

# Heterarchy and Hierarchy in Ross's Theories of the Right and the Good\*

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William David Ross defends pluralism about both the right and the good.<sup>1</sup> His development and defence of pluralism about the right has received sustained attention. Of particular interest has been Ross's view that the non-derivative requirements of morality are *prima facie* duties rather than absolute duties and that his pluralistic deontology is superior to its utilitarian and deontological competitors.<sup>2</sup>

Interest in Ross's brand of deontology is partly due to its relative novelty. A. C. Ewing opined that "Sir David Ross, I think, made one of the most important discoveries of the century in moral

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<sup>1</sup>Abbreviations of works by Ross take the following form: RG = W. D. Ross, *The Right and the Good* (Oxford: Oxford University Press, 1930); FE = *Foundations of Ethics* (Oxford: Oxford University Press, 1939); KT = *Kant's Ethical Theory* (Oxford: Oxford University Press, 1954).

<sup>2</sup>For discussion see, for example, A. C. Ewing, *Second Thoughts in Moral Philosophy* (New York: Macmillan, 1959), chap. 4; Brad Hooker, "Ross-Style Pluralism Versus Rule-Consequentialism," *Mind* 105 (1996): 531–552; David McNaughton, "An Unconnected Heap of Duties?," *Philosophical Quarterly* 46 (1996): 433–447; Philip Stratton-Lake, "Can Hooker's Rule-Consequentialist Principle Justify Ross's *Prima Facie* Duties," *Mind* 106 (1997): 751–758; Thomas Hurka, *British Ethical Theorists from Sidgwick to Ewing* (Oxford: Oxford University Press, 2014), 72–78 and chap. 8; David Phillips, *Rossian Ethics* (Oxford: Oxford University Press, 2019), chap. 2.

philosophy in recognizing the fundamental character of these *prima facie* duties” of beneficence, non-maleficence, promise-keeping, and so on (Ewing 1959: 126). There is, of course, no doubt that Ross’s development and clarification of the notion of a *prima facie* duty is a major accomplishment.<sup>3</sup>

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<sup>3</sup>Following Ewing, many think that Ross’s novelty lies in the fact that he was the first to recognise the notion of a *prima facie* duty. This is a plausible claim given that the view seems not to have been considered in any clear or consistent way by critics or proponents of non-utilitarian views before Ross wrote. Ross revived the views of Joseph Butler and Richard Price. Both Price and Butler defended non-utilitarian approaches to morality. Ross’s view is closest to Price’s. Some suggest that Price developed the idea of *prima facie* duties before Ross. But this is not entirely clear from reading Price. Price notes that various heads of virtue (e.g., the duties of justice, gratitude, veracity, and beneficence) might in some cases not be coincident with each other and so “interfere” with each other (Price 1948 [1787]: 166). He says in some instances of such interference “any appearance or possibility of greater good may suspend their [rival duties] influence” (Price 1948 [1787]: 152; emphasis added). He also remarks that when the benefit of some act to the public good is considerable this consideration “may set aside every obligation” which might compete with it (including the obligations of justice and promise-keeping) (Price 1948 [1787]: 153). This is different from what Ross said about his *prima facie* duties. They are not set aside or suspended or cancelled (as Price says elsewhere (Price 1948 [1787]: 167)) in cases where they point to different courses of action than the one thought right all things considered. On the contrary they continue to remain in force so that, for example, even if you justifiably break a promise, you have a duty to do something to “make up somehow” to the promisee for breaking the promise (RG 28). Price does not clearly say anything like this. Price may not quite have had the idea of *prima facie* duties, but Ross’s colleague H. A. Prichard did. Ross self-consciously developed his view based on Prichard’s thoughts (Hurka 2014: 70) in a way that avoided some of the excessive dogmatism that characterises Prichard’s work. Prichard had suggested in lectures he gave in the 1920s that what in common-sense thinking is referred to as a conflict of duties ought to be understood as a conflict between rival claims.

[W]hat is called a conflict of duties is really a conflict of claims on us to act in different ways, arising out of various circumstances of the whole situation in which we are placed. Further we find no difficulty whatever in allowing that what we call claims on us may differ in degree, or that where there are two claims on us so differing, the act which there is the greatest claim on us to do is duty. (Prichard 2002: 79)

Although Ross may not have been entirely novel in introducing the notion of a *prima facie* duty, he did clarify and elevate the view into a serious rival to

However, Ross clarified and gave expression to not only a distinct view of the right. In *The Right and the Good*, Ross argued for a unique form of value pluralism, according to which there are four non-instrumental goods — virtue, knowledge, justice (desert)<sup>4</sup>, and pleasure (RG 134–141) — and for the claim that they may be ranked in order of importance, with virtue being the most important of the goods (RG 144–154). He clarified, refined, and modified the view in important ways in *Foundations of Ethics*, where he argues (again) that there are four non-instrumental goods — virtue, intellectual and artistic activities, others’ (innocent) pleasure, and justice (desert) — with virtue and intellectual and artistic activities being the most important of the goods (FE 252–289).

