recently become self-governing, typically from Western countries, seek to become role models in an effort to replicate the rule of law under rights norms in the new nation.

However, the several techniques of behavioral reinforcement and conditioning fall outside ethics into the domain of psychology. They are forms of human rights training. Nonetheless, human rights training and education should be viewed as complementary. However, often the predominance of human rights training programs at the UN by the international human rights law profession has resulted in insufficient attention to human rights moral education by ethicists. Training programs, if successful, result in behavioral change, yet mere behavioral change does not require any understanding of the reasons for the change. Role models, for example, are external authority figures. A problem with behavioral training programs generally is that, since understanding of the reasons for change is lacking among trainees, such programs can as well be used to develop compliance with immoral as well as moral behavior!

One aim of this book is to develop a theory of moral education to complement training

programs and to some extent compensate for the shortcoming of human rights training without education. The UN behavioral change techniques of the OHCHR have been extensively trialed in the field with mixed results. But the theory of human rights moral and civics education I present here is based less on field experience, but rather is developed through reflection on the teaching of elementary ethics in an American university.¹¹²

Once human rights ethics is conceptualized as a results-driven ethical theory, as a discussion ethics that unlike Jurgen Habermas's ethics is not based on the Kantian tradition of duty for duty's sake, human rights-based ethics proves to be more attractive and teachable to students enrolled in elementary ethics. Such students see the promise of some benefit in it for themselves and others. Utilitarianism develops laws and policies for the common good. Results-driven human rights ethics, developed through the exercise of individual human rights in the Universal Declaration, on the other hand, seeks the greatest personal life success of the greatest number.

UN-sponsored human rights training is top-down. It concentrates on training government workers to operate a state by the rule of law compliant with human rights norms. A human rights education model, designed to complement the prevalent UN method, on the other hand, is bottom-up. It seeks to compensate for a weakness of the UN rule of law method stemming from the fact that UN training programs address government workers at their worksite who go home to family members not included in a UN training. The cultural pull of family life at home is generally greater than that of a work sites or school. The human rights education proposed here is intended to address people on the ground, including family members, not government workers abstracted from the stronger bonding of family and friends.

The family role is crucial. Since character formation starts early, moral education must start as early in childhood as possible, ideally among pre-school children under the guidance of parents who already have been educated in human rights culture. If parents have not yet received such education, practically moral education cannot begin until school. Children begin school knowing nothing about algebra, but their moral character has by then already been formed in some way under the influence of their parents.

The human rights educational theory explained here addresses many audiences, including soon-to-be parents, young school children and secondary school students in social studies and civics classes, as well as, more obviously, general education college or university students studying elementary ethics. By what is known as service learning, college and university students who have had the type of undergraduate ethics course described below can qualify as facilitators of small human rights success groups. They can do so in community settings in which—after a general

meeting of stakeholders including potential small group members—the method can be implemented off campus.

When studied at school, moral and civics education requires teachers as facilitators of group discussion, not as lecturers. Ethicist facilitators monitor discussion in a small but increasingly bonded group. In my own teaching, five students has been found to be a suitably manageable number. Of course, since enrollment in a typical elementary ethics class is considerably higher, the practical solution classroom use of the method is to divide a class into a number of small groups.

In a classroom, the teacher-facilitator moves back and forth between the different groups. In a larger class the teacher may have one or more teaching assistants already familiar with human rights and the teaching method, so no small group discussion is left unattended. Such group facilitators should be educated in the history of conflicting schools of thought in moral philosophy, as well as be aware of their inadequacy for the scientific teaching of right and wrong in public schools and colleges. (Moral philosophy and its many schools of thought since Socrates remain in the pre-scientific stage of any future curriculum of an elementary ethics course to educate ethicists.) On the other hand, I would argue, facilitators could share a professional consensus on the objective grounds for global moral standards based on the Universal Declaration. And, over time, though classroom experience facilitators can share their reflections on the educational method and help improve it.

Human rights education also needs to accommodate the local culture of each people. This should be by what the European Court of Human Rights calls a “margin of appreciation,” though this can happen without crossing a red line and approving human rights violations. There was a period time, for example, when orthodox Catholicism was so strong in Ireland that the freedom to present an unorthodox view of Jesus on Irish television was restricted: this justified in much the same way that the prohibition on yelling “Fire!” in a crowded theatre is. Ruling on such matters, the European Court judges found ‘a clear and present danger’ to the security of persons. Yet European judges have disapproved the 1990 Islamic Cairo Declaration of Human Rights both declaring a right to freedom of expression limiting it by Muslim law that prohibits free of expression promoting any religion but Islam as the state religion.

Freedom of expression is never entirely abolished as long as the right to emigrate can be exercised. For there are other cultures, contexts, and audiences before which unorthodox views could can still be presented without posing a security risk. Indeed, in recent years, Irish culture has become more became considerably more liberal, so that the former restriction on freedom of expression today would likely not need to be imposed. Yet the principle of freedom of expression

does not extend to the spreading of Nazi propaganda in Europe, where it is prohibited by the Council of Europe even while it is allowed in the United States. The reasoning here is that the resurgence of neo-Nazism in Germany and elsewhere shows that a 'clear and present danger' still exists in Europe.

But more generally, there are limits to political incorrectness beyond which an ethicist in a local culture should not go, nor allow discussion partners and students to go, in facilitating a local group discussion. Much hate speech is legal in the United States because of the difficulty of proving that it has been a direct cause of imminent crime. Yet dialogical human rights-based ethics need not avoid ethical qualms about hate speech in small human rights groups, even though such speech fails to meet the US Supreme Court standard for prosecution.

The UN Covenant on Civil and Political Rights, ratified by the United States, is more explicit than the Universal Declaration as to the limits of freedom of expression. Article 20 states that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." Though Article 20 is not legally enforced by the US Supreme Court, it can be drawn upon by ethicists in formulating best practices in human rights education.

Yet if facilitators in groups discussing human rights suspect discrimination against some participants by others, it is better to use indirect communication, to raise questions for discussion, and avoid direct criticism of a group member. They might refer to a passage such as the one above in the UN Covenant on Civil and Political Rights ratified by the United States, and ask whether it is morally applicable to US residents. In general, a facilitator should avoid direct criticism of any group member and admit fallibility and possible misunderstanding of what any group member says. As a facilitator one may confess to being morally imperfect and can illustrate one's own past disregard for some human right and one's work on her or his own character to avoid repetition of such disregard.

By a margin of appreciation a facilitator in the US should show respect for the country's individualistic culture. Ethicists could explain economic human rights in the Universal Declaration by asking, with regard to "Medicare for all," whether public responsibility healthcare works best in collaboration with individual responsibility by copays. They might try to adapt the Universal Declaration to different local cultures. However, when conflict cannot be avoided, as currently in the case of Saudi Arabia, human rights facilitators of small human rights success groups are unlikely to be allowed to work in the country. They should not be assigned to any country where they are not free raise questions for group discussion or where group members are restrained from

exercising freedom of expression because they find themselves intimidated. Moral progress does not proceed at the same pace in all nations.

The prestige of the UN Universal Declaration of Human Rights remains sufficiently great to be a starting point for the separation of ethics as a special scientific discipline from philosophy in general. The development of a global human rights-based culture requires a gradual convergence between diverse cultures towards compatibility with the Universal Declaration, each at its own pace. Typically, using as a starting point of work on the Universal Declaration, or beginning with President Roosevelt's Four Freedoms speech in 1941, ethicists in Asia, Africa, and Catholic South America have interpreted the Universal Declaration explicitly as a declaration of human duties as well as corresponding rights. However, the challenge is to go beyond human rights as declared in the Universal Declaration under the leadership of the victorious World War II powers in order to develop a professional consensus among ethicists about the evidence that justifies reformulation of human rights formerly or informally to better reflect that evidence.

As a living document the Universal Declaration allows new understandings of the human rights declared in 1948 like the right to same-sex marriage. What are today often seen as the sexist formulation of human rights in the 1948 Declaration—which uses “man” and “he” when referring to human beings, and which is still known as a declaration of “the rights of man” in French, can be avoided by reinterpretation even if not formally abolished in favor of “human rights” instead. New applications of rights in the Declaration, for example that of a right to ‘virtual’ assembly instead of a right to merely physical assembly, result from the arrival of technologies that did not exist in 1948. Likewise, new discoveries of the danger of second-hand smoke have created a particular application of the right to health care that did not exist in 1948.

