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WHAT IS WRONG WITH KILLING PEOPLE ?

BY R. E. EWING

Qualifications are needed to make the point a tight one, but it seems quite plain that it is wrong to kill people. What is not so plain is *why* it is wrong to kill people, especially when one considers that the person killed will not be around to suffer the consequences afterwards. He does not suffer as a consequence of his death, and he need not suffer even while dying. His friends, relatives, and dependents might suffer, but that does not seem to be enough to solve the problem ; it is, in the Common Moral Consciousness, just as wrong to kill somebody who has no friends, relatives, or dependents. To think of the wrongness of killing somebody in terms of whether or not it will upset somebody else is to miss completely the somewhat obscure point. The Common Moral Consciousness is quite clear that the reason why it is wrong to kill somebody has something to do with him, not with his mother or maiden aunt.

Utilitarianism will not do the job of explaining why it is wrong to kill somebody. The most commonly used of the traditional points against Utilitarianism is that it subjugates the interests of the individual to those of the majority—which could, in the appropriate circumstances, commit a Utilitarian to the view that the execution of an innocent man chosen at random was justified. Negative Utilitarianism, the tenets of which require us to minimize pain rather than to maximize pleasure, has even more radical consequences : as has been pointed out,¹ it would require us to kill people painlessly. It does not simply require us to do it painlessly if we must kill people ; it requires us to kill people if we *can* do it painlessly. Killing somebody just like that, not in time of war, self-defence, or judicial execution, is ungenerous, unmerciful, cruel, and perhaps arrogant, but none of those words explains what is wrong with it ; there is a good deal more to it than that. Nor is the word ‘ unjust ’ one that immediately springs to mind. We could simply intuit the wrongness of killings, but that would not get us far and would leave us with problems in our accounts of moral argument, moral education and theory of knowledge. It is not simply that the consequences of everybody’s killing somebody would be unpleasant, either, and it is not that my killing somebody is contrary to the point of an institution required for the performance of the act.

I have asked a few people of my acquaintance what is wrong with killing people, and have received a small range of replies each of which is fairly obviously inadequate. It may be true that killing somebody shows in-

¹R. N. Smart, “ Negative Utilitarianism ”, *Mind*, 1958.

sufficient respect for persons, but there is more to it than that ; killing somebody is not, as this answer suggests, morally on a par with spitting in his eye. If I kill somebody then my act is, indeed, unrectifiable, but that does not make it wrong ; all that unrectifiability can do is to make something that was wrong anyway into something worse. It is not so obviously true that killing somebody restricts his freedom of action, since he would no longer be around to have any freedom of action, but, even overlooking that problem, killing somebody does more than breaking his leg or locking him up, either of which would involve restricting his freedom of action. Locking somebody up unrectifiably would be more serious, but still the feeling persists that killing him would be wrong in a different way, whether or not it would be worse. Locking somebody up for a long time involves preventing his doing what he wants to do, frustrating him, and perhaps eventually driving him insane ; in short, it involves inflicting upon him a good deal of unpleasure. Killing somebody does not thus involve the infliction of unpleasure, or, at least, it need not ; the death itself may be painless, and after that the person killed suffers neither pleasure nor unpleasure. Killing somebody may involve denying him equality of rights with me, but it need not ; I may be quite prepared to die myself, but it is still wrong for me to kill anybody else. No matter what I plan to do, the lives of others should not depend upon my whim. Even if I do not plan to kill myself immediately after killing somebody else, and thus do, in some way, deny my victim equality of rights with me, my killing him is not morally the same as my drinking beer while denying him the right to do so, or cursing around the house and then upbraiding my son for doing the same thing. It may be said that killing is simply more serious, but why ? It is not more serious simply in being a denial of equality of rights, and if the point is that the right to live is more important than the right to drink or curse, then nothing is settled : one aspect of the problem from which I began is the problem why the right to live is more important. It is quite clear that when I kill somebody I deny his legal rights, but, at least at first glance, that is a far cry from showing that I deny his moral rights, and to show that I have acted illegally is not to show that I have acted immorally. The legal requirement or prohibition of an act does not, unfortunately, entail its moral requirement or prohibition, nor vice versa ; hence arguments about marijuana, abortion, conscription, and so on.

