

CHAPTER 8

OPPORTUNITIES OF EMPIRIC INSIGHT

To achieve reliable insight into what will render us happy, we can neither follow the suggestions nor the example of others. This inability to garner decisive guidance on what will make us happy from the behavior of other humans may be difficult to condone. After all, we possess a common set of existential needs and of basic environmental settings that are necessary to fulfill these needs. Even if we have to cut through individual differentiations, we should be able to develop general principles of happiness from concentrating on our commonalities. If such general substantive principles of happiness exist, they have to apply to every human. While that does not mean that such principles would presently be recognized or exercised by all humans, all humans should be able to confirm them. It would further seem reasonable to assume that at least some humans would have experienced behavior and practices from which such principles might be derived. To locate and identify generally applicable principles, it seems necessary that we employ a more comprehensive method than a topical search for advantageous guidelines or examples, or our orientation according to what someone appears to have successfully implemented. Nevertheless, our observations are indispensable beginning points to determine the existence of such principles. We may be able to apprehend a more general essence of happiness and its workings if we comprehensively collect and compare particular incidents where happiness has been created. If we can detect similarities in patterns of behavior that result in happiness, we might be able to strip our collection of particularities and extract evidence for common strategies that can lead to happiness. We may be able to formulate general principles by which certain common factors, types, or groups of factors must correlate to produce happiness.

The question becomes then how we can derive such factors and rules. In spite of common fundamental principles by which happiness occurs concerning our existential needs, individuals and their circumstances seem to differ in many respects. Arguably, common strategies of happiness should be discernible in spite of any particularities of circumstances because all humans possess the same underlying existential requirements. Particularities might have enough influence to distort and suppress the pursuit of common needs and prevent the detection of principles applying to pure common needs. Still, we might be able to detect core commonalities beneath a layer of peculiarities. Our detection of common features and the derivation of common principles would be based on our observation of naturally occurring pursuits

or experimental pursuits. A broad empiric basis is essential for the establishment of general principles by which happiness can be obtained. But examining a representative group of individuals may be adequate. A general principle may be destroyed by even one inconsistent occurrence that cannot be explained as a result of genetic or external pathological influences. However, unless we venture across genuine alternatives to what appear to be shared human needs, we may presume that all humans can fulfill their common needs pursuant to the same principles unless they suffer pathological conditions. Although particularities might add to or detract from the effect of common laws of happiness, they should not be able to abrogate them. We may therefore find principles of happiness akin to laws of nature as a matter of science.

The proposition that we should be able to apply scientific principles to concerns of human happiness and formulate substances and laws of happiness might appear novel. We are accustomed to engaging in empiric exploration of our experiences to reveal natural laws in the physical world. It is accessible to our rational mind, and it can be increasingly explained in rational terms. As we explore the more physical aspects of our world, we become familiar with apparently unalterable truths about it. We recognize substances and properties of these substances, and we develop additional laws by which our world works through the interactions of substances defined by their properties. We discover that our world is ordered. In consequence of our comprehension of substances through their properties and interactive laws they engender, we can organize the more obviously physical features of us and our environment. Our insight that our world is organized by substances that act and react consistent with principles affords us massive utility. It relieves us from having to experience, learn, and react to every object or event we encounter on its own separate terms. Substances and laws of nature and our understanding of them are the keys for our ability to function intelligently in our world in two ways. They permit us to react appropriately to challenges and opportunities posed by our physical presence and environment, and they allow us to shape us and our environment proactively. Our increasing awareness of substances and laws of nature and our use of them make us confident that we can employ them to generate and preserve fulfillment. We must only learn to arrange substances to activate, modulate, or preclude their natural tendencies or arrange ourselves with regard to these tendencies.