Small Human Rights Success Groups. Thus far the present chapter has made some general points as background for a more specific pedagogical proposal that has been tried at Purdue University in Indiana with university sponsorship and funding.¹¹³ The remainder of the chapter reflects that class experience on the assumption that the proposal might have wider application. A general introduction of the pedagogical proposal is provided on the assumption that it might have wide application around the world, and that other researchers might critique and develop the proposal further. Yet, if so, the challenge would be to gain to gain world-wide approval of it politically.

Global Implementation of proposed pedagogical methods like the present one could be the seed of an international culture calling for ethicists who are university trained in an international language such as English, Spanish, French, Arabic, Chinese, Russian, and German, but who are also

steeped in the local national culture and language of groups they teach in their own ethnic community. Haitians ethicists, not foreigners, would facilitate small human rights success groups in Haiti. Only they can best adapt human rights education to the culture of the classes they facilitate.

The adaptation of teaching to diverse national cultures is undertaken by educating facilitators who have grown up in those cultures. In a minority ethnic community in a diaspora the facilitators should be fluent both the national language of the host country and that of the ethnic minority. In going back and forth between the national language and the minority ethnic language, the facilitator helps group members become fluent in the national language for occupational success in the national language.

Diverse cultures can also mean diverse genders. Care ethics, premised on a difference between male culture, recognizes a difference between female and male cultures. Facilitators for a group of men should be men who understand how close human rights ethics is to care ethics. As much as possible cultural barriers between small human rights success group members and teacher-facilitators should be reduced.

An off-campus small human rights success group of women can be very different from one of men. Adult men in the United States, especially those with troubled pasts, tend to be loners who resist participation in dialogue with other group members with the common goal of mutual assistance in life success. In the case of such men one can hear statements like “I’ve got my own problems, let Joe over there take care of his own problems.”

Small groups consisting solely in women housed by social service organizations which I served have problems outside those organizations or they would not be lodged there. Female group members tend to be more sociable, less withdrawn, and more talkative than men. Yet this poses a different challenge for the teacher-facilitator. The challenge for the facilitator now is to keep the conversation on track toward achieving increased life success for each member by knowing and exercising human rights as well as respecting them. There is a tendency of women to transform a class session into socializing without accomplishing its goal. A social service organization can serve merely as a permanent escape from life outside in the real world while it should be a preparation for returning to that world.

The challenges faced by educators, in developing the proposal under consideration, can most easily be seen by considering a possible strategy for training tutors for a service learning elementary ethics course in colleges and universities. We start by considering a possible course description that could be used to train small group facilitators in civil society. The starting point should be the study of theories of ethical obligation as a way of examining whether United Nations

human rights-based ethics is sufficiently well-grounded to serve as a consensus position in elementary ethics instruction.

Such a course would survey theories with popular appeal but little academic support; others with little popular appeal but significant academic support, and finally ones with both popular appeal and academic support. A review after the first eight weeks could highlight the pros and cons of the theories, and conclude with a test of UN rights-based ethics. Assuming the proposed global UN ethics passes theoretical testing, the second half of the course tests practically that ethics, the one detailed in this book and especially in the previous chapter. It first tests it practically by its implementation in small human rights success groups composed of in-class students as an indirect method of human rights moral education. The service learning dimension means that in time the pedagogy is tested in civil society off campus.

Under a strategy like this, the class divides into groups of five with the instructor and any teaching assistants serving as facilitators. The members of the group each exercise the right of freedom of expression in discussion regulated chiefly by the UN Universal Declaration of Human Rights of which each group member has a copy. The end goal of the course is to allow group members to bond in mutual assistance in order to test the opportunities of each other's situation, thus offering each student or small group member an opportunity to pursue more successfully the good life as each defines it.

The teacher/facilitator moderates the group activity, intervening only to keep the discussion on course. The facilitator suspends discussion briefly only when a violation of a right in the Universal Declaration is suspected, leading to consultation of the UN text. Such violations may arise both in the classroom discussion itself and in a group member's contemplated action plan to transform her or his life situation into a non-morally good life that is in no way immoral.

The proposal is to substitute professionalized ethicists for traditional moral philosophers to teach the general education course in elementary ethics at colleges and universities. Ethicists may be included in philosophy departments, much like elementary formal logic which has also acquired scientific status and is still taught in philosophy departments. In colleges without philosophy departments, ethicists can teach in General Education degree programs. Below the university and college level, professional civics ethics teaching might be mandated at all levels of national education with a standardized curriculum, teaching methods, and testing methods for each age level, but development of proposals for this goes beyond the aims of this book.

California is the US State best known for innovation in policy openness to the world. As an independent nation it would have the seventh largest economy of the world.¹¹⁴ And in civics

education California appeals repeatedly to the Universal Declaration of Human Rights.¹¹⁵ Yet the sunshine state has not funded the education of civics teachers in any mandated program or method of instruction. Teaching ethics in extracurricular community settings with adults who have never been educated in the subject is also needed. In these settings, the teacher-facilitators are playing catchup. They will frequently face the challenge of teaching in a rehabilitative manner. A condensed version of the full-semester general education college course can serve in such situations. An illustrative account of such a version is given below.

To see how a course in United Nations Human Rights Ethics might be effectively conducted in a community setting outside any school or college, we should begin by recognizing that the members of such a group will have different aims and aspirations, as well as different backgrounds. For that reason, the first step for anyone wishing to provide such a course should be to hold a general meeting including stakeholders, the administrators and, potential small group members. It should not be expected that everybody attending the initial general meeting will have all their doubts removed and questions answered. And of course, nobody should be obligated to become a member of a small human right success group if it is not included in a school curriculum.

In the preliminary group meeting for stakeholders, leaders that I am calling 'trained ethicists' should start by trying to put the method in a positive light as well as later fielding questions from all members of the group. The only texts that I would envision being distributed to group members are the Universal Declaration of Human Rights and the UN Convention on the Rights of the Child, although facilitators may help interpret them as a moral standard by drawing on international human rights law since 1948. A task of reading the Declaration (or a simplified version for children) can be proposed to the group, and participants at the next class session be invited to comment on the document and ask questions. Facilitators can intervene to reply to specific questions, and will surely clarify for the class any misunderstanding that they hear from any group member.

BOX : STRATEGIES FOR CONDUCTING UNITED NATIONS HUMAN RIGHTS COURSES

The following are some specific points for the successful creation and running of these kinds of groups in the community.

The starting point, I suggest would be that the facilitator states the purpose of the group to be the greater distinct life success by each group member. The main exception to this positive purpose occurs when moral retrogression is encountered. In an economic recession, for example, a group might form with a common goal of finding employment. Rivalry can be avoided by selecting group members who do not compete for the same type of job. Learning the full range of human rights that can be exercised in the pursuit of the good life, or best possible life for an individual, is a means. It is not undertaken for its own sake. Non-violation of the rights of others is likewise not an end in itself, but a means for gaining the willing assistance of others in exploring one's life situation and its opportunities for success.

The facilitator monitors group discussion throughout the all sessions. Disrespect for human rights can take various forms by the articles of the Declaration—especially negative discrimination of any kind, e.g. suppressing the equal right to freedom of speech by others, negative discrimination against other group members based on race, sex, language, religion, social-economic class, ethnic origin, age, or level of education.

In the selection of members in a small group, a balance needs to be found between similarities and differences between members. If insufficient differences between them exist, dialogue is less fruitful. The benefit of dialogue is higher when one does not converse merely with oneself, but with flesh and blood different individual group members. There is only so much that one can learn by talking with oneself. The benefit of dialogue lies in hearing the views of other people from different backgrounds, with different life experiences, with different educations, different ranges of acquaintances, etc.

However, the differences can be too great for dialogue as an effective learning experience. Too much difference in culture or age can reduce bonding and trust between members. A mix of girls and boys, men and women, is rarely a problem. Yet if all members are of one sex, trust and bonding are higher when a female teacher-facilitators is assigned to female groups and a male to male groups.

A small group consisting in members of the same family is questionable. Family members who are already bonded have established assumptions about one another that can interfere with a

new form of mutual assistance, free of the established baggage of already fixed assumptions about one another. The bond between family members is typically stronger than that between co-workers who return home after work, but a facilitator of group members of the same family is apt slide into the role of psychological counselor without being invited by anyone in the family to do so.