So I want to reject all the answers suggested so far, at least in the simplistic forms in which they have been suggested. That there is something in some of what has been said, though, should emerge as we go on.

Moral philosophers, when they do take specific examples, tend to take them from a fairly restricted range and tend to choose them in terms of how well they illustrate a theory. Perhaps they also feel that there is no point in trying to explain something quite as obvious as the wrongness of murder. There are certainly some grounds for saying that explanation

should be, not of the obvious, but in terms of it. Unfortunately, very few that I have read have tried to explain the wrongness of killing, and those accounts that have been given are usually notable for their implausibility. In some cases one need only read the account to reject it; argument seems hardly to be necessary. The wrongness of murder is explained by G. E. Moore, for example,² basically in terms of the fact that murder's becoming a common practice would promote a general feeling of insecurity which would take up time that could be spent to better purpose. 'Tiddleywinks' becoming a common practice would similarly take up time that could be spent to better purpose. Moore did not leave it at that: it was only occasional murder that he thought he had shown to be wrong; a policy of universal murder is a different thing altogether, and Moore did not think that he could similarly show that to be wrong. He wrote:

. . . the general disutility of murder can only be proved, provided the majority of the human race will certainly persist in existing. In order to prove that murder, if it were so universally adopted as to cause the speedy extermination of the race, would not be good as a means, we should have to disprove the main contention of pessimism—namely that the existence of human life is on the whole an evil. And the view of pessimism, however strongly we may be convinced of its truth or falsehood, is one which never has been either proved or refuted conclusively. That universal murder would not be a good thing at this moment can therefore not be proved.³

There is a logical mistake involved in asking whether murder is wrong either as a universal policy or as an occasional pastime; we can intuitively see that murder is wrong because that is what the word 'murder' means. This problem, as it arises in the passage that I have just quoted, can be removed simply by substituting the word 'kill' for the word 'murder'. The problem that arises then is that not all killing is regarded as wrong, and it would be false to say, without my earlier remark about qualifications, that it is quite certain that killing people is wrong. There are various conditions more or less commonly accepted as making it not wrong to kill somebody: I may kill somebody if he threatens to kill me and killing him is my only means of defending myself; I may kill somebody if the leader of my society announces that we are in a state of war with the other person's society; I may kill somebody if he is my slave or a member of another tribe or has passed the age of 65; I may kill somebody if he has committed such crimes as to be declared an outlaw; or I may kill somebody if he is in great and unrelievable pain. Each of these conditions is more or less widely accepted in this society or another as making killing permissible, so one cannot reasonably say simply that it is quite certain that killing people is wrong whether or not it is clear why killing people is wrong. But certainly some cases of killing people are wrong, and in working out just what makes these cases wrong we ought also to be working out just what conditions make killings permissible. The task which I have set myself, that of explaining what is wrong with killing people, can also be regarded as the task

²*Principia Ethica*, Cambridge paperback, 1959, pp. 156-7.

³*Op. cit.*, p. 156.

of explicating the concept of murder, and Moore's use of the word 'murder' in saying that a policy of universal murder may be a good thing does not show that his argument necessarily involves a self-contradiction even though his expression of it might.

Nevertheless, the relationship between the concepts of killing and murder explains why we have a feeling, not simply of uneasiness about Moore's argument, but of blank rejection. Moore, it seems, has simply missed the point if he makes his judgment of killing in terms of its utility. The devil may have his due, and if I choose to lead a less pleasant life than I could, or one providing me with fewer goods than I might have, then, nobody, one is inclined to say, has the right to stop me. Murder is wrong in itself, and the fact that we have formed such a concept or added such a word to our moral vocabulary suggests that, in the Common Moral Consciousness, those acts of killing which are wrong are regarded as being wrong in themselves, not merely as being disutilitarian. When one man wantonly kills another, not in self-defence or anything like that, but, say, simply because he enjoys killing people, we have no need to wait for the consequences before judging the act to be a murder and therein wrong; as remarked earlier, the reactions of the victim's mother or maiden aunt have nothing to do with the morality of killing. Were euthanasia legal in the society, a man might make an appointment with his doctor to be killed and thus put out of unbearable pain, but if somebody knowing nothing of this were to break in and shoot him, anticipating the doctor out of the sheer joy of killing, then that act would be a murder and wrong even though it had the same consequences as an act to which no objection would have been raised. We have no need to wait for the consequences before we judge a killing to be murder and thus wrong; the consequences may be good or bad, but either way they are incidental to the morality of the act. A child-murderer's pointing out the high probability of his victim's growing up to be another Hitler has not justified his act though he might have shown that, incidentally, it had done the rest of us a good turn.