In developing his value theory, Ross made important contributions to our theoretical thinking about the value of knowledge, the nature and value of virtue and virtuous motives, and the value of pleasure. Despite this, much less attention has been paid to Ross’s value theory than to his theory of *prima facie* duties. The lesser attention paid to Ross’s value pluralism is likely due to the fact that unlike the theory of *prima facie* duties, value pluralism was already a common and well-developed position when Ross was writing. It was held, for example, by Ross’s ideal utilitarian foes G. E. Moore and Hastings Rashdall (Moore 1903; Rashdall 1924). And even those who disagree with value pluralism grant that it is the common-sense view. Despite endorsing hedonism, Sidgwick, for example, suggests that according to adherents of common-sense thinking or “cultivated persons . . . knowledge, art, etc.— not to speak of Virtue — are ends independently of the pleasure derived from them” (Sidgwick 1981 [1907]: 401).

This chapter focuses on Ross’s value theory. It focuses specifically on Ross’s view that any amount of the non-instrumental value

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existing moral views and his influence in this respect has been palpable. What he emphasized in his theory of *prima facie* duties is the view’s sensitivity to the nuances of the situations in which we find ourselves and its ability to accommodate a range of morally relevant factors in ways superior to how its rivals attempt to do so.

<sup>4</sup>Ross says that although the word justice covers many things, he uses the word to denote only “a distribution of happiness between other people in proportion to merit” (RG 26; also 58, 138; FE 286, 319)

of virtue outweighs any amount of the non-instrumental value of pleasure or avoidance of pain (RG 150, 152–153; FE 275, 283). The chapter raises two challenges to the status that Ross accords the value of virtue relative to the value of pleasure (pain). First, it argues that Ross fails to provide a good argument for thinking that virtue is always better than pleasure and that it is in any case implausible to think that any amount of virtue (or avoidance of vice) is better than the avoidance of any amount of pain or suffering. Second, it argues that the inflexibility of Ross’s value theory exhibited in his claim about the relative value of virtue produces tension with and mars the attractive non-hierarchical (or heterarchical) structure of his theory of rightness or *prima facie* duties.

## 1

### Ross’s Heterarchical Theory of the Right

In *The Right and the Good* and his other works in ethics, Ross settles on the view that there are five basic *prima facie* duties (RG 24–27):

1. A duty of fidelity, that is, a duty to keep our promises (which includes the duty not to lie) (RG 21; FE 76–77; KT 21).
2. A duty of reparation, that is, a duty to correct a previous wrong or injury we have inflicted on others (RG 21; FE 76; KT 21).
3. A duty of gratitude, that is, a duty to return services to those from whom we have in the past accepted benefits (RG 21; FE 76; KT 21).
4. A duty of beneficence, that is, a duty to maximize general good (RG 25–26, 39; FE 67, 99, 130, 252, 257, 271, 313; KT 21).
5. A duty of non-maleficence, that is, a duty not to harm or injure others (RG 21–22, 26; FE 75, 130n1, 272).

Each of these basic duties points to a moral consideration that is always directly, fundamentally relevant to determining what we

ought, morally, in the end to do or to what Ross calls our actual moral duty or duty proper (RG 20, 28). The fact that by failing to show up to a faculty meeting I would break a promise to be there is a basic moral consideration that counts against not showing up. The fact that by failing to show up to the meeting I would be able to provide vital succour to some accident victims counts, morally, against attending the meeting. Figuring out what to do in part involves attending to all the morally relevant considerations present in a situation and their relative weight in that situation (RG 20, 41–42; KT 33–34). One’s duty proper is, of the acts open to one, the act with the greatest balance of *prima facie* rightness over *prima facie* wrongness (RG 41; FE 85). Suppose that my two options are either to attend the faculty meeting or attend to the accident victims. We might think that my duty proper would be to help the accident victims, since that act contains of the two acts a greater balance of *prima facie* rightness over *prima facie* wrongness. In this case, the duty of beneficence weighs more heavily than the duty of fidelity.<sup>5</sup>

Apart from painting an attractive portrait of moral deliberation and decision-making, perhaps one of the most desirable features of Ross’s view is its heterarchical structure. He maintains that some *prima facie* duties “normally” come before others and that some are initially more stringent than others, e.g., “normally” the duty of fidelity comes before the duty to promote as much good as we can (RG 19) and the duty of non-maleficence is more “stringent” than the duty of beneficence (RG 21; also 22; FE 75, 130n1). We should not, Ross says, break a promise or tell a lie to gain a bit more surplus good than we otherwise might produce by keeping a promise or not telling a lie (RG 35, 38; FE 77). And it is not permissible to harm one person to prevent two other people from being harmed (RG 22; FE 75). In some cases, then, the duties of fidelity and non-maleficence outweigh the duty of beneficence.