We may doubt that the same approach can be successfully applied to the apparently nonphysical, emotionally laden problem of our happiness. The enigmatic, conclusive immediacy by which we become apprised of our mental functions induces us to consider them, particu-

larly emotional functions, to be separate from the physical world. We may deem ourselves to be spiritual entities that, because of their separate nature, can move beyond compulsions of natural laws. That freedom together with the apparently commanding position of our mind may imply to us that our mind is superior to the physical world. In an attempt to build support for the notion that our mind or parts of it are detached and superior, proponents may declare categorically that the spiritual world consists of its own spiritual substances, properties, and interactive laws and that our mind or at least its essence only answers to them. They may further assert that the spiritual world abides by its own separate logic. These constructs liberate claims about purportedly spiritual matters from having to contend with proof propositions or logical demands of the physical world. But they do not absolve proponents of such ideas from clarifying the substances, properties, and logic of the spiritual world and explaining its functions. Moreover, if the spiritual world were simply another area of physics, albeit possibly alternative physics, it should also be accessible to science. If our mind is part of this world, it should be open to our scientific exploration. Proponents of a spiritual world would also have to establish how claimed spiritual substances and principles interface with those of the physical world. They owe such an explanation because our mind is the essential instrument by which we perceive the physical world, reflect its attributes, and form concepts and incentives of interacting with it. They would have to explain how an organ that is preoccupied with physical functions and is progressively verified to consist of physical functions could leave room or be connected to a nonphysical governing essence. Resolving all these issues is of essential importance for our happiness and our advancement of it. The inability of spiritual claims to convincingly address these issues demonstrates their fundamental fallacy.

Claiming separateness and superiority of our spirit might have extensive detrimental consequences for our attitude toward the natural world, our own perceived natural aspects, and our happiness. Distinctions and attributions of different importance and value between the natural world and a perceived higher world might encourage us to ignore, depreciate, or mishandle the natural world and, because of our connectedness with and dependence on it, ourselves. This neglect may threaten to dispossess us of the basis for our continued individual and collective existence and thriving. Beyond that, such attitudes may prevent us from obtaining the necessary insight and motivation to change our fate. We may surmise that because our essence can exist and continue to exist separately, our physical existence is expendable. In addition, the presumed supernatural character of our mind may foreclose

attempts to engage in its scientific investigation and comprehension. This may foreclose or diminish attempts to systematically explore and address our needs as existential phenomena and to improve our existence in the physical world. The supposition that humans are in parts exempt from the dictate of natural laws causes problems in explaining the emotional aspects of our existential needs. This is most noticeable regarding our demonstratively physical basic survival needs. Their requirements and our sensory detection and other processing of these needs seem to be explicable by natural laws. This may move points of view that attribute a supernatural quality to our mind to exempt such obvious physiological functions as base, animal functions that do not involve the spirit. However, emotions that have no obvious physiological functions can be shown to have physiological sources as well. If we apply scientific methods of exploration, we can observe physiological causes for all our emotions. As we proceed with our exploration of the human mind, we detect without exception natural substances and principles at work. We are hence bound to conclude that we are their product. This implies that all problems of human existence, including emotional concerns, should be solvable by the exploration and application of physical substances and laws. Emotions and with them happiness should be subject to empiric exploration of physical phenomena. We might think differently if we have not understood the natural aspects that are at work in this area and are unable to trace the complex, concealed functions of our emotional mind. Yet, even if we could trace the physical mechanisms of our emotions, their demands would remain in control of our existence. Further, their intuitive immediacy compared to the detail and dispersion of facts to the contrary would continue to make them appear at least partly separate and superior.

To a lesser extent, our disbelief also plagues us in our impressions of our rational mind. We may proclaim our apparent freedom of choice as evidence for the proposition that our rational mind is different, separate, and superior to the laws of nature. We appear to possess freedom to position substances or us with regard to them and to thus activate and deactivate their characteristics for our purposes. Through this power, we control to some extent whether a particular substance or law comes to bear although we cannot change the substance or law itself. In this indirect manner, we can avoid, prevent, select, congregate, set in motion, accelerate, delay, or stop the application of certain substances and laws of nature to us and our surroundings. We can use that capability to shape us, our world, and our position in it. What we perceive as freedom to decide is in part a reflection of our mind's investigation, consideration, and judgment of different approaches. But