If I do not immediately comment on this, I shall no doubt be accused of begging the question. Why are the consequences incidental? To rule them out of consideration by saying that they are incidental, it might be objected, begs the question by building in a moral judgment.

Now, I did not say simply that the consequences are incidental to the act; I said that they are incidental to the *morality* of the act. Whether they are incidental or not depends on how the act is described. If it is described simply as killing, then the consequences may not be incidental to the act: they may be exactly what the killer was aiming at, in which case they are anything but incidental. But the morality of his act does not depend on his having killed, it depends on his having murdered. To put it another way, his act is not wrong *in that it is a killing*, it is wrong *in that it is a murder*. So his act is morally assessed in terms of murder, and so far

as the morality of his act is concerned it comes under the description of murder and not simply under the description of killing. At this stage we can say, roughly, that a murder is done if one man intentionally kills another and if none of the conditions defeating a claim of murder are present—the killing was not done in self-defence, nor was it done in time of war, and so on. These conditions do not refer to the consequences, they refer to the intention, knowledge, and mental state of the killer. We can apply the concept of murder without reference to the consequences after death, so the consequences after death are incidental to the act's being a murder.

But what, it might be asked, if people believed that consequences did affect the morality of killing? Perhaps none of the defeating conditions do refer to consequences, but why should we not introduce a new one that does?

That's the way the world is, that's the way our concepts are; that's where we have to start from. If the world were different (even if only in that people held different beliefs from those they do hold), then our concepts would be different. If *everybody really* believed that when we die we go to heaven—all those grapes, on a hot day there are half a dozen comely angels to fan us, the English never win a test match and there is no tax on beer—if everybody really believed that then, whether or not their beliefs were true, we probably would not have a concept of murder at all. Our morality and the moral concepts we have would be different. Our concepts are the way they are because the world is the way it is and because people believe, want, and need what they do believe, want, and need. That is where we have to start from, so that is where I do start from.

None of this is meant to imply that the concept of murder is always easy to apply or that it in no way has any connection with the future tense. That is why there is still equivocation about the child-killer if he can really prove that his victim would turn out to be another Hitler; one really feels uneasy about taking either side in the dispute, which is to say that the concept is difficult to apply in such cases. But what gives rise to the equivocation is not the consequences of the killing, as I have already tried to show. What gives rise to the equivocation is the intention of the agent, which is a different thing. That he did spare us another Hitler is irrelevant; that he intended to do so is not. His intentions, though not the consequences of his act, affect whether or not he has committed a murder; whether his intentions were realized is incidental. If his intention does defeat a claim of murder (as has been argued is the case in assassinations), then it is irrelevant that another Hitler turns up anyway, so that the killer has not spared us that after all.

So, if an act of killing is wrong, it is wrong in itself and not because of its consequences. For the same reason, the distinction Moore draws between universal murder as a policy and murder as a spare-time hobby is of no moral significance. An individual case of murder is wrong in itself, i.e., wrong in that it is murder; if a policy of universal murder is introduced,

the only change made in the situation is that we have a lot more individual cases of murder each of which is wrong in itself. Murders are judged one by one ; the number of them has no effect on the wrongness of each. Introducing a policy of universal action can have special effects : introducing a policy of universally doing what we say we will do after uttering the words ' I promise ' changes the situation by creating a new institution, that of promising. But introducing a policy of universal murder creates no such new institution and does not relevantly change the situation. Obedience to the rule, ' Always murder ', does not even partly constitute a practice ; it simply collects a number of individual cases each of which remains what it would have been without the policy : wrong in itself.