However, there are cases in which we are justified in breaking a

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<sup>5</sup>Ross thinks that while we can be certain that we have the five *prima facie* duties he defends, we can only ever have probable opinion or fallible judgement about duty proper (RG 28–32, 33, 41–42; FE 189). For doubts about Ross’s claim that we can only ever have probable opinion about duty proper, see Price 1931, 344 and Hurka 2014, 125.

promise or in saying what is untrue or in harming someone, namely, when doing so produces a sufficiently large quantity of surplus good or prevents a sufficiently large quantity of harm (RG 18, 35, 61, 64; FE 75, 77, 313). So, there are cases in which the duty of beneficence outweighs the duties of fidelity and non-maleficence. Ross does not talk about cases involving the duty of reparation or the duty of gratitude, but it seems clear that he would hold that there are cases in which each would outweigh other *prima facie* duties and cases in which they would themselves be outweighed by other *prima facie* duties.

Ross's basic, distinctive, and plausible idea is that there exists a plurality of *prima facie* duties (or non-derivatively, fundamentally relevant moral considerations), each "definitely arising from certain features of the moral situation" and each of which is "capable of being overruled by other *prima facie* duties" (KT 32). The moral considerations are drawn on and weighed against each other in figuring out what we ought in the end to do. Ross thinks the main features of his view are key to it avoiding some of the defects he finds in his competitor's views and to capturing in an attractive way the complexities of moral decision making. He thinks his view avoids the defects of utilitarianism, on the one hand, which ignores the (basic) moral significance of the relations in which we stand to one another beyond that of being beneficiaries of each other's actions (RG 19, 22; FE 76–77), and (Kantian) absolutism, on the other hand, which deals poorly with the complexities of moral life, including and especially moral dilemmas (FE 189, 312–313).

## 2

### Ross's Hierarchical Theory of Value

In *The Right and the Good* and in the *Foundations of Ethics* Ross argues for value pluralism. In the former work, he argues that virtue, knowledge, justice (desert), and pleasure are non-instrumentally valuable, and in the latter work he argues that virtue, intellectual and artistic activities, others' (innocent) pleasure, and justice (desert) are non-instrumentally valuable. In both works, he adopts a rigid hier-

archy amongst the values. In *The Right and the Good*, he maintains that virtue is infinitely superior to (bare) knowledge, pleasure, and justice; in *Foundations of Ethics*, he argues that virtue and intellectual and artistic activities always outrank all the other goods.

In developing his theory of *prima facie* duties, Ross tries to accommodate the attractive elements of his rivals while avoiding their defects. He rejected ideal and other forms of utilitarianism, but he did not ignore their attractions. His theory of *prima facie* duties includes a strong commitment to beneficence. He says, for example, that

if we are ever under no special obligation such as that of fidelity to a promisee or of gratitude to a benefactor, we ought to do what will produce most good. (RG 39; also FE 130, 252)

Ross rejected absolutist forms of deontology, but he retained the attractive idea behind deontology that there are constraints on what it is permissible to in the service of maximising the good. He says, for example, that

Kant overshot the mark when he tried to vindicate for such rules [tell the truth, injure no man] absolute authority admitting of no exception; but he would have been right if he had confined himself to insisting that any act which violates such a rule must be viewed with suspicion until it can justify itself by appeal to some other rule of the same type. (FE 313)<sup>6</sup>

As noted, Ross's value theory has a hierarchical structure. This stands in stark contrast to the (attractive) heterarchical structure of his theory of the right. The hierarchical structure is nowhere clearer than in his treatment of the value of pleasure, where his value theory shares aspects in common with the rigid views of rightness he

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<sup>6</sup>Ross did not defend what are not called agent-centred options permitting agents to do less than the best (Hurka 2014: 179–180). This leaves his view exposed to the complaint that it is too demanding, especially as regards the duty of beneficence.

rejects in developing his theory of *prima facie* duties. Ross considered the main monistic rival to his value theory — that is, hedonism — to be a dead end (RG 99; FE 65); accordingly, did not consider it worthy of refutation. But by contrast with his engagement with utilitarianism, Ross did not, it seems, attempt to give expression to the hedonist’s intuitions about the value of pleasure or (more importantly) the evil of pain in his value theory. In both *The Right and the Good* and *Foundations of Ethics*, Ross maintains that any amount of the non-instrumental value of virtue outweighs any amount of the non-instrumental value of pleasure or avoidance of pain (RG 150, 152–153; FE 275, 283).<sup>7</sup>

In *The Right and the Good*, he says that in relation to other non-instrumental values, virtue is the greatest good, “infinitely” better than pleasure, (bare) knowledge, and justice (desert) (RG 151, 152, 152–153). He holds that

With regard to pleasure and virtue, it seems to me much more likely to be the truth that *no* amount of pleasure is equal to any amount of virtue, that in fact virtue belongs to a higher order of value, beginning at a point higher on the scale of value than that which pleasure ever reaches.