A better way for facilitators to reach family members is by small human rights success groups consisting of soon-to-be parents guided by the Convention on the Rights of the Child. Future adoptive parents already receive counseling. There may be practical no couples expecting a child who could not benefit from a small group focussed on how parenthood will figure in their future life plan.

Not everybody can take part in a small human rights success groups with the same ease, including possibly some accidental future parents. Physical and mental health problems become grounds make it unsuitable for some individuals. The unsuitability of individuals with mental issues requires the judgment by an alerted teacher-facilitator. On occasion a group facilitator will encounter a candidate group member whose unsuitability on mental health on behavioral grounds leads the facilitator to refer the individual to other forms of assistance, including social assistants, mental health specialists, or disciplinary personnel. Group members can be unsuitable if they are depressed to the extent of being incapable of pursuing any personally meaningful goal. The method requires group members in a normal range of mental health. It also requires members who, on hearing the facilitator in the preliminary general meeting, are able and willing to see the merit of the educational activity.

First Session: Respective Individual Goals. There are four successive tasks for a small human rights success group that are best accomplished by face-to-face meetings permitting group members previously unacquainted with one another to begin to bond. Information technology like Skype permits virtual face-to-face meeting if direct face-to-face meetings are not possible, but it is second best. The first task for each member is selecting a meaningful personal life goal by each member with the possibility of measurable progress toward its realization. The personal goal that a group member identifies should not be so privately personal that the member wishes no discussion of in the small group.

Second Session: Personal Goals The second meeting is devoted to discussion addressing the realizability of each member's goal in her or his situation. Realizing a goal means transforming an existing personal situation. Other group members hear from each member enough to start contributing to research into the realizability of each's individual life goal. Group members discover that each can learn more about her or his situation, the opportunities of the situation and its limits,

by discussion with others than merely by private discussion with oneself. After this group session ends, tools of research by which a group member helps another understand her or his situation better include internet research, reading, talking to others with whom the goal seeker is not acquainted, as well as further reflection before the next group meeting.

All such tools may not be accessible to young of school-age children. Small human rights success groups in kindergarten may be limited to pursuing ethical character formation by dialogue free of the family setting in a spirit of helpfulness toward other schoolmates.

Third Session: Realizability of Goals By What Means?. In a third session group members share with each member any information and suggestions a given member may have lacked in choosing a personal concept of the good life. That member may adjust her or he is goal in the light of new information as to the goal's realizability with an acceptable time period and as to the affordable cost. A group member may retain the same longer term goal and reduce her or his ambition by reducing the goal for small group discussion to a series of smaller goals, starting with the first one in the series. Each member helps the others and is helped.

If the consensus is that a member's goal or some revision of it is realizable, discussion turns to different action plans by which each might progress. Each action plan for a chosen good life consists in successive sub actions plans. Morally permissible actions are each an exercise of some human right. Human rights education advances when each group reflects on which right in the Universal Declaration is exercised by each action. This promotes learning the Declaration. Any group member who proposes to act in a way that is not perceived by the member to exercise a declared right can challenge the facilitator to show that it is ether a morally permissible exercise of a right or an immoral violation. Is there any third possibility?

The group attempts to reach a consensus on the least time-consuming and costly means of realizing each member's goal. The number of members in the group remain small for all to be helped in within an acceptable time frame. Whether a consensus on the best plan is reached or if the group is divided between support for different plans, in the end each agent freely decides what action plan to follow and announces to the others when she or he embarks on it. The agent then reporting back to the group of her or his relative success or failure in subsequent sessions meetings. A life goal, an individual's concept of the good life is not realized in weeks. It can be realized only over a life time. Yet a beginning can be made in weeks to alleviate an individual's sense of drifting aimlessly.

In the third session or stage, a member who has set out on an action listens to feedback from members who have begun to act and discusses obstacles they may have met and how to

overcome them instead of abandoning the plan. No action in an ethical action plan violates any human right, but reflection and discussion is sometimes required to judge whether anyone's human rights would be violated.

Fourth Session: Assessment. In a fourth session, the members meet to evaluate the small human rights success group's effectiveness as a human rights education method. Each member states the degree to which the small mutual assistance group has helped progressing towards realization of a personal goal or countering retrogression. Was there anything about the working of the group that could be improved?

The work of such a group can be compressed into four sessions and one month as a very minimum to test its effectiveness in helping members make progress in some step towards realizing a meaningful personal goal. With these four sessions the members have an idea of complete cycle of the method. They can then decide whether they find enough value in the method to want to repeat the cycle or extend each of the four sessions into a longer series of sessions. They can give anonymous feedback on the performance of the facilitator as well as the method, which can help it improve. They may stay bonded and report back to the others for added information without regular face-to-face meetings by an online group chat forum. If they think a second cycle would be useful, they can judge whether it would work as well without a facilitator or with a different facilitator. One who has gone through a number of cycles may qualify as facilitator at a social service agency.

END BOX/

Groups like the one described keep in mind that we live in a morally imperfect world, and that many human institutions can and ought be changed in the name of moral progress. Social reform movements are needed. However, a small human rights group is not a social movement to reform the world. It needs to accept institutions as they are and instead look for ways to succeed despite them. Many things will seem to obstruct progress towards desired goals. Progress can be by the reversal of retrogression, or the choice of a new personal action plan by each member the group's aim.

A small human rights success group as an academic exercise with a facilitator who grades members by their relative contributions to the effectiveness of the group differs from such groups that endure beyond an academic exercise for their intrinsic value. Whether the human rights education method in small groups continues or is reinitiated independently of an academic exercise

depends on group members' motivation to do so based on the perceived benefits. These can be ones that cost nothing to members who enjoy giving to group members help and at once receiving help from the others. The truest measure of this educational method would occur if the success of one group motivated the creation of further successful groups with the availability of professional ethicists. If such groups multiplied, tangible progress might be made towards the emergence of a human rights culture in a society.

¹⁰⁰Quoted in Sarita Cargas, *Human Rights Education: Forging an Academic Discipline* (Philadelphia: University of Pennsylvania Press: 2020), Ch. 1, p. 12. Secretary of State John Kerry did publish the first ever National Action Plan on human rights at the end of the Obama administration, more particularly an action plan on "responsible business conduct" of US corporations operating globally: "The United States is committed to promoting human rights and leading the global fight against corruption...." <https://mk0globalnapshvllfq4.kinstacdn.com/wp-content/uploads/2017/10/NAP-USA.pdf>

¹⁰¹Immanuel Kant, *Prolegomena to All Future Metaphysics*, Introduction.

¹⁰²R. G. Frey, "A Case against Human Rights" in *History as the Story of Freedom*, ed. C. Butler (Amsterdam: Rodopi, 1997, pp. 37-39).

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¹⁰⁴Gilles Deleuze, "On Human Rights," <https://www.generation-online.org/p/fpdeleuze10.htm>, downloaded June 24, 2020.

¹⁰⁵<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G04/112/36/PDF/G0411236.pdf?OpenElement>

¹⁰⁶<https://www.ohchr.org/EN/Issues/Education/Training/WPHRE/Fourthphase/Pages/FourthPhaseIndex.aspx>

¹⁰⁷David Marshall, "Introduction," in *The International Rule of Law Movement—A Crisis of Legitimacy and the Way Forward* (Cambridge, Mass.: Harvard University Press, 2014), p. xiii-xvi

¹⁰⁸"The United Nations and the Rule of Law," <https://www.un.org/ruleoflaw/rule-of-law-and-human-rights>. (Downloaded May 15, 2020).

¹⁰⁹<https://www.ohchr.org/EN/AboutUs/Pages/WhoWeAre.aspx> (downloaded July 1, 2020)

¹¹⁰<https://www.icc-cpi.int/iccdocs/PIDS/publications/UICCEng.pdf>

¹¹¹PBIS, <https://www.hrw.org/news/2008/07/13/respect-human-rights-school-discipline-policies>.

¹¹² From Summer 2014 to January 2015 I was supported by a Lilly Foundation-funded Indiana Campus Compact Grant to prepare a curriculum for teaching elementary ethics in the Fall 2014 Semester as a service learning course with teaching assistants. The human rights education program presented here is due to reflection on my teaching of that class.