There is an argument that might be constructed along lines similar to something that Moore wrote elsewhere, though I have no wish to father the argument on to his moral philosophy. The argument goes like this : I am more certain of the truth of the claim that there is a hand before my face than I could be of any statement used as a premiss in an argument to prove or disprove it.⁴ A similar claim about killing might be well calculated to evoke a sympathetic reaction, especially if one considers that philosophers have presented so many different moral theories purporting to provide arguments supporting such claims as that killing is wrong, as to make the mind reel. Universal agreement about the theories has yet to be reached, but rejection of the claim that killing is wrong has been very rare indeed. Perhaps the reason for this is the one suggested by Moore's proof of an external world : I am more certain of the truth of the claim that killing is wrong than I could be of any statement used as a premiss in an argument to prove or disprove it. My initial feeling of uneasiness about such a claim might be explained by a story. Moore's argument took several different examples in his different presentations of it : I am more certain that there is a hand before my face, that I am writing, that I am seated at my desk, that there is a skylight above my head. The argument in the last of these forms, so the story goes, was used by Moore in a lecture in America when, unfortunately, there was no skylight above his head ; there was only a patch of light reflected from a window in the wall.

The analogue of Moore's external-world argument was suggested to me by another which I find difficult to pin down with certainty but which I have come across in conversation. It is a sort of paradigm-case argument which could be used in discussion of murder, and I think that there are traces of it in the writings of Anscombe and Geach. If somebody questioned the wrongness of killing people then, according to this argument, we should simply reply in some such terms as these : ' Anybody who doesn't realize that it is wrong to kill people does not understand what morality is ; he has a debased conscience, and I have no desire to argue with him '. Compare

⁴See G. E. Moore, " Proof of an External World ", in *Philosophical Papers* (London, 1959), pp. 146-7.

what Anscombe says : “. . . if someone really thinks, *in advance*, that it is open to question whether such an action as procuring the judicial execution of the innocent should be quite excluded from consideration—I do not want to argue with him ; he shows a corrupt mind ”.⁵ It is not clear to me that Anscombe’s remark is to be taken as a straightforward example of the paradigm-case argument as I am setting it up for killing, since she is, in that paper, frying bigger, or at least more general, fish, but I think that what she says must be at least closely related to the paradigm-case argument. To take over the form of an argument that she uses elsewhere in that paper, judicial execution of the innocent may be a paradigm case of murder ; anybody denying that it is murder may be simply pretending that he does not know what the word ‘murder’ means. To say that, though, does not explain *why* murder is the concept that it is or *what* concept it is. What she says does not finish the matter, and does not make it *philosophically* improper to pretend that it is an open question whether innocent men ought to be judicially executed. So pretending, we might work out why they ought not to be executed and thus learn something about the concept of murder. I should add, lest it seem that I am attacking Anscombe where I am not, that she does not claim that such a pretence is philosophically improper ; she claims that regarding the killing of the innocent as a possible course of action is *morally* improper, and that any philosophical theory of morals implying that it should be regarded as a possible course of action is to be dismissed. I have no wish to disagree with her on either count.

Be it Anscombe’s argument, one related to it, or even one completely unrelated to it, the paradigm-case argument that I have described is one that could be used to argue about killing people. ‘Killing people is a paradigm of wrongness ; if you fail to recognize that killing people is wrong then you have a corrupt mind and no understanding of what morality is’. This, no doubt, is significantly different from the analogue of Moore’s external world argument, but they share the rejection of the idea that argument is possible, or, anyway, appropriate. This is a dubious, and indeed dangerous, claim about anything to do with morality. For a start, one should be ready to explain to the confused masses why the judicial execution of an innocent scapegoat is not preferable to the death of millions ; one should, it is true, also be ready to persuade them of the point, which might be a different matter. Also, the list of conditions which are more or less widely accepted in different societies as defeating a claim of murder needs to be considered ; if they are not completely arbitrary (and if murder is a moral concept, then they are not), then they stand in some rational relationship to the concept of murder, and that relationship will help to explain why killing is wrong when it is wrong. So argument about the wrongness of such cases of killing is possible. At least : argument is possible to justify the claim that

⁵“Modern Moral Philosophy”, in *The Is/Ought Question*, ed. W. D. Hudson (London 1969), p. 192.

such cases of killings are wrong. If one is stuck with a borderline case in an argument about a condition purporting to defeat a claim of murder, as one might be in some cases of provocation or of crimes of passion, then argument will clearly be appropriate.