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<sup>7</sup>Ross says little about the nature of pleasure (pain) or the quality in virtue of which pleasures (pains) count as pleasures (pains). He describes pleasures as “feelings” and as possessing in common the quality of “pleasantness” (RG 132, 137, 145). He nowhere seems to offer an analysis of pleasantness, suggesting that he accepts internalism about pleasure (pain) on which all pleasures (pains) share a homogenous positive (negative) feeling tone in common (Hurka 2014: 194–195). (For detailed discussion of the distinction between internalism and externalism about pleasure (pain), see L. Wayne Sumner, *Welfare, Happiness, and Ethics* (Oxford: Oxford University Press, 1996), 87–92.) Ross says more about the nature of virtue. For Ross, only motives or desires seem to qualify as virtuous (RG 132–133, 135, 156–157, FE 290ff.). He sometimes suggests that character may be virtuous (RG 155), but his considered view seems to be that a character is virtuous because of the interests or desires composing it (FE 293). Actions are virtuous when they spring from certain kinds of motives, including the desire to do the right thing and the desire to produce something good (e.g., knowledge) (RG 160). The intrinsic value that an action may possess is, Ross says, something it “owes [only] to the nature of its motive” (RG 133; also 160). It is possible, on Ross’s view, that “a morally good action need not be the doing of a right act” (RG 156).



(RG 150; emphasis in original)

While the two goods are comparable, they are not commensurable. As many have pointed out, the claim that virtue is infinitely superior to pleasure seems implausibly strong (Price 1931: 354; Hurka 2014: 226; Phillips 2019: 120). A small sacrifice of virtue seems to be more than compensated for by a very large gain in surplus pleasure. And, even stronger still, a small sacrifice in virtue seems to be more than compensated for by the prevention of a large quantity of surplus pain. For Ross's point to go through he would need strong arguments for it. It is to Ross's arguments that we will now turn.

### 3

#### Ross on the Superiority of Virtue to Pleasure

Ross gave two arguments for the claim that virtue is always better than pleasure. But neither is persuasive. The first argument is this:

P1. If the acquisition of pleasure for oneself “rarely, if ever, presents itself as a duty . . . while the attainment of moral goodness habitually presents itself as a duty”, then virtue has “infinite superiority” over pleasure, “a superiority such that no gain in pleasure can make up for a loss in virtue” (RG 151).

P2. The acquisition of pleasure for oneself “rarely, if ever, presents itself as a duty . . . while the attainment of moral goodness habitually presents itself as a duty”.

C. Therefore, virtue has “infinite superiority” over pleasure, “a superiority such that no gain in pleasure can make up for a loss in virtue” (RG 151).

This is a strange argument for Ross to offer. Earlier in *The Right and the Good* he had wondered whether we have a duty to promote our own pleasure (RG 24). It is, he says, “a very stubborn fact, that in our ordinary consciousness we are not aware of a duty to get

pleasure for ourselves” (RG 25–26). Although he flirted with the idea that we might not have such a duty, he eventually convinced himself that we do have such a duty. If our own pleasure is an objective good, as Ross thought, then, he argued, “we can think of the getting it as a duty” (RG 26). It seems, then, that Ross himself raises doubts about the plausibility of his argument.

This is just as well. Neither of Ross’s arguments for doubting that we have a duty to promote our own pleasure are any good. He says that doubts about a duty to promote one’s own pleasure arise from two “facts” (RG 24). The first fact is that

[t]he thought of an act as our duty is one that presupposes a certain amount of reflection about the act; and for that reason does not normally arise in connexion with acts towards which we are already impelled by another strong impulse. (RG 24)

Ross seems committed to the idea that we ought to maximize the items possessing non-instrumental value (RG 24, 25, 39; FE 257, 313). The reason Ross provides for thinking that we lack a duty to promote our own pleasure seems not to impugn a view on which the duty is to maximise pleasure or happiness, temporally neutrally construed. Trying to do this requires a fair amount of reflection, since figuring out what will promote one’s own happiness in the long run is no simple or straight forward task, as many have emphasized, including Kant and Sidgwick.

The second fact is that

since the performance of most of our duties involves the giving up of some pleasure that we desire, the doing of duty and the getting of pleasure for ourselves come by a natural association of ideas to be thought of as incompatible things. (RG 25)

Again, this cannot explain why the duty to maximize one’s own pleasure or happiness (as an objective good) is not a duty. For such a duty would involve giving up or forgoing some smaller present pleasures for the purpose of gaining some greater (possibly quite

distant) future pleasures. One might have to forgo certain pleasures now (relaxing) in favour of the future benefits (physical fitness). This seems to follow from the idea Sidgwick expresses, that “equal and impartial concern for all parts of one’s conscious life is perhaps the most prominent element in the common notion of the *rational* — as opposed to the merely *impulsive* — pursuit of pleasure” (Sidgwick 1981 [1907]: 124n1).