¹¹³Research in this chapter has been funded by an Indiana Campus Compact funded in 2014-2015 by the Lilly Pharmaceutical Foundation.

¹¹⁴ California is now the world's fifth-largest economy, surpassing United Kingdom". Los Angeles Times Associated Press article, May 4, 2018 <https://www.latimes.com/business/la-fi-california-economy-gdp-20180504-story.html>. Its economic strength is most dependent on four coastal cities in global trade with the Far East.

¹¹⁵"Model Curriculum for Human Rights and Genocide," California Department of Education, 2003 edition. <https://www.cde.ca.gov/ci/hs/im/documents/modelcurrichrgenoc.pdf>.

Chapter Sixteen

Civility

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Civility

The Cold War gave people the false impression that an either/or choice was necessary between the civil rights of the Western democracies and the economic rights of the countries in the Soviet camp. The truth lies in the inseparability of economic and civil rights. Primacy attaches to the latter because civil rights and the civility or exercising and respecting them is the final end served by economic rights as the indispensable means.

Civility is the central virtue of human rights ethics. It is ideally our habitual exercise of rights throughout their total range in the Universal Declaration with a sense of our responsibility for fairly sharing with other persons the exercise of such rights in solidarity with us. The thesis of this book has been is that an ethics based on post-World War Two UN consensus expressed by the Universal Declaration poses a serious challenge to the legitimacy of any contrary ethical theory. The Universal Declaration is too important a document for us to begin tampering with its wording. Yet a sacrosanct text calls for is a rational interpretation, which is not necessarily a literal interpretation of all its words. The Declaration is still a living document relevant to our post-2015 world.

If it is to be a source of guidance for us today, to interpret it literally at every point would at times make it appear utopian thus leave us without usable guidance in stormy times. Instead, we cannot do better than to remain in the tradition of the Universal Declaration, and make the maximum incremental moral progress possible. We live in the *reception history* of the Universal Declaration as a sacrosanct document. We must seek to interpret it by assuming empathetically the standpoint of its drafters and asking ourselves how they would interpret matters if they were alive today and if they assumed our standpoint. It is highly unlikely, for example, that today they would sprinkle the document with “he” and “man” as they did in 1948. The time is long past when it was enough to say that when one says “ma” one means to include women as well.

In these chapters I have noted a ways in which the Universal Declaration, were it written in 2020, would differ from the way the drafters expressed themselves in 1948, for example in the area of so-called Third Generation environmental rights. I will not repeat all the ways here, but will merely highlight one important way. As we project ourselves into the position of the drafters, most importantly we must realize that, given their proximity to the Holocaust, the declared human rights

enjoyed a clear political priority which reduced the requirement of reasoned argument to which this book has paid attention. We must also recall that the drafters represented the Allied victors of a world war with fascist states that privileged duty consciousness, and hence showed a distaste for privileging duties. They went to the other extreme of privileging the language of rights when in reality fact rights and duties go hand in hand.

The Meaning of Moral Obligation. A discussion between representatives of normative ethical theories is reasonable only if the notion of morally obligatory action is understood throughout in a single sense. In a dialogue between opposing theories, no theory can get away with being true by a partisan definition of being morally obligatory. It has been a long time since utilitarianism has been defended by the claim that «being morally obligatory» means pursuing the common good.

Human rights-based ethics thus cannot be established by defining moral obligation as working to implement human rights. Throughout this book “morally obligatory conduct” has been understood in neutral fashion acceptable in discussion by upholders of different ethical theories. We cannot commit the fallacy of making human rights-based ethics true by the very definition of obligatory conduct. The basic term of the “obligatoriness” action must be used by all in one sense throughout all reasonable discussion between members of different schools of thought.

Normative ethics consists in inquiry into how all human beings ought to conduct themselves if they can. Meta-ethics by contrast goes beyond normative ethics by analyzing the meaning of the basic concepts of normative ethics. It most centrally analyses what it means to say an action is morally obligatory or permissible. If utilitarians were not ruled out of court if they claimed that “morally obligatory” action means action that promotes the common good, dialogue between ethical schools of thought would be over before it began. This is one of the clearest lessons of meta-ethical discussions in the last century between representatives of different schools of ethical thought.

Though there can only be one agreed *meaning* of morally obligatory action held by different parties in the controversy, different normative ethical theories; all using «obligatory» in the same sense, can still propose and debate different *criteria* for identifying what is obligatory or permissible. What is morally right is the range of different permissible ways of doing what is morally obligatory in a given situation. Promoting conduct by the human rights norm can become the criterion of moral conduct without being the definition of such conduct.

One of the best known positions in meta-ethics in the twentieth century has been ethical intuitionism. An intuitionist analysis of being morally obligatory would make it a simple undefinable quality of ethical actions or rules of action but not others. Just as those who are color

blind will never know what the sensory quality of being green is because it cannot be broken down and they cannot intuit it, ethical intuitionism holds that being morally obligatory is a similarly simple unanalyzable but intuitable by normally ethical people. It is possible is that some people may be morally blind much as others are color blind, and if they have never experienced the morally obligatory character of their action they are uneducable because no one will ever be able to explain it to them.

I propose that morally normal people are capable of experiencing the simple indefinable moral obligatoriness of an action without breaking it down by definition into simpler concepts. The moral obligatoriness of an action can be intuited as the simple quality of an action's felt *requiredness* in clearly defined situations. Moral requiredness is a concept of moral psychology. To be obligatory is for a contemplated action to be experienced as called for based on as much reflection as the agent is capable of in the situation. For example, most people have felt gratefulness towards others who have helped them in times of need in life with no expectation of anything in return. If someone has been helped with no expectation of a *quid pro quo* and feels no gratitude, a difficult challenge arise in educating such a person morally to understand what required gratefulness is.

To say that one ought do something is to say that the action on reflection is felt to be more required than any known alternative action. To a young child, the criterion of being obligatory may be parental wishes. If the child has discovered no other criterion that outweighs this criterion, it is subjectively obligatory for the child to follow the wishes of its parents. No child can be blamed for being guided by the standard it best understands upon reflection in its situation, even if the standard later proves objectively wrong in light of the child's further experience and reflection.

It is sometimes said that the end in view never justifies the means. But that is not correct. If that end in view does not justify action as a means to the end, nothing can justify it. Only such an can justify action taken as a means of approaching it. Yet this is objectively so only if three conditions are met. By an "end in view" we do not mean something abstract and constant throughout the human species like the concept of *happiness* as understood by Aristotle. We mean more concretely a final end in view presently in the mind of this or that agent. Different people have different particular such ends on different occasions, and this is equally true of one and the same human being.

The three conditions that together objectively justify an action as a means to end in view are first that the end must actually be achieved or at least more closely approached by the means. It is not enough for it to be merely intended. Second, the value of the end must outweigh the disvalue of the means. And thirdly, even if the value of the means outweighs its disvalue, the end in view does not justify the means if there is a less costly means available to progress toward the end.

However, if we explore the third and last condition justifying the means used to approach an agent's end, moral education is possible for most people, even if not for all. If most people know what colors are, there remain color blind people who will never know because greenness, redness and other color qualities are simple and indefinable and so cannot be explained to those who have never experienced them. The moral obligatoriness of an action is similar in this respect to being green or red.

Yet moral education is still possible for most people who are not morally blind. It includes first getting people to focus on the obligatory character of certain actions. The obligatory character of an action is its subjectively experienced requiredness in a situation. I cannot define the phenomenon of obligatoriness any more than I can define blueness. If you are not color blind I can put you in a definable situation in which you can experience blueness if you are capable of doing so. I can say that blueness is the color of the sky at midday on an unclouded day. If you are not color blind you will understand what I mean. If you are color blind you will understand by «blue» only a shade of grey.

Color blindness is an unchangeable physiological condition. There is no educational procedure to eliminate it, and hence no felt requiredness of an act of seeing blue that can be instilled by moral education. A child may blamelessly feel required to meet parental wishes no matter what, but may also mature by personal reflection assisted by education to qualify or even reject that standard. Going outside the realm of ethics, requiredness can be understood in the Western musical tradition as the requiredness of a consonant chord to resolve the experience of a dissonance. Requiredness more generally can be explained as a dissonance in one's mind putting one on edge until the tension is relieved by a consonance. A first step in moral education is typically to sensitize individuals to dissonance in the minds of thinking adults who are subjected in an authoritarian hierarchy. A second step is get the person sensitive to the mental consonance or harmony called forth by the displeasing experience of dissonance. In moral psychology the moral dissonance of an unkept promise is analogous to a dissonant chord in music, and keeping the promise resolves the tension of dissonance into a pleasing experience of consonance. A normal person can be put in a situation of moral discord, and then receive the suggestion that the feeling the person is experiencing is the obligatoriness of an action to resolve the discord.