If we take up specifically the external-world analogue, the first point to be made should perhaps be that there is a difference between 'I am certain . . .' and 'It is certain . . .', a point that I tried to make briefly with my reference to Moore's skylight. To say that it is certain that such-and-such is to say something like that such-and-such is necessarily true. To say that I am certain that such-and-such, on the other hand, is just to say that such-and-such seems obvious to me, or that I am very deeply convinced of it. But, unfortunately, as we all learnt at our first year tutor's knee, our being very deeply convinced of something proves nothing but our own existence. In morals, especially, what one person is firmly convinced of another may firmly disbelieve, and what everybody is firmly convinced of at one time everybody may firmly disbelieve at another. It was once quite firmly believed that slavery was a social system required by justice because slaves were naturally inferior beings, and the belief was shared by even the slaves—or so I'm told. A contrary belief would be fairly widely held today. It was once generally and firmly held that women ought to be subject to their husbands and ought not to have equal rights with men, but things have now changed to the extent that the Women's Liberation Movement has to be taken less as a claim for justice than as a claim to have not only the moon but jam on it as well. There is surely some test for right and wrong in such cases. People changed their minds for reasons; we can, anyway, give some reasons for adverse judgment on the former belief in each of the examples I have cited.

Even if it is obvious that we should not kill people, and even if we are all quite firmly convinced of that, it would not follow that there are no *reasons* for judging killing to be wrong. From finding explanations for the obvious in the physical goings-on around us we gain all sorts of advantages in terms of theories which enable us to predict or explain all sorts of less obvious things.

That does not dispose of all the force of the external-world argument, but what remains does so because that argument can be taken as a version of the paradigm-case argument that I sketched earlier. The point of that argument, in this context, is that it attempts to give grounds for doing away with claims for justification. "This is red; it's a paradigm case of redness; nothing can or need be done to justify that claim." How far will the argument go in the moral case? The idea of a paradigm-case argument being applied to killing has some initial plausibility. One reason for its plausibility is simply that it does seem obvious that killing is wrong but not at all obvious *why* it is wrong. Another reason is that moral education often seems to be carried out in terms of paradigms: we are told that pulling

pussy's tail is naughty, or at another level, not to hit little sister, though perhaps the word 'education' ought to appear in scare quotes if such activities are said to be part of moral education. So the argument has some initial plausibility, but in view of the second reason I gave for that it ought to be said that the paradigm-case argument is not a theory of learning or concept-formation though it might rest on one in some way. It is an argument purporting to show that certain claims can be justified or refuted in a certain way; I may learn mathematics by means of coloured blocks, but that does not make green blocks a paradigm of threeness or allow me to operate mathematical paradigm-case arguments on colours. To operate the paradigm-case argument on murder, we should first have to show that we could learn the concept of murder only by ostension, or something of the sort, and that one could not gain the concept of wrongness without reference specifically to cases of killing. If I can gain the concept without reference to cases of killing, then I could, on the assumptions made by the paradigm-case argument, significantly ask whether killing people is wrong; a different sort of argument would be needed to show that it is wrong.

Suppose I look at a letter-box and say "This is red". If I am idiot enough to say that, somebody else may be idiot enough to ask me to justify my claim. What can I say if he does? "I see it, and conditions of observation are normal; what more do you want?" This at least looks like a perfectly reasonable rejection of a request for justification. But morality is supposed to be rational; if viciousness does not tie up with reasons for not performing vicious acts, we are stuck with problems about what has been called the action-guiding nature of moral judgments; morality is commonly conceived of as providing and/or assessing reasons for action, whether or not those reasons actually motivate anybody in the situation. If moral concepts are actually taught in terms of paradigms of movements and not in terms of reasons, then they do not carry the implications we thought they did. If the claim is not simply that it is obvious *that* killing is wrong, but also that it is obvious *why* killing is wrong, that's fine (though false), but it does not mean that there are no reasons or that we should not give the reasons.