But even if we are persuaded by P2 (as Ross was in FE (273–279))<sup>8</sup>, we still might doubt the move from the claim that we have no duty to promote our own pleasure to the claim that virtue is infinitely superior to pleasure. Ross never properly explains how lacking a duty to promote our own pleasure supports the claim that virtue is infinitely superior to pleasure. One might think that we ought not to promote our own pleasure at the expense of our duty and still hold that virtue is not infinitely more valuable than pleasure.

Ross’s P2 seems to involve the idea that we lack a duty to avoid or prevent our own pain. He seems at times to be of the view that we have no duty to avoid or prevent our own pain. This is clearest in how he describes the duty of non-maleficence:

if there are things that are bad in themselves we ought, *prima facie*, not to bring them *upon others*; and on this fact rests the duty of non-maleficence. (RG 26; emphasis added)

the primary duty here is the duty *not to harm others*. (RG 22; emphasis added)

The duty of non-maleficence may be

summed up under the title of ‘*not injuring others*’. (RG 21; emphasis added)

In *Foundations of Ethics*, when he describes his position that we lack a duty to promote our own pleasure, he says

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<sup>8</sup>For effective criticism of Ross’s *Foundations* argument for the thesis that we do not have a duty to promote our own pleasure, see Robert Shaver, “Ross on Self and Others,” *Utilitas* 26 (2014): 303–320, at 309–313.

We are never conscious of a duty to get pleasure *or avoid pain to ourselves*. (FE 277; emphasis added)

While it might seem plausible to think that we have no duty to promote our own pleasure, it is not plausible to think that we lack a duty to prevent our own pain or (more plausibly still) our own suffering or ill-being. Failure to prevent our own (at least serious) suffering seems blameworthy because *prima facie* wrong (cf. FE 277). If we think we have a duty to avoid our own pain or suffering, it is not clear that Ross can claim that virtue is infinitely better than the other goods (bads). It is highly plausible that it is better to give up or forgo some virtue to prevent or eliminate a large amount of suffering or pain for ourselves.

In his discussion of the duty of non-maleficence, Ross frequently remarks that duties not to harm and to prevent harm are more important than the duty to promote pleasure (RG 22; FE 75, 130n1, 275, 287). He does not see that this might suggest that a unit of pain or suffering is a greater evil than an equivalent unit of pleasure or enjoyment is a good, as Moore had maintained (Moore 1903: 212).

Ross is not much moved by Moore's work on value theory. He seems to endorse Moore's most important innovation in value theory, his principle of organic unities, which says that the value of a whole is not necessarily equal to the sum of the values of its parts (RG 69–73.; FE 185–186; KT 11). The value, for instance, of the whole comprising pleasure taken in the contemplation of beauty is not equal to the value of the sum of the values that the pleasure and the contemplation of the beauty possess when each is considered separately. The value of the whole might be much higher. On Moore's view, neither has much value when considered alone (Moore 1903: 27–30, 93, 184).

But Ross ignores other aspects of Moore's value theory, including Moore's views on the value of pleasure and pain. Sidgwick said that by "the greatest amount of happiness" he means

the greatest possible *surplus* of pleasure over pain, the pain being conceived as balanced against an equal amount of pleasure, so that the two contrasted amounts annihilate

each other for purposes of ethical calculation. (Sidgwick 1981 [1907]: 413; emphasis added)

The assumption here is that if you have one unit of pain and one unit of pleasure, the pain is as disvaluable as the pleasure is valuable. That is, it is not true that the badness of one unit of pain is more evil than the goodness of an equal unit of pleasure is good. Pain and pleasure are to be treated symmetrically. It is possible that Ross felt that pain and pleasure had to be treated symmetrically, too, so that if you accept that one's own pleasure is not good, then you must concede that one's own pain is not bad.

Moore disagreed with Sidgwick. In *Principia Ethica*, Moore maintained that while pain by itself is a great non-instrumental evil, pleasure is by itself not a great good, though it has "some slight intrinsic value" (Moore 1903: 212).<sup>9</sup> In short, he says

pain (if we understand by this expression, the consciousness of pain) appears to be a far worse evil than pleasure is a good. (Moore 1903: 212)

Moore thus rejected Sidgwick's symmetry claim and argued that pain is a worse evil than pleasure is a good. He held that pain is a unique evil as it is the only one of his great evils (including loving the bad and hating the good) that is not a very complex organic unity (Moore 1903: 212).