A simple example is to be put into the situation of having received a favor from someone else with no expectation of anything in return. If you are morally educable, you will have a feeling of appreciation and feel indebted, and this feeling may lead to the further feeling that some grateful action of kindness towards the other person is called for or required. Obligatoriness is the phenomenon of experienced requiredness in the situation. The felt obligatoriness of some action towards another person is proposed as the most basic ethical concept. It is neither a purely ethical

concept nor a purely psychological concept. It is a concept at the interface of ethics and psychology. Requiredness is a phenomenal property of actions as to be performed for peace of mind.

For an action to be obligatory is for it to be called forth in one's mind as an action that is felt to be required of oneself towards another person or persons. The situations in which the obligatoriness is normally felt are various. Most of us have experienced the requiredness of paying for goods we have shopped for. Culturally, however, the individualism of Western civilization in contrast to the Orient tends to make obligatoriness irksome and unwelcome. A frequent response in the West is to resent being prolonged indebtedness to others. We pay our water bill if we can because we do not want the water to be cut off. Yet on occasion another person even of little means goes out of her or his way to perform a service for another with no expectation of anything in return, and the recipient feels a duty of gratitude to be required.

So far I have defined the concept of an action's obligatoriness without saying anything about human rights. Being morally obligatory is the felt need to act upon being called forth to do so for whatever reason, often because of a contractual promise previously made, but sometimes gratuitously without any prior promise made. It becomes possible to suggest how the habit of proactively respecting the rights of others can be called forth by gratitude towards others for their non-obligatory but active respect for one's own rights.

For action to be justified as a means to an end in view, there must be no less costly means of working towards the end. It is an incontestable fact that achieving an end is sometimes easier when it is achieved with the help of other people. The creation of bonds of mutual assistance also increases the likelihood that everyone's ends-in-view will be more likely achieved.

Living by exercising rights drawn from the full range of human rights while reciprocally helping others actively in their pursuit of their own ends need not be a costly means of getting help from others while progressing towards the achievement of one's own ends in view. The gratitude felt through being helped is naturally expressed through the returning of the favor and helping of others who have helped us. A cycle of reciprocal helping and being helped becomes self-reinforcing with the result that more personal goals are realized for all involved in mutual assistance by exercising and respecting human rights. This becomes a potential mechanism for ever increasing bonding and human solidarity.

My hope is that this book has helped persuade others to regulate their conduct by the standard of the Universal Declaration applied to the requirements of their present situations and in the light of their ends-in-view. Yet this is far from saying that everyone everywhere and for all time ought to act by this standard. The human rights norm is a historical construct. It would make no sense to say that hunter gatherers in prehistory before the idea of humankind was formed ought to act by the human rights norm of helpfulness towards others who have shown they stand ready to

help. Nor would it make sense to criticize a young child for acting by following the external authority of her or his parents instead of the standard of human rights of which the child still has no idea. The obligation to live by human rights depends on having received and digested human rights education either by formal education, by life experience, or by both. No human being is so educated by birth.

Consider the fact that “two and two are four” is perceived to be true by all academically certified math teachers. They share a professional consensus about such fundamentals. The question is whether acting to advance the implementation of human rights is a matter about which all ethicists today can form a professional consensus. Yet in fact there is no such existing professional consensus today in normative ethics. If there were, most of the chapters of this book would have been wasted work.

Elementary ethics students come to the first class with preconceived standard or criteria of right and wrong from a number of non-academic sources that have influenced them since earliest childhood, be it family, friends, the teaching of some religion or other, patriotic values absorbed from the country they have grown up in. Depending on the student, such pre-academic moral training can vary greatly.

Morality and legality are complementary, but not the same. Yet legalism has replaced the authority of normative ethics in the global human rights movement. With the sponsorship of the United Nations, the international human rights law profession has gained formal adoption of international human rights law in the glaring absence of any world state. Law without a corresponding state capable of enforcing it is not entirely empty, but is not uniformly reliable. Civil positive law which is not the law of any state is a contradiction in terms. This fact has led to exaggerated skepticism about human rights. Skepticism about human rights can be countered once it is acknowledged by all parties that human rights are essentially ethical and are not essentially legal.

Among the historical normative ethical theories discussed, Stoicism most closely anticipates human rights-based ethics. The Stoics in Roman antiquity had an insight into the difference between ethics and law that today’s global human rights movement under the United Nations lacks. The Stoics gave us an accurate concept of moral progress. They distinguished three kinds of law in the historical order to their emergence: natural law, international customary law (*jus gentium*), and civil and criminal legislated law—legislated by a state.

By natural law we are essentially or potentially capable of reason. Through the development of international commerce even in the centuries before the Roman Empire, international customary law emerged in the Mediterranean in order to create mutual trust between residents of different independent states and to allow international commerce to develop. When

finally the Roman Empire united the Mediterranean into a single state, the customary trust between independent nations ceased to be merely customary and became in part positive legislated law.

The Emperor Justinian did not morally approve slavery, but simply regretted the fact that it was a human institution that humankind economically thus far had been incapable of overcoming. Justinian's judgment of the matter in his time is sadly true even today. Unfortunately, however, the current international human rights law profession has been encouraged to try to establish international *law* in the absence of any supranational world government prohibiting many evils like slavery. Slavery has not been abolished, despite the claim of the UN Covenant on Civil and Political Rights to the contrary. Instead, unenforced international law has simply pushed slavery underground. Examples of the murky world of slavery today are child labor in some Asian factories and among non-legal combatants in the Middle East and Africa, sex slaves in Florida, East European prostitutes smuggled into Western Europe, and domestic servants traded between wealthy families in Africa.¹¹⁶ If we today had the wisdom of Justinian, the unenforceable Covenant on Civil and Political Rights outlawing slavery would not exist today without world government. The moral imperative today is: either create real world government or repeal the UN Covenant on Civil and Political Rights as formal law and treat it as the international customary law of civilized states.

Despite the continuing existence of slavery in some localities, there is an international customary law of people who are civilized throughout the world. Moral progress means the territorial expansion of the civil society of civilized people. Globally human society as a whole does not yet exist as a true civil society, since sex slaves, captive boy soldiers and domestic servants in bondage exist. Yet it includes millions upon millions of civil people who can recognize one another as members of international customary civil society. They show the virtue of civility.

Human rights discourse does not make "natural law" discourse entirely obsolete. There are no "natural" rights since rights arise by negotiation. In antiquity "natural law" was in usage, but there is no usage of the term "natural rights" before the Middle Ages.¹¹⁷ Nonetheless there is a natural law of human nature defined in terms of innate human capacities. The Stoics were attached to natural law as affirming the natural rational potential of all human beings regardless of gender or race. Yet they did not claim universality of human legal civil rights. The Stoic emperor Marcus Aurelius knew there were barbarians on the other side of the Danube.

The Universal Declaration of Human Rights is less problematic than the UN Covenant on Civil and Political Rights because it is aspirational moral declaration and makes no claim or call for universal human rights law. The Declaration itself makes no mention of international human rights law. It calls for education, not for international human rights law:

The General Assembly, Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance... (Preamble)

Human beings are actually rational, not just potentially rational, only by education. The fact that the Universal Declaration *calls for* human rights education is evidence that the drafters did not view the Declaration itself to be such education. Simply declaring that $E=mc^2$ does not educate anyone to understand and know that energy equals mass times the speed of light squared. Similarly, simply declaring human rights does not educate anyone to know that human rights ought be respected and exercised. The rush to create what was called “international human rights law” in the last half of the twentieth century may have been an ill-conceived. More funding of UNESCO, the educational arm of the United Nations, might have been a better idea.