Hobbes thought that murder was a species of injustice, though, as I commented earlier, this is not a word that naturally leaps to mind in connection with killing. He thought that it was unjust partly because he gave a somewhat idiosyncratic account of justice: ". . . when a Covenant is made, then to break it is *Unjust*: And the definition of INJUSTICE is no other than *the not Performance of Covenant*. And whatsoever is not Unjust, is *Just*".⁶ Hobbes's account of justice was straightforwardly in terms of contract; it is unjust to break a contract, just (though perhaps cruel, arrogant, etc.) to do anything which does not involve breaking a contract. In entering social life, each of us has made a contract with each other member of the society not to kill him, in return for which the other members of the society

⁶*Leviathan*, ch. 15, Everyman ed., p. 74.

have contracted not to kill us. There are qualifications of detail, and interesting ones, to be added to this, but that will do for the moment. Each of us has contracted not to kill, so killing is an infringement of contract and therefore unjust. The rest of what I have to say will be an attempt to show that Hobbes has the central points of the matter right.

Sometimes it does make a difference whether everybody else does the same, a point that Hume made in discussion of what he called the artificial virtues. An act which is, if taken by itself, in no way wrong, can become wrong if it is at variance with a general practice. My act of concluding soon after saying "I promise that I will conclude soon" has no particular moral value unless there is a practice or institution of promising, which requires a fairly high incidence of other people's doing what they say they will do after uttering the words 'I promise'. If there were no such practice, I could decide to do something *like* introducing it for myself: I could make sure that whenever I preceded a remark about my future behaviour with the (puzzling to other people) words 'I promise', I went on to do whatever I had said I would do; should I fail to do so, I might subject myself to all sorts of hardship. But that does not by itself introduce a practice of promising; it imposes no obligation on me, and it makes my act neither right if I do what I "promised" to do nor wrong if I fail to do so. Promising is a practice, and depends on fairly wide acceptance of the rule that we ought to do what we say we will do after uttering the words 'I promise'. The fairly wide acceptance of the rule affects the morality of what I do after saying "I promise" (and then essaying some remark about my future behaviour) in a way in which the general acceptance of a rule against kicking dogs does not affect the morality of kicking dogs. If kicking dogs is wrong, then it is wrong no matter how many people fail to recognize the fact. But we cannot sensibly say that, if promise-breaking is wrong, it is wrong no matter how many people fail to recognize the fact; if enough people fail to recognize the fact, then promise-breaking becomes impossible. The rule that we ought to do what we promise to do, unlike the rule that we ought not to kick dogs, does not only serve as a standard against which to judge people's behaviour in a moral situation; it is one of the constituents of the moral situation.

The situation is similar with respect to driving on the left. Isolated instances of driving on the left have no moral value unless there is a practice of driving on the left. There is no "natural" morality with respect to such activities apart from the practice; if all Americans are immoral, it is not because they drive on the right. It is important to notice here that part of what a practice is, is the acceptance of a rule as a rule, so that the rule can properly be said to be a *constituent* of the morality of the situation. The point is worth making in discussion of this example because it might well seem that, in the case of driving on the left, all that we need is consistency, and that the acceptance of a rule requiring driving on the left is

entirely beside the logical point in that it is relevant only because it produces that consistency. People might or might not drive on the left because they accept a rule requiring them to do so ; we do not need to know *why* they do it in order to know *that* their doing it results in fewer accidents than there would be if 50% of the people drove on one side of the road and 50% on the other. It is important that acceptance of the rule produces such consistency, but it has more logical consequences than that ; without the rule there is no practice. Unless there is a rule requiring driving on the left, a man who drives on the right, though he may be doing something unusual, is doing nothing wrong. An obligation to drive on the left is not generated simply by most people's doing it any more than an obligation to see "Zabriskie Point" is generated simply by most people's doing it ; to have the obligation we must have acceptance of a rule requiring that people drive on the left. A man who drives on the right then does wrong because his act is not in accordance with that rule ; but the rule does not describe the morality of the act, it creates it.