Moore, or someone agreeing with him, might, then, agree with Ross's claim that we have no or no strong duty to acquire our own pleasure because it is a small good or not a good at all, but deny that we have no duty to avoid our own pain since it is a great evil. If pain is a great evil, he might contend, then while virtue might always outweigh pleasure, it might not always outweigh pain, our own or others. The point might be magnified by the idea that it is not pain that matters but suffering or serious ill-being. Imagine you could either prevent some small amount of virtue in your already reasonably

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<sup>9</sup>Moore later came to doubt that pleasure possessed intrinsic value. See his Review of Hastings Rashdall, *The Theory of Good and Evil*, *Hibbert Journal* 6 (1907-8): 446-451, at 450. Moore did not say there whether he thought pain lacked intrinsic disvalue.

virtuous self or you could prevent some significant suffering or ill-being of your own. Suppose at the cost of a very slight deterioration in your character produced by lying, you could convince someone to give up some surplus medicine that you need to prevent a serious illness. It seems not implausible to choose to prevent the suffering and that you have a duty to so choose.

The second argument Ross relies on for the thesis that virtue is always better than pleasure is as follows:

P1. If pleasure and virtue are commensurable with each other, then we would be bound to hold that if some pleasure taken in some act of cruelty was sufficiently intense, “it would be possible that such a pleasure . . . should be good on the whole” (RG 151; also FE 274).

P2. It is not the case that it would be possible that such a pleasure should be good on the whole.

C2. Therefore, it is not the case that pleasure and virtue are commensurable with each other.

The most plausible reply to this argument is to deny P2 and claim that not all vicious pleasures are bad on the whole. One might argue that there are cases in which vicious pleasure does seem good on the whole. This might happen be the case one finds enjoyable humour in the minor misfortunes of another<sup>10</sup>, or when one experiences a bit of *schadenfreude* in someone’s relatively minor failure. It is hard to deny that at least in some cases such experiences are good on the whole. True, it might be a bit naughty to enjoy another’s minor misfortune or failure, but the enjoyment seems in some cases sufficient to outweigh the naughtiness.

Of course, Ross would not want to grant that pleasure in the major misfortunes of others or in (say) torturing others would be on the whole good.<sup>11</sup> To block this, he could endorse another different potential difference between pain and pleasure. He might claim that each unit of intensity of pain has the same value, so that if pain A

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<sup>10</sup>For this point, see Thomas Hurka, *Virtue, Vice, and Value* (Oxford: Oxford University Press, 2001), 149–150.

<sup>11</sup>The point in this paragraph is taken from Hurka 2001: 150–151.

is twice as painful as pain B, then pain A is twice as evil as pain B but deny that the same is true of each unit of intensity of pleasure. He might, that is, argue that it is not true that each unit of intensity of pleasure has the same value; A might be twice as pleasurable as B, though A is not twice as valuable as B. Each additional unit of intensity of pleasure, he might suggest, has a smaller quantity of value, with the value decreasing with each unit until the value reaches zero. This makes it possible to prevent having to say that if the pleasure taken in a major misfortune of another is intense enough the state is good on the whole. On the proposed view, it would take a lot of pleasure in someone's major misfortunes or suffering to outweigh both the pain and the vice involved in enjoying it,<sup>12</sup> especially if the upper bound on how valuable pleasure can be is not very high

In any case, Ross will have a more plausible conception of the ideal life if he rejects the view that the value of virtue (and of knowledge that is the actualization of a desire for it) always outweighs the value of pleasure.<sup>13</sup> He addresses the objection that if “virtue and knowledge are much better things than pleasure”, then the best or ideal life will be rather “ascetic” in practice (RG 152). The concern seems to be that if knowledge and virtue are always better — or infinitely better — than pleasure, the best life will be devoted primarily (if not exclusively) to the former goods and consequently end up bereft of pleasure. There is always going to be more value in knowledge and virtue so that one should always put more weight on them than on pleasure or the prevention of suffering. But, Ross seems to think, a life without pleasure would not be ideal or best. This seems right: a life lacking in pleasure or rich in suffering would not be good seemingly no matter how much virtue and knowledge it included.

Ross says he has two reasons for thinking that his theory of value will not “in practice” be as “ascetic” as it might initially appear,

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<sup>12</sup>Ross thinks it is vicious to want or will another's pain (RG 154, 163; FE 298).

<sup>13</sup>Ross says that knowledge that is to “some extent an actualization of a desire for knowledge . . . has *moral* worth, [and] is of the nature of virtue” (RG 151–152). He seems to reject this view in FE where he maintains that only virtue is morally good (FE 290).

and that the life devoted to virtue and knowledge (when it is the “actualization of a desire for knowledge” (RG 151)) may well include a sufficient quantity of pleasure. First, he argues that in promoting virtue and knowledge both for ourselves and for others “we shall inevitably produce much pleasant consciousness” (RG 152). This claim rests on the alleged empirical fact that the promotion of knowledge and virtue are among the “surest sources of happiness” for those who possess them. Second, he says that each of us will be more efficient at producing knowledge and virtue if we are left free at various intervals to “give ourselves up to enjoying ourselves and helping others to enjoy themselves” (RG 152).