The United Nations should have heeded the Preamble of the Universal Declaration and pushed for ever improvable human rights education programs reaching people on ground around the world. Creating international law that is not customarily followed by humanity as a whole is as mistaken as Prohibition laws to outlaw the sale of alcohol that were not followed by the public those laws were supposed to govern. Prohibition laws were repealed because their unintended effect was to call law in general into disrepute. Unfortunately UN human rights conventions have called human rights into disrepute. Human rights do not deserve such disrepute. The United Nations should really reestablish its priorities and give more to human rights education while admitting that international human rights positive law is aspirational.

Existing international human rights law treaties are addressed to states. If we read the Preamble of the Declaration we see that human rights education is addressed to “every individual.” Since only human individuals can have human rights, nations and societies are called upon to receive human rights education only because their members are individual human beings. Educate all nations and “organs of society,” yes, but only because their members are individual persons who are the only real addresses of human rights education. So why has the United Nations not done this?

The apparent reason is that do have done so would be to meddle in the domestic affairs of sovereign states. Education is a national responsibility, and all the United Nations and its educational arm, UNESCO, can do is urge and recommend. This is not to say that the UN never intervenes in the domestic affairs of a sovereign nation. The International Criminal Court at the Hague is a counter-example to any claim that national sovereignty is everywhere inviolable. Nonetheless, such intervention is very limited, especially in the case of great powers asked to fund

the UN more than poorer states. The UN should be able, indirectly through states that have ratified UNESCO, to put human rights education in the curriculum of the public schools of member states. That the most powerful post-War state, the United States, does not mandate the teaching of “global citizenship” in its public schools is regrettable but understandable in an increasingly nationalistic world.

I once proposed a program of human rights education for Kosovo, developed at Purdue University with a grant funded by the Lilly Foundation for the US Embassy in Kosovo’s capital, the Embassy replied to me that I could be funded to the extent of \$5000 if I could get a trial of the program into the public schools of Kosovo. I had the support of the Kosovo Commissioner for Human Rights, but he worked out of the Prime Minister’s Office, not under the Ministry of Education. I got nowhere when I tried to contact the Ministry of Education. When I tried to access its website I was redirected to a West Balkans Development agency sponsored by George Soros. I found numerous human rights education agencies in Kosovo, including the Council of Europe, the European Union, the United States Embassy, and various non-governmental organizations. Yet I came away with the impression that there were mainly competing for turf and were doing very little actual human rights education on the ground.

Hegel’s said that Stoic universal freedom of thought is only the thought of freedom.¹¹⁸ This applies to the current global human rights movement as much it did to the ancient Roman Empire. The Roman Stoics were more honest than the legislators of international human rights law today. The Emperor Justinian, as noted, honestly said that slavery is unfortunately a fact that we have not been able to overcome. It would be more honest today for the international human rights law profession to admit the same today about international human rights conventions and covenants.¹¹⁹ They are cosmopolitan *legal proposals* that are “more honored in the breach than in the observance.”

The idea of *civilized* human civil society was born in ancient times due to a spreading awareness of the importance of international as well as domestic civility to the expansion of trade in the interest of the greater life success of individuals everywhere. Free trade means the unimpeded exchange of information as well as services and products. The only solution to the problem of non-respect for internationally ratified human rights conventions is a restoration of the primacy normative ethics over law as authoritative in the matter.

Today, if human rights again were again viewed as primarily moral, the spreading popular skepticism about such rights might be reduced. The mission of positive law is the universal enforcement of legally compliant behavior. The law is not the law if it is not customarily realized throughout society save for a minor number of criminal exceptions equally dealt with by the law. It is not the nature of morality to be so widely realized as custom throughout society as positive law.

The mission of civil society is to increase the membership of this society as much as possible, one person at time. Yet the number of individual members of civilized civil society who trust one another increases at a snail's pace. Human rights norms *can* govern the conduct of a growing membership of civil society and *ought* to be practiced by more morally educated members of civil society in the personal interest of each and all.

Many people are not easily educable in human rights-grounded ethical norms because they remain dogmatically attached to ethical norms which in all probability are illegitimate such as divine commandment ethics and political nationalism. Customary norms lying outside international civilized society also include rationally unsupported but emotionally-based norms such as discrimination against others rooted in race, religion, ethnic origin, or gender. And the ethics actually practice by private individuals is corrupted by the power of great wealth or by that of government officials corrupted by the power of position and their access to the wealth of nations at the expense of the people.

Despite forces opposed to human rights-based ethics, membership of civil society exists informally, and to a greater or lesser extent depending on the country. These are people who recognize the personal benefits of free global trade in information, services, and products. They respect civil rights in general, including intellectual property rights. In entering exclusive trade agreements with other individuals, they reap the rewards of the record of personal trustworthiness that they have established in the minds of other members of international civil society. They understand the backup support of the rule of law and the existence of courts in case they should enter into contractual agreements with less scrupulous individuals who take advantage of their customary trusting behavior. They continue to trust democratically elected government to protect civil rights as long as they believe the voting public is educated enough not to elect unscrupulous individuals without dedication to the civil rights of citizens and residents, and to the maintenance of public services.

The informal membership of civil society across international borders is committed to economic rights including welfare rights to prevent the emergence of a poverty stricken rabble of people too untrustworthy to qualify as members of civil society, people who can subsist only by deceit if not indeed, crime. Those who already display the virtue of civility, hope that—by paying taxes to support the economic rights of those who are less fortunate than them—as many people as possible in this predicament can be trained to find honorable work thereby affording them a decent livelihood and enabling them to join the ranks of civil society.

Members of global civil society pursue their self-education beyond school by life experience in pursuing individual success by achieving freely chosen realizable goals lying within the

opportunities of their situations. The opportunities of one's situation are always limited, but by exploration they are usually multiple. Today the moral obligation to act for greater personal success through trade in civil society has expanded far beyond the time when the Universal Declaration was issued through the global technological explosion of the means of exchanging information, services, and products. Members of civil society do not have a duty to exploit any particular opportunity presented by the expanded forms of exchange with others such members. Yet they do have a self-imposed obligation to themselves to consider new global opportunities alongside the traditional local and national ones.

There is nothing immoral about choosing to pursue success locally in a traditional manner, for instance as a home maker or small farmer, for example. Yet today's global means of exchange—made possible by the internet, the most important technological advance since Gutenberg and the printing press—allow individuals to succeed globally as well as locally. One's self-education as a member of global civil society requires constant examination and encouragement of the civility of new partners one meets in the exchange of information, services and products.

No one has a duty to dialogue or otherwise exchange. People who display civility learn by experience how to recognize civility or its absence in others. They also learn how to recognize those who lack moral character, and how to avoid exchange with them. International legal proposals in human rights law under «the rule of law» have leaped ahead of the current level of the international customary law of peoples. Aspirational proposals by the international human rights law profession can only benefit from admission of the fragility of the rule of law. The international customary law of civilized people needs time to catch up and provide a foundation on which broadly non-punitive international law can become genuine positive law.

In 2020 the European office of the United Nations in Geneva published a report sponsored by the European Union Commission in Brussels calling for greater respect for the rule of law under the United Nations. The report began by stating:

...respect for the rule of law, which is intrinsically linked to human rights and democracy, is declining worldwide. The independence of the judiciary, transparent and accountable governance, media freedom and the separation of powers are being eroded....¹²⁰

Unfortunately the report concluded only with recommendations for further the reinforcement of existing UN human rule of law tools, but without any mention of human rights education reaching people on the ground. This book has argued that the rule of law can only succeed if built on a foundation of popular human rights education. Contrary to the wisdom of the ancient Stoics, the rule of law movement has jumped ahead of the lagging international customary law of peoples. This book has sought to support the rule of law by calling for renewed efforts in human rights education directed to the residents of the world's nations.

¹¹⁶“What is Modern Slavery,” United States State Department, <https://www.state.gov/what-is-modern-slavery/>. Downloaded May 15, 2020.

¹¹⁷A.S. McGrade, “Aristotle’s Place. In the History of Natural Rights” *Review of Metaphysics*, vol. 49, no. 2 (1996), pp. 816-823; Clark Butler, *Human Rights Ethics: A Rational Approach* (West Lafayette: Purdue University Press, 2008), p. 27.

¹¹⁸*Phenomenology of Spirit*

¹¹⁹One Individual human rights lawyer has admitted this to me, but with the disclaimer that that he was speaking his own are speaker in their own name, and was not representing the position of his employer, the UN Office for the High Commissioner for Human Rights.