The example of driving on the left is mildly odd in a way worth noting. How does the morality of a practice work ? To ask the question in terms of a particular case, why should I keep my promises ? If everybody else subjects himself to a rule requiring that he keep his promises even in cases in which it is to his immediate disadvantage to do so, does so to my benefit, and does so on the understanding that I will do the same (an understanding I give whenever I buy into the institution by using the words 'I promise' in the relevant circumstances), then it is only just that I should so subject myself, too. (I note, in parenthesis, to forestall one objection, that this shows only why I should keep my promises and not why I should make any.) This is a case of what has been called commutative obligation, which rests on commutative justice, and it is fairly clear that it is at least part of the point that Hobbes was getting at when he gave his apparently eccentric account of justice. If I join in a practice and willingly accept the benefits of other people's restricting their behaviour in the ways that the practice requires, then I am under an obligation similarly to restrict my behaviour.⁷ To accept the benefits and refuse to contribute my mite is to fail to fulfil an obligation and is unjust. The case of driving on the left is mildly odd because I cannot gain the benefits accruing from others' subscribing to that practice unless I fit in with it ; taking the benefits and refusing to fit in is simply ruled out. My driving on the right when everybody else drives on the left is letting myself in for trouble. That does not make driving on the left relevantly different from keeping promises, though. If I drive on the right when others drive on the left, it is not simply bad for me in that I will run into other people, it is bad for other people in that they will run into me. I am not the only one who suffers ; others will suffer, too, and it is because they will suffer that there is an obligation.

⁷Cf. H. L. A. Hart, "Are There Any Natural Rights ? ", *Philosophical Review*, 1955.

If I do not drive on the left then I do not reap any benefit from having others do so, it is true. If I do not reap any benefit, whence the obligation ? The driving-on-the-left rule is one of a set, and I gain from others' fitting in with the set ; commutative obligation can arise with respect to a set of rules just as well as with respect to one particular rule. None of this is to deny that a practice could itself be so unjust as to outweigh any obligation *prima facie* imposed by commutative justice.

How would killing stand if people actually lived in their natural condition as Hobbes describes it—that is, not simply in a society that lacked a state or any established form of government, but in a world in which the contest always went to the stronger and men killed whenever it suited their interests to do so ? In such a situation, with no co-operation between men, we would not have even a society ; if, as is often said, morality is man-made in terms of his society, then there will be no morality in the natural condition and men will be free to do what they will. Hobbes has often been interpreted as making just such a claim as this. Specifically with respect to killing (but also, I think, generally), it is an eminently plausible position. If other men killed freely whenever it served their interests to do so, thus placing me in constant fear of death at their hands, it seems that it would not be wrong for me to kill also ; indeed, I might be foolish not to forestall them by killing. Intuitively, it does seem clear that the fact that everybody else killed in this way would be relevant to the morality of my killing. (I shall suggest below that the point is not merely intuitive, at this level anyway.)

If Hobbes is right, as his position has so far been described, the prohibition on killing people is of the same logical sort as the prohibition on promise-breaking ; the rule against killing people is a constitutive, not merely descriptive, rule of morality, and there is no obligation to refrain from killing people unless the rule is generally accepted. Actually, for reasons I will explain later, I think that Hobbes saw more than this, whether or not he said more. His theory as set out so far explains quite a bit about killing. We enter the social contract primarily to protect our lives, and secondarily to make them more enjoyable by making us more secure in our possessions and so on. The points come in that order because we cannot have the enjoyment without having the life. One condition releasing me from the obligation not to kill somebody else, it follows, is that he is trying to kill me ; he is then failing to keep his side of the bargain and thus releases me from mine. I promised not to kill him provided that I was given security of my own life, and that condition is not being met. The same holds true of the enemy in time of war. If life begins at forty and ceases to be enjoyable at sixty-five, it might be written into the contract, or be one of the established practices of a society, that out of respect for the aged we shall put them to death when they reach that age. Hobbes's theory, as it stands, gives an explanation why murder is prohibited, why there are defeating

conditions to a claim of murder, why the defeating conditions are what they are, and why they can vary from one society to another (the contracts that were signed differed in details). It also explains why murder, though wrong for reasons of the same logical sort as promise-breaking, is a matter of greater import than is promise-breaking: protection of our lives was the primary reason for our making the contract, and gaining more good things to make life more enjoyable, which promising does, was secondary. These are requirements that any satisfactory answer to the question 'What is wrong with killing people?' would have to meet. If we do not want to be caught up with the signing of contracts and the requirement that people once did live in their Hobbesian natural condition before the contract was signed, the whole thing can quickly be rewritten in terms of commutative obligation and the established practices in societies as they are. The talk of our reasons for signing the contract can be translated into talk of the benefits we gain from living in a society rather than a Hobbesian natural condition, and talk about primary and secondary reasons can be translated, with the same argument, into talk about the relative importance of the benefits that we gain.