we must work with the prearranged substances and laws of nature. Our choices are mere selections that bring out certain constellations, qualities, or quantities that are based on the substances and laws we find. Our ability to select does not contradict the applicability of natural substances and laws to our selection mechanism. Rather, there is indication that our rational mind is controlled by natural substances and laws because its functions are a reflection of them. The derivative of logic is used and proved valid by solving physical problems. Moreover, whether we apply logic or not can be shown to be a function of the physical facilities in our mind. Faced with such evidence, we may be willing to concede that our rational mind follows representations of substances and laws in its ability to reflect, understand, and allocate the natural world and its capacity to monitor and emulate some of its functions through technology. We may even concede, where we cannot deny the evidence, that our rational mind does not only reflect but also is a product of the natural world. Still, we may reserve the qualification that the capabilities of our rational mind demonstrate aspects that cannot be explained by the interaction of natural substances and laws. Our scientific and technological competence seems to present us with capacities that appear to exceed anything nature can attain without our assistance. We may let our apparently unique capacity of understanding and applying nature's substances and laws instigate us to presume our superiority and authority over nature. This presumption derives from a disproportion between our scientific and technological development and an underdeveloped understanding of ourselves as a product of nature. It might not even be corrected if we could accomplish a full scientific understanding of our mind. Our immediate sense of our self may keep stubbornly insisting against our better knowledge that our rational mind is a force that is to an extent free of direction by natural substances and laws and can assume control of nature.

Our illusions of our independence and superiority are strengthened by our apparent ability to conceive principles about how humans should behave toward one another and our nonhuman environment. We create our own laws to alleviate the burden of having to undertake a full consideration of circumstances with every step we take and with every obstacle we encounter in our pursuits, and to make our world more predictable and conducive to our pursuits. These laws may govern our behavior, the behavior of others, and the use, protection, and support of our nonhuman environment. They seem to be different and in addition to the laws of nature. Even if we acknowledge that we are a product of the substances and laws of nature and function by them, we perceive that not all of them automatically work in our favor. Some

of them may be categorically neutral or unfavorable to the satisfaction of our needs. Some may become favorable, neutral, or adverse to our interests in variance with the circumstances. More generally, we may perceive the interaction of objects and events in nature to be too unpredictable and coincidental without our ordering influence. We want to be in a position to make the results of natural conditions and processes come about, to prevent them, and to control them in their rate or their amplitude of occurrence. We perceive that we have to shape circumstances or to regulate human positioning and interaction with regard to them and one another to achieve and maintain satisfaction of our needs. We deem that we have to place ourselves, others, and objects and events into situations where certain substances and laws of nature must, can, or cannot apply categorically, under certain conditions, or to a certain extent. Human laws form positive and negative operating instructions that constrict what is possible according to the substances and laws of nature to what those who conceive these laws regard as good or bad for the fulfillment of their needs. These powers may suggest that we are superior to nature because we seem to be able to change its preset arrangements and to create a higher organization that approaches the reiterative qualities of a law. It might seem mistaken to compare any of these forms of organization to laws of nature because they do not apply without imposition and enforcement. They appear to lack the intrinsic compulsion of natural laws. Still, the fact that these laws are a human creation and that they depend on our enforcement seems to imply an independent quality of our behavior that does not seem to be an extension of natural substances and laws.

This impression prevails even though it can be shown that human laws have to result from and reflect natural substances and principles. By producing us, our needs, and our capacities for conceptualization and execution, natural substances and laws are the causes and are in control of our higher levels of organization. Arguably, our unawareness of their functions increases the automatic character of their applicability. That we can condition ourselves, one another, as well as our more extended environment does not abrogate our natural sourcing. It only shows that humans may have graduated to a development level of nature that allows the superimposition of higher levels of organization on natural substances and laws. These higher levels of organization do not modify and are conditioned upon the presence and functions of substances and laws of nature. The principles we produce share the characteristic that they signify mere allocation rules of substances and processes of nature and the objects, events, and persons that these form and permit to be formed. All principles of human be-

havior, regardless of whether they are genetically imparted, whether they are conditioned by experiences, or whether we can create, adjust, or eliminate them fit this category. We may distinguish these allocation rules as human laws. Although we give them the designation of separate laws, they are derivatives of natural laws and are not matters of our independent invention. They only constitute and express natural laws at higher levels of combination. That should make it possible to understand them by reference to their natural law constituents.