For those wishing for a more secure place for pleasure in the “best life”, as Ross puts it, these replies will not be persuasive. In reply to his first reason, one might agree with Ross that knowledge and virtue are among the “surest sources” of happiness but question whether the pursuit of knowledge and virtue are the surest sources of *surplus* pleasure. It is obvious that the acquisition of knowledge and the development of virtue in oneself and others involves the exertion of effort and lots of disappointment and frustration (including and especially acquisition of the kind of virtue (desires) and knowledge (certainty) Ross thinks most valuable). Ross does not talk about the pain involved in pursuing knowledge and virtue for oneself and others and so he does not clearly establish that the pursuit of knowledge and virtue are the surest sources of (a *sufficient* quantity of) surplus happiness.

It is not clear that Ross is entitled to offer this argument to deflect this worry about his value theory in any case. Before arguing that virtue is infinitely more valuable than pleasure, he gives two arguments for thinking that in general “pleasure is definitely inferior in value to virtue and knowledge” (RG 149). One involves rejecting hedonist views in part on the grounds that they cannot reliably support the values of knowledge and virtue. The problem is that one might produce more surplus good by “indulgence of cruelty, the light-hearted adoption of ill-grounded opinions, and enjoyment of the ugly” (RG 150). The hedonist might, of course, reply that such a state could not, in our world, be one in which there was “maximum happiness” (RG 150).



Ross says in response that

But that, if true, is simply a consequence of the laws of the world we live in, and does not absolve them from facing the problem, what if the laws of nature *were* such as to make such a life the most pleasant possible? (RG 150; emphasis in original)

But an opponent of Ross's view that knowledge and virtue are the surest sources of pleasure might make a similar reply to his attempt to deflect the charge of asceticism. They might say, true, the connection between knowledge and virtue and pleasure may be a consequence of the laws of nature of the world we live in, but what if the laws of nature were different and the life high in virtue and knowledge lacked pleasure or the former values were not the surest sources of the latter value? If the laws of nature were different and virtue and knowledge were not the surest sources of pleasure, Ross's reply would not deflect the concern that his view will in practice imply a form of aestheticism. In this case, it may be necessary to grant that Ross's view may avoid aestheticism only by granting that pleasure is not only comparable to but commensurable with virtue and knowledge.

If this objection to Ross's first reply to the charge of asceticism holds, Ross might concede it and rely on his second reason for thinking that the implications of his value theory will not in practice be ascetic as it may at first appear. But Ross's second reason for thinking his value theory is not susceptible to the charge of asceticism fares no better than his first.

The reply to the second reason is that Ross's claim gives the wrong explanation for the value or importance of pleasure to the ideal life. First, it is far from clear that the reason for thinking that a good life includes pleasure or happiness is that its pursuit or possession will make us in the end more efficient or effective at pursuing the other, higher goods. It seems much more plausible that there is a place in the ideal or good life for pleasure regardless of its impact on efficiency for promoting knowledge and virtue. Just as, for Ross, it is not true that "[t]o make a promise is not merely to adapt an ingenious device for promoting the general well-being" (RG

38), it is not true that pursuing pleasure (or avoiding pain) is merely to adapt an ingenious device for promoting virtue and knowledge.

Second, Ross seems again to be susceptible to the worry he has about hedonism. The concern with his second reply is that it might be true that in this world our pursuit of pleasure and enjoyment makes us more efficient and reliable generators of knowledge and virtue, but that may be true only of our world as we know it. What if this was false? It seems implausible that we would have no reason in this case to “give ourselves up to enjoying and helping others to enjoy themselves” (RG 152).

Third, even if Ross is right about the connection between pleasure and efficiency, he has not shown in any meaningful way that the amount of pleasure that is required for efficiency is the right or plausible amount of pleasure that we think belongs in the good life.

Fourth, Ross says that it is only permissible to pursue pleasure when it does not “interfere with the production of virtue” (RG 151). If the intervals in which we give ourselves over to pleasure come at the expense of pursuing knowledge or virtue (which, surely, they will), then he must have to hold that there are cases in which (in practice) it is permissible to pursue pleasure at the expense of virtue or knowledge. This seems like the right view, but in practice and in theory.

Finally, in his value theory he seems to be thinking only of the ideal life for adults. He does not seem to be thinking of the ideal or good life for children. One might think it especially perverse that for children it is permissible to pursue or acquire pleasure only when it makes them more efficient (now or in the future) at promoting virtue and knowledge. This seems to ignore the fact that things like play or enjoyment have independent value for children.

To avoid the problems that he encounters in defending the claim that virtue is infinitely better than pleasure (or the avoidance of pain), Ross should adopt in his value theory the heterarchical structure that he adopts in his theory of *prima facie* duties. In this case, his value theory would hold that each of the non-instrumental values matters, but there are cases or contexts in which they may be outweighed by another value or combination of values. He must, it seems, agree that virtue and pleasure are both comparable and

capable of some kind of (at least rough) commensurability.