Hobbes's theory as so far described looks fairly neat, but there is an inadequacy in it, and one of which he was aware, whether or not he dealt with it satisfactorily.

THE RIGHT OF NATURE, which Writers commonly call *Jus Naturale*, is the Liberty each man hath, to use his own power, as he will himselfe, for the preservation of his own Nature; that is to say, of his own Life; and consequently, of doing anything, which in his own Judgement, and Reason, hee shall conceive to be the aptest means thereunto.⁸

In this passage, Hobbes places limitations on the right of nature; in the natural condition, where others kill whenever it serves their interests to do so, I still cannot do just as I please. He summarizes the point in his second Law of Nature: '*By all means we can, to defend our selves*',⁹ and emphasizes the restrictions on our freedom in the first: '*Seek Peace, and follow it*'.¹⁰ In a natural condition where others kill whenever it serves their interests to do so, it is permissible for me to forestall an attempt to kill me by killing whoever would make the attempt; to do so is to kill in self-defence, and in Hobbes's natural condition would be the only way of defending myself short of living as a hermit. The fact that everybody else kills does affect the morality of killing that I do; it means that the defeating condition of self-defence can be invoked far more often. Even in the natural condition, no matter how others may behave, it is not permissible for me to kill for the sheer joy of it. Even in the natural condition there is a prohibition on killing, so the Hobbesian account given so far is inadequate. The reason why killing for sheer pleasure is ruled out, I think, is that the man who does that is not apt to become a social being.

⁸Hobbes, *Leviathan*, ch. XIV, Everyman ed., p. 66.

⁹*Ibid.*, p. 67.

¹⁰*Ibid.*, p. 67.

It is not clear that people in a Hobbesian natural condition could have moral concepts ; if each man is at war with all others so that there is no community, it is not clear that " people " in a natural condition would have any concepts above those that the lower animals have. Looking at the natural condition with the concepts that we have, though, we can see that the man who has no desire to kill for pleasure and who is fit to become a social being is a man who has a virtue. *In* a natural condition, perhaps, no moral distinctions could be drawn, but they can be drawn when we talk *about* the natural condition. In a natural condition the virtue of a man fit to become a social being might not be recognized, but the quality of character that he has is a virtue in that situation because it makes it possible to leave that situation.

Killing is wrong when and because it is murder, which is a species of injustice. If it is asked why we have a concept of murder and why wanton killing is wrong even in a natural condition, the answer is that we could not have a society without a concept of murder. In Hart's terminology,¹¹ killing is contrary to natural law, i.e., a minimum condition for the existence of a society is that there be some prohibition on killing. If people were never tempted to kill each other we should have no need of a concept of murder, but people are so tempted. If people were not so vulnerable there might be less need for restrictions on killing ; but we are vulnerable. If people killed promiscuously and we had no security against their doing so, we should have to be prepared to forestall them by killing in our turn (and it would need to be the first turn), so that we should be back in our natural condition. The minimum condition that must be met by people if they are to co-operate with each other is that they should not kill each other. To have a society is, amongst other things, to have a concept of murder and thus a prohibition on killing. We ought not to kill because, being members of society, we have a concept of murder and thus recognize an obligation not to kill. To have a concept of murder, or to have the word ' murder ' in the language, is to have *general* acceptance of an obligation not to kill ; in that respect, it is similar to promising. An individual man might know what ' murder ' meant but not recognize the obligation. If he asks ' Why should I not kill people ? ' he is asking for reasons of self-interest or something of the sort ; he is not asking about the morality of killing.

That explains why there is a prohibition on killing or why we have a concept of murder. Why the prohibition and the concept take the form they do, what conditions defeat a claim of murder, is to be explained by reference to commutative obligation and the established practices of a society.

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¹¹See *The Concept of Law* (Oxford, 1961), pp. 189-95.