Our objective with all rules we devise or follow is to secure the fulfillment of our needs. This viewpoint is bound to color our opinion regarding the rules by which we deem we and other humans should abide or how the world should be ordered. We may discover that others naturally share our ambitions. This may lead to a voluntary common acceptance of principles by all individuals that are subjected to a law. However, laws may also promote the interests of some humans over others. If individuals can and wish to impose their will on others, the interests of others may not find equal consideration. The law of the stronger becomes the law by which others behave. That may be so regardless of whether the needs of others are the same or different because the focus would be on safeguarding the needs of those imposing their requirements. The ability of others to satisfy their requirements may be negatively impacted from the preference or reservation of fulfillment to those imposing the rules. Even if laws are not produced to secure the satisfaction of needs for some at the cost of others, it might be difficult to reflect the interests of all subjected to a law because of their differences in internal and external dispositions and positioning. Opinions among individuals regarding their interests often differ considerably. The content of laws humans produce therefore depends in significant part on who participates in their creation. This may cause problematic results if a law is established by less than all individuals subjected to a law even if it is produced with the intent to provide extended or universal benefit. The ideas of the forming individuals may not be reflective of other opinions. An increasing involvement of those who would be subjected to a law in its creation renders it likely that its principles will reflect a larger accord of what is commonly regarded to be in the advancement of happiness. It intensifies the prospect that it will benefit the fulfillment of needs for more individuals. Such involvement would appear to be unavoidable once subjects understand their needs and the pursuits that will serve their satisfaction best. Because we have an interest in enabling and safeguarding the pursuit of our needs, we are likely to state a claim regarding rules that affect that pursuit and ultimately our happiness unless we are being prevented.

In addition to the overpowering of others in the assertion of the same claims, the imposition of variations in what individuals regard to be in their interest prevents the creation of generally applicable laws. Both may turn laws into instruments of suppression of some individuals' pursuits for the benefit of others. Such laws reflect unequal power structures and a willingness to pursue one's needs to the detriment of others rather than universal principles of happiness. Only if a claimed human law finds reflection in the views of humans regardless of their position may we conclude that such a law represents a common principle for the pursuit of happiness. To make the establishment of such laws possible, individuals have to refer to objectives and pursuits that lie at the core of their common existential needs beyond their idiosyncrasies. Because we share our requirements for the satisfaction of our existential needs with all other humans, we are inclined to regard the pursuit and the satisfaction of those needs as fundamental rights that equally apply to all humans and that are to be protected and supported by fundamental law. Initially, we might not possess the insight to acknowledge the preservation of other individuals' fundamental rights as part of our needs. Nevertheless, we might be willing or forced to extend our protection and support to the existential interests of others to prevent their interference with our fundamental rights. If individuals subjected to fundamental laws establish them by a comprehensive discourse and collection of concerns, all existential needs should find consideration because participants similarly depend on them.

Still, individuals may diverge in how they define these common needs because of idiosyncratic viewpoints that skew their concept of these needs. Moreover, the development of fundamental laws is often not characterized by the congregation of equals for mutual protection. The recognition of fundamental rights may be a contentious struggle because interests that profit from inequality may seek to define or apply fundamental laws in disparate ways. They may deny to others the support and protection of which they already benefit or that they seek for themselves at the cost or the exclusion of others. Further, interests that already enjoy protection and support or seek it may be indifferent to the equality of others even if their privilege is not conditioned upon the suffering of others. Consequently, fundamental rights are often asserted and placed into law under the pressure or by the victory of individuals and groups whose fundamental rights have been violated. Such efforts most immediately crystallize around basic survival needs. There may be accessions to this center until the pursuit of most or all existential needs is protected. The enabling of fundamental rights, at least in its initial phase, may be defensive in the form of rules of non-