¹²⁰ »The Case for a Human Rights Approach to the Rule of Law in the European Union,» UN Human Rights Regional Office for Europe, Brussels, May 2020, <https://europe.ohchr.org/EN/Stories/Documents/Publication.pdf>

Appendix

UNIVERSAL DECLARATION OF HUMAN RIGHTS

AS SEEN THROUGH THE LENS OF THE PRIMACY OF FREEDOM OF EXPRESSION

OF HUMAN RIGHTS

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to

Now, therefore, The General Assembly

Proclaims this Universal Declaration of Human Rights, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

The Universal Declaration seeks to codify the moral law for our time. Yet its validity is not eternal. A declared human right to housing in the Declaration presupposes non-universal sedentary, non-nomadic life. Since human rights do not exist, they function only as a standard for moral progress. The above Preamble declares human rights as ideal rights that are inalienable from an ideal speech situation before a potentially universal audience. Constructing human rights is in part the construction of this universal audience. The Preamble with the rest of the Declaration asserts a right to freedom of speech as dialogical in truth seeking. Yet it does not bar subjective purely expressive freedom of expression speech that is not hate- or war-mongering or otherwise in opposition to any declared right.

The Preamble is potentially revolutionary, asserting a right to rebellion if human rights grievances cannot be addressed by legal due process. Respect for human rights depends on both fighting world poverty and on the moral education to which the Declaration contributes. The articles of the Declaration are understood by restating their meaning in one own language. The language each citizen uses highlights the identity of every human right with the right to dialogical freedom of thought under one or another particular description. The term «dialogical» does not appear in the Declaration. Yet terms that imply dialogue do appear: assembly, democracy, tribunal, and «acting towards one another in a spirit of brotherhood» in the Preamble.

In the following thirty articles of the UN Declaration, civil rights appear first, with Article 1 asserting that all are assigned at birth equal rights by an emerging global consensus. Article 2 specifies that no human subgroup should be denied equal human rights through discrimination. In Article 3 (on the right to life, to the liberty to act on our belief, and to security) we find here three universal forms taken by the basic dialogical right of freedom of expression from Roosevelt's Four Freedoms Speech as well as the Preamble above. "Freedom of expression" is used in lieu of

'freedom of speech' because it is more generic. Freedom of speech is only one form of freedom of expression, though it is historical first.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

The right to life is the right not to have the right to freedom of speech cut short by avoidable death. This is not to restate the right to life as identical to the right to freedom of speech. It is only to say survival is one necessary condition of exercising freedom of expression. It is also the right not to have the wide range of possible human thought reduced to the mere thought of subsistence.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

The above anti-discrimination clause's mention of «or other status» makes it sweeping. Note that what is prohibited is negative discrimination against anyone. Positive discrimination in favor of someone of merit is not excluded.

Article 3. Everyone has the right to life, liberty and the security of person.

The right to life is the right not to have the right to freedom of expression cut short by avoidable death. This is not to restate the right to life as identical to the right to freedom of speech. It is only to say survival is one necessary condition of exercising freedom of expression. It is also the right not to have the wide range of possible human thought reduced to the mere thought of subsistence. Liberty is the freedom to act on one's belief, displaying it to others and test the success of action based on one's belief. Security is the right not to have freedom of expression impoverished by reduction to the mere thought of survival.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Freedom of speech is also a right not to be owned by a master appropriating one's body for the expression of beliefs alien to oneself

The right to life is the right not to have the right to freedom of expression cut short by

avoidable death. This is not to restate the right to life as identical to the right to freedom of expression. It is only to say survival is one necessary condition of exercising freedom of expression. It is also the right not to have the wide range of possible human thought reduced to the mere thought of subsistence. Liberty is the freedom to act on one's belief, displaying it to others and test the success of action based on one's belief. Security is the right not to have freedom of speech impoverished by reduction to the mere thought of survival. Freedom of speech is also a right not to be owned by a master appropriating one's body for the expression of beliefs alien to oneself (Article 4). Free of expression is equally the right to freedom from torture and other treatment blocking the free expression of oneself.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Free of expression is equally the right to freedom from torture and other treatment blocking one's free of expression.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

The first due process or legal-access right appears here in Article 6. It expresses the right to an identity, the right not to be a non-person on the stage of legal procedure.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

The right to freedom of expression appears as legal-access right beginning in Article 7 asserting a right to be a legally present or represented on any stage of judicial procedure. Such status makes possible legal protection of freedom of expression in its multifarious modes. Membership ~~is~~ of a subgroup of humanity (the poor, even accused terrorists Osama like Bin Laden justifies less than equal legal protection. [and this doesn't make sense at the moment.]

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

By Article 8 everyone enjoying a right to freedom of belief has an equal right to legal redress in grieving a human rights violation.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 9 **declares** the right to freedom of expression under three different descriptions. It includes **freedom from** intimidation by the risk of arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 10 provides the right to representation of one's free self-expression in self-defense at a fair trial.

Article 11 1. Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense. 2. No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

The ideal right to freedom of speech is also a right not to be intimidated by the fear of being punished without being found guilty by a fair trial protecting the right to speak in response to one's accusers.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

The right to free self-expression is, under another description, a right not to be pressured to alter one's speech from fear of attacks on one's privacy, family, or reputation which go beyond the bounds of legitimate criticism of the truth of what one says.

Article 13. 1. Everyone has the right to freedom of movement and residence within the borders of each State. 2. Everyone has the right to leave any country, including his own, and to return to his country.

Freedom of speech is implied by the civil right to leave and to return to one's country with the ability to report in free self-expression what one has seen or heard abroad or elsewhere in one's own land (Article 13).

Article 14. 1. Everyone has the right to seek and to enjoy in other countries asylum from persecution. 2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Civil rights also take form as the right not to fear persecution for one's speech acts or self-expression in one's own land without protection of freedom of expression by possible asylum elsewhere.

Article 15. 1. Everyone has the right to a nationality. 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Speech acts as freedom of expression can take a very broad form. All behavior in public has freedom expression as one dimension. Having a right to nationality implies a freely chosen national point of view in entering dialogue with people of other nationalities.

Article 16. 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. 2. Marriage shall be entered into only with the free and full consent of the intending spouses. 3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

The right to marry is the right to freedom of expression enhanced by the support system of marriage between consenting adults for those who choose. Having such a domestic support system is as important as raising children as a purpose of marriage

Article 17 1. Everyone has the right to own property alone as well as in association with others. 2. No one shall be arbitrarily deprived of his property.

The right to freedom of expression under a different description is the civil right to use one's personal property, to make acquisition decisions, and to make one's thought recognizable by others in the publicly visible use one makes of one's property.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Self-expression in public is an option or right, not an obligation.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The right of self-expression, like that of exchanging messages, is not restricted by national frontiers or by the denial of any available medium of communication, e.g. television, film, performance, or use of the internet beginning with email.

Article 20. 1. Everyone has the right to freedom of peaceful assembly and association. 2. No one may be compelled to belong to an association.

The right to freedom of thought and self-expression can occur in assembly and by membership in associations with no compulsion to join or remain a member.

Article 21 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2. Everyone has the right of equal access to public service in his country. 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

A citizen's right to freedom of thought and its public expression and is not be abused by governments they do not democratically control.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 22 declares the right to freedom of expression as a right to economic, social and cultural conditions support exercise of that right. Yet a state's duty to respect an ideal right is limited by its ability, with international assistance, to do so.

Article 23. 1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. 2. Everyone, without any discrimination, has the right to equal pay for equal work. 3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. 4. Everyone has the

right to form and to join trade unions for the protection of his interests.

In Article 23 the right to freedom of expression takes form as a right to an independent livelihood by a job which is paid sufficiently to free one from dependence on a handout making one's voice a negligible copy of the voice of the person giving the handout. By the same Article, if income from one's job is not enough to give members of one's family an independent livelihood and voice, a right exists to supplemental state or international aid. If one works for a large employer a further right exists to level the playing field by a trade union.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 24 declares a right to an independent livelihood including, as part of the product of labor, the rest and leisure needed to optimize the quality of public self-expression. If one cannot find work, the right to dialogical freedom of thought is a right to unemployment benefits, disability benefits, retirement benefits, or sick pay.