interference. As the acknowledgment of fundamental rights advances, the recognized scope of their application may expand to include a mutual right to protection against third party interference. The last increment in the claim and recognition of fundamental rights seems to be the right of active support in the constructive pursuit of existential needs. However, once parties recognize a mutual right to a protecting assistance, the transition between these concepts is fluid because the protection of others from third party interference involves active assistance as well. Regarding both the right of protecting assistance and the right to constructive support, efforts for recognition and their acknowledgment may again initially focus on basic survival needs. The existence and the extent of active obligations may be more in contention than noninterference because they necessitate an investment and possibly sacrifice of resources on behalf of others without a guaranty of compensation. The concept of assisting others may imply one-sided circumstances in which means are drained from some individuals to satisfy the needs of others. A right to active support may be particularly controversial because it may invite abuse. To prevent the exploitation of assistance by those who undeservedly claim it, the imposition of qualification criteria may be necessary. Yet, even if concerns of abuse can be put to rest, a motivation to actively assist in the fulfillment of other individuals' needs may not come easily. Our need for collective survival and thriving alone may not suffice to have us broadly assist other members of a society. But practical considerations of mutuality may bring such as well as narrower, even idiosyncratic interests under active mutual support and protection. Every member is likely to find it necessary or helpful at times to rely not only on the absence of direct interference but as well on the protection of liberty and on the support of constructive pursuits. Even if that should not be the case, the knowledge that such an assistance is available if needed can allay many existential fears and substantially improve our happiness.

Besides fundamental laws, we can frequently identify a class of laws that constitute executory tools. By permission, prohibition, and command, these laws set practical standards for the pursuit of common needs. We may call these laws derivative laws because they derive their mission from fundamental laws. Derivative laws may undertake their task in several correlated ways. They may define and declare the protection and support of pursuits or of spheres within which we are free to pursue needs. In that, they acknowledge and delineate the scope of our fundamental rights. Further, derivative laws may contain technical provisions for building and maintaining structures and processes that create, apply, and enforce substantive regulations. Because

derivative laws are focused on the practical implementation of fundamental rights, both of these types of derivative laws have to be open to developing views on fundamental rights. Moreover, as circumstances of pursuit and as practical capabilities improve or decline, a society is challenged to match these changes with a collective understanding of their effects on protected and supported needs and with corresponding regulation and implementation to safeguard fundamental rights.

Derivative laws are often contested by efforts to adjust them to settings and fundamental views. But they may also be challenged because their regulation and enforcement interfere with the pursuits of individuals subjected to them. Their function of supporting and protecting the fulfillment of fundamental rights makes them focus on areas where pursuits interfere with other pursuits or where the refusal of protection or support may leave individuals deprived. This places derivative laws into the position of arbitrating the relative merits of pursuits. Some activities may be directly addressed by fundamental laws without a necessity or possibility of interpretation. In addition, much derivative regulation may be largely unopposed because it pertains to core concerns that are generally recognized. However, the coverage or treatment of other concerns might be sufficiently unclear or unsettled to require interpretation. In particular, there might be disagreements whether claims represent common or idiosyncratic aspects or whether or to what extent such aspects should be subject to protection or support. Even if individuals recognize a right to noninterference, protection, and support regarding existential needs, they may have reservations regarding the expansion of such rights to idiosyncratic features. All individuals may strive to preserve idiosyncratic practices as a fundamental right because they all have idiosyncratic needs. Yet their familiarity with their own idiosyncrasies and estrangement from the diverging idiosyncrasies of others, as well as dissimilarities in the consequences of idiosyncrasies, may dispose individuals to discriminate regarding the acceptability of idiosyncrasies. Contending views may further derive from opportunistic considerations. Even if individuals are generally committed to improving the happiness of others as a part of their own endeavors and accept associated rights and obligations, they may prefer their immediate concerns when these are challenged.

The variety of interests that derive from particular internal and external dispositions and situations of individuals may render it difficult to obtain a broad accord in the area of derivative laws. Ideally, derivative laws should translate the generality and abstraction of fundamental laws into the preservation and support of fundamental rights. But if different views of how the fulfillment of needs should be pro-

tected or advanced compete in a legislative, judicial, or enforcement process, the winning opinions may not offer solutions that protect and support the fundamental needs of all individuals they regulate equally. Because derivative laws define the practical parameters and functionalities of fundamental laws, they give life to fundamental laws or may result in their denial or curtailment. The practical import of derivative laws threatens to reverse the sequence of derivation. Because derivative laws define and implement fundamental rights, the damage to the ability of losers in the struggle for governmental power to fulfill their fundamental rights may be significant. In addition to applying general inequality, winners may protect and support their idiosyncrasies and impair the idiosyncratic pursuits of others beyond a level permitted by fundamental laws. This threat is likely to intensify the competition for the power to generate, apply, and enforce derivative laws. The unhappiness of losers in the struggle and their mistreatment by the winners may motivate protective, retributory, or corrective strategies.

The division and struggle for power of different viewpoints may substantially damage a society and its members. It appears that a society can only approximate its constructive, cooperative potential if derivative laws are held to requirements that prohibit the infringement of fundamental rights. Only, fundamental laws may be so general that they may not by themselves grant sufficient guidance on the scope of their requirements. They may have to rely on derivative laws to define and implement their content. If these derivative laws are subjects of contest, fundamental laws they are to flesh out may be weakened or skewed. To safeguard fundamental laws and their practical concerns, it may be imperative to build a mantle of interpretive derivative laws around them and to give these heightened protection. To defend these laws and their underlying fundamental laws, supporting interests may agree on noticeable and onerous requirements for changing them. The procedural laws that state and safeguard the implementation of such requirements may themselves be accorded a heightened status of protection. Together with the fundamental laws they protect, we may call these substantive and procedural provisions whose function is to protect central aspects of fundamental rights constitutional law. We may then claim that securing the fulfillment of needs in a societal context requires a constitutional framework. Still, constitutional law cannot categorically prevent infringements. The ability of a society to maximize its members' opportunities to fulfill their needs seems to require a commitment by its members to hold each other and their government accountable and to protect and to support one another's pursuits and fulfillment according to a comprehensive level of consideration.

An important principle of satisfying individual needs in a society appears to be to preserve the character of individual pursuits as an innate right that can only be curtailed if pursuits infringe on protected rights of others. To the extent there is no illegitimate infringement, we maintain the right to prosecute common and idiosyncratic needs. The guaranty of this freedom by a fundamental law should garner broad-based support because of the shared interests in that freedom. Where fundamentally protected pursuits conflict, derivative conventions can set preferences. However, apart from emergencies that require us to concentrate our efforts, derivative laws must protect and support the meaningful pursuit of all fundamental rights for all participants since they all have an identical right to have their fundamental rights safeguarded. Since this identity mandates equality, it entails that interferences by legitimate rights with one another have to be reconciled by a compromise that affords equally meaningful fulfillment even to different needs. The compromising of pursuits may not seem ideal. Nevertheless, it may decrease interference from others, avoid repercussions from interfering with their pursuits, and prevent the harmful effects of strife. It may reduce the suffering of deprivation. It may therefore pose the best practicable and most stable solution to promote happiness in a society. Achieving reconciliation among individual positions promises to be an involved process. It requires negotiations and voluntary curtailment by a multitude of participants in a multitude of contexts and blends of needs that may exceed the formality and the capacity of laws. Still, it appears possible that with appropriate effort and respect for equal fundamental rights, compromised conventions and solutions can be found that maximize the overall happiness of each participant. Accordingly, we may add compromise as a fundamental law by which happiness in a society can be maximized. Compromise also appears to be a necessary principle by which we achieve the maximization of our benefit on an individual level. Our understanding of common and idiosyncratic needs provides a necessary basis for such arrangements.

Because we can define fundamental rights and devise individual and social structures and processes that optimize their establishment and preservation, one might argue that these principles form parts of a substantive science of happiness that applies to all humans. It seems that such a framework promotes happiness in all humans and that its absence universally detracts from human happiness. But the direction that it and its constituents afford us in arranging our pursuits cannot give us guidance on what will make us happy beyond a certain level of commonality. The next chapter explores whether we can obtain additional universal principles of happiness through empiric insight.