Article 25. 1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. 2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

If one cannot find work, the right to uninterrupted freedom of self-expression assumes a right to unemployment benefits, disability benefits, retirement benefits, or sick pay (Article 25).

Article 26. 1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. 2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. 3. Parents have a

prior right to choose the kind of education that shall be given to their children.

The right to an elementary education making the literacy of adult dialogue partners possible is an explicit child right in the Declaration. Unlike adult human rights such as marriage, basic education is also a duty of society to give. However, a child's right to such education can be assimilated to an adult human right to have received such an education as a child. Beyond elementary education, the right to dialogical freedom of thought is also a right to whatever further education is needed to actualize one's potential for the public exercise of individual freedom of expression. Yet any primary, vocational, or higher education to which one has a right must include human rights education. The parents' right to educate their children in their own tradition is not a duty if they lack a tradition, but their right and responsibility to do so if they can is the child's right to be progressively inducted into adult dialogical thinking non-anonymously, with his or her own perspective and identity.

Article 27. 1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. 2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

An right to optimal exercise of freedom of expression is a right to continue one's education through access to the latest science, technology and culture, enjoying their benefits. Yet the right to the product of scientific and cultural labor is a human right which ought not be violated by those who benefit from such labor by not compensating creative labor. The right to intellectual property motivates quality contributions to both formal and tacit dialogical communication between people: new products, services, and messages. Article 27 poses the challenge of reaching a delicate balance.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

The last human right in the Declaration (Article 28) is a right to freedom of expression in a world where in all its particular forms it can be universally realized. This is a potential ideal right to an alternative form of world governance with a possibly revolutionary change of institutions, but with rebellion mentioned in the Preamble limited to a very last resort. Since such a world order is not today's system of sovereign nation states, Article 28 declares an ideal revolutionary right if necessary to alternative world governance.

Article 29.

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations. *Nowhere does the Declaration mention the «indivisibility» of human rights, but it is implied here. To say that rights in one article cannot be exercised against the purposes and principles of the UN means in part to say that rights in any article cannot be exercised against rights in other articles.*

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Article 30 asserts the indivisibility or oneness of human rights. They are all one right under different descriptions. If human rights under one description in one article is violated, all human rights—the many in the one—are violated.

Civil rights also take form as the right not to fear persecution for one's speech acts in one's own land without possible asylum elsewhere (Article 14). Speech acts as freedom of expression can take a very broad form. All behavior in public has freedom expression as one dimension. **Having a right to** nationality implies a freely chosen national point of view in entering dialogue with people of other nationalities (Article 15).

Article 22 declares the right to freedom of expression as a right to economic, social and cultural conditions support exercise of that right. Yet a state's duty to respect an ideal right is limited by its ability, with international assistance, to do so.

Right to Work. In Article 23 the right to freedom of speech is a right to an independent livelihood by a job which is paid sufficiently to free one from dependence on a handout making one's voice a negligible copy of the voice of the person giving the handout. By the same Article, if

income from one's job is not enough to give members of one's family an independent livelihood and voice, a right exists to supplemental state or international aid. If one works for a large employer a further right exists to level the playing field by a trade union (Article 23). Article 24 declares a right to an independent livelihood including, as part of the product of labor, the rest and leisure needed to optimize the quality of public self-expression. If one cannot find work, the right to dialogical freedom of thought is a right to unemployment benefits, disability benefits, retirement benefits, or sick pay (Article 25).

Right to Education (Article 26).

The right to an elementary education making the literacy of adult dialogue partners possible is an explicit child right in the Declaration. Unlike adult human rights such as marriage, basic education is also a duty of society to give. However, a child's right to such education can be assimilated to an adult human right to have received such an education as a child. Beyond elementary education, the right to dialogical freedom of thought is also a right to whatever further education is needed to actualize one's potential for the public exercise of individual freedom of expression. Yet any primary, vocational, or higher education to which one has a right must include human rights education. The parents' right to educate their children in their own tradition is not a duty if they lack a tradition, but their right and responsibility to do so if they can is the child's right to be progressively inducted into adult dialogical thinking non-anonymously, with his or her own perspective and identity.

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The last ideal human right in the Declaration (Article 28) is a right to freedom of expression in a world where in all its particular forms it can be universally realized.

Since such a world order is not today's system of sovereign nation states, Article 28 declares an ideal revolutionary right if necessary to alternative world governance. Even if human rights could be implemented at the same time by all sovereign nations, if one nation faltered, current human rights law is unable to enforce its return to respect for the Universal Declaration.

Article 29.

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2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

UN human rights function at their best by adopting them as practical working assumptions found in contemporary, post-classical science with no doctrinaire premises. In principle at least, similar thinking procedures to that the procedure of science can also be followed by the man or woman on the street. That said, however, the purpose in ethics is not, as in the theoretical sciences, to find a one true theory on which all specialists in a scientific discipline can agree. It is rather for each to find the best means to personal success through mutual assistance for as many as possible. If I do not help you, I may deny myself the record of your personal achievement or failure from which I may learn something.

Human rights ethics is a consequentialist ethics for the sake of personal success.¹²¹ Healthy people want personally successful lives as the end in itself, not the maximization of pleasure. It is also an ethics for the greatest success of the greatest number. Yet no ethical theory serves its purpose without a workable method of moral education ~~discussed~~ as discussed **in the next chapter**.

Human rights ethics supersedes classical theories based on evident first principles. Such principles were merely asserted without being proven as the necessary starting points of proof. Not

everything can be proven, since if everything needs to be proven nothing can be proven. Proof would give way to an endless series of arguments with no rock bottom foundation. Yet science itself has abandoned foundationalism. It has abandoned the appeal to self-evidence or *intellectual intuition* of the truth of unproven first principles.

Theories are justified, refuted, or suspended only until further notice by the self-justifying norm of discussion ethics. Any attempted refutation of human rights discussion ethics could proceed only by ethical discussion itself, with all parties presupposing morally the right to freedom of expression in dialogue in all its forms as practical postulates of reason. No human rights in the Universal Declaration and beyond are dogmas. They are only practical postulates of theoretical or practical reason in fair discussion on an even playing field. No refutation of the ethics of freedom of expression can be sound. Any such attempted refutation circularly presupposes and reaffirms the same ethics it would refute.

Normative Ethics is one of the oldest branches of philosophy. Since Pythagoras, the question has been asked as to whether what philosophers do is science or only the love of science or knowledge. The problem for ethics, as a branch of philosophy in describing “philosophy” as only the love of wisdom, is that it is apt to be frozen forever an unrequited love of right conduct. The twentieth century has shown how devastating this can be: ethics risks being expelled from academia and ridiculed due to ethical relativism or ethical pluralism by colleagues in the sciences.

Normative ethics viewed as opinion, ideology, or doctrinal faith signals a chaotic slow-motion World War Three or return to the Middle Ages—in the name of, nationalism, antisemitism, radical Islam or whatever—of killing sprees for no good reason at all. There is evidence on American university campuses. There was a time when professional studies departments required their majors to take elementary ethics in a philosophy department taught by faculty trained in normative ethics. That time, I know from experience, on some campuses is past. Other departments begin to prefer to teach their professional ethics courses to be modules internally by faculty with no training in normative ethics. What they teach risks not going beyond compliance with professional codes, even at times reluctant minimal compliance to meet an externally imposed corporate obligations to be socially responsible.

However, teaching of elementary normative ethics inside philosophy departments in large part to blame. What would you think of physics if the elementary course mainly taught 2500 years of conflicting theories, really mere opinions, about the nature of the physical world? That is what way too many elementary ethics students ~~feel~~ **will feel** about ethics after leaving elementary course

~~without more ado about ethics.~~ Since the paradigm shift in the nineteenth century way from the classical concept of science, science has become hypothesis testing. A theory is but a hypothesis, with no self-evident axioms, premises, foundations, or doctrines.

Normative ethics to be respected academically must become procedural and non-doctrinal. Hypothesis testing in ethics, as in theoretical science and courtrooms, is the best tested hypothesis of all.

¹²¹The theory in *Human Rights Ethics* (2008) revised as a “consequentialist rather than Habermasian “deontological” procedural ethics appears in Clark Butler, “A New Ethical Consequentialism,” *Proceedings of the XXIII World Congress of Philosophy*, vol. 75, 2018. [https:// www.pdcnet.org](https://www.pdcnet.org). (Philosophical Documentation Center)