## 4

### The Unhappy Marriage Between Ross's Heterarchical Theory of Rightness and his Hierarchical Theory of Value

Above it was suggested that one of the most attractive features of Ross's theory of *prima facie* duties is its heterarchical structure. Ross thinks that there is a plurality of *prima facie* duties and that for each *prima facie* duty, though it points to a moral consideration that matters directly, fundamentally to what we ought in the final analysis to do, there will be some moral situation in which it is outweighed by one or more of the other *prima facie* duties.

Ross clearly thinks that his opposition to rigid hierarchies in his theory of *prima facie* duties is one of its main selling features. This is especially clear in his criticism of Kant's absolutism, which, he thinks, "unduly simplifies the moral life" by ignoring the fact that "in many situations there is more than one claim upon our action, that these claims often conflict, and . . . it becomes a matter of individual and fallible judgment to say which claim is in the circumstances the overriding one" (FE 189; also 312–313; KT 33–34). However, as we shall see, the concern is that in defending a rigidly hierarchical value theory he ends up coming into conflict with and undermining this highly attractive feature of his theory of rightness.

In *Foundations of Ethics*, Ross argues that both virtue and intellectual and artistic activity are good in the same sense.<sup>14</sup> Both are worthy objects of admiration (FE 283). An individual is admirable for being virtuous or artistic or intelligent. The values of virtue and intellectual and artistic activity are, Ross says, intrinsically valuable or good in the "proper" sense of the word (FE 283). These goods

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<sup>14</sup>Ross characterizes intellectual activity as the "activity of the mind which leads to knowledge" that is good in the sense that "it is an admirable activity of the human spirit" that owes its excellence to "being conducted according to . . . the principles discovered by logic" (FE 270; also 283). Artistic activity is also an admirable activity of the human spirit which owes its excellence, Ross says (tentatively), to "the vividness and breadth of imagination, vigour of execution, economy in the use of means, simplicity of plan" (FE 270).

are distinguished from pleasure and justice (desert) which are objects worthy of satisfaction or objects that it is right to take satisfaction in (FE 283) but not worthy objects of admiration. Neither pleasure nor justice is intrinsically valuable; rather, they are non-instrumentally valuable, that is, worth having for their own sake, but not due to their “intrinsic nature” (FE 283).

Ross suggests that this helps him secure the point that virtue is always superior to pleasure.

The natural moral consciousness finds it very hard to believe that any amount of pleasure can thus outweigh a given good activity in goodness; and the recognition of two senses of goodness has vindicated the natural moral consciousness. (FE 283–284)<sup>15</sup>

It is not clear how this distinction in goodness can secure the claim that no amount of pleasure can outweigh a given amount of virtue. As David Phillips rightly asks, “why should the fact that virtue and knowledge are good in one sense and pleasure good in another mean that, when we are deciding what we ought to produce or aim at, virtue turns out to be a greater good than pleasure”? (Phillips 2019: 129)

But there is a more pressing issue here for Ross. He seems not to notice that this value hierarchy is in tension with and mars the attractive heterarchical structure of his theory of rightness or *prima facie* duties. He says immediately following his claim that his distinction between objects worthy of admiration and objects worthy of satisfaction secures the claim that virtue is infinitely superior to

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<sup>15</sup>Ross does not make this claim explicitly in *The Right and the Good*. However, he does argue that both virtue and knowledge (actualized by a desire for it) outrank pleasure and justice (RG 152–153). He says virtue outranks pleasure and justice (RG 152, 153–154) but not knowledge (actualized by a desire for it) (RG 153). Virtue and knowledge (actualized by a desire for it) seem, then, to be of the same axiological status. So it seems that knowledge in this sense might in some cases outrank virtue. But if virtue and knowledge are of the same status, and virtue is always superior to justice and pleasure, then knowledge (actualized by desire for it) must be too. This suggests that in the context of beneficence the duty to promote virtue and knowledge always takes precedence over the duty to promote pleasure and justice.

pleasure that one is (because of this distinction and its alleged implications) “still free” to

believe that the *prima facie* duty of producing what is intrinsically good always takes precedence over the *prima facie* duty of producing pleasure for others. (FE 284)

Ross therefore introduces a hierarchy within his duty of beneficence. The duty to promote virtue and intellectual and artistic activity is prior to and always trumps the duty to promote pleasure or to prevent pain. This is antithetical to the attractive heterarchical structure of his theory of rightness in which, as we saw, each of the duties is “capable of being overruled by other *prima facie* duties.” Ross suggests that both Kant and the utilitarians rely on views about the moral status of lying that “shut” their “eyes to the detail of” moral situations, and that deprive them “of data for a true judgment” about what to do in a particular situation (KT 3334). Kant says never lie and the utilitarians say in general it is justified to lie to those posing a significant threat. One cannot help but think that Ross’s hierarchy in the duty of beneficence is guilty of a similar charge.

Imagine that I am a philanthropist with an opportunity to befriend some high-profile, very wealthy individuals. Imagine that by making friends with these individuals I will be able to convince them to devote a sizable portion of their personal wealth to effective charities and that this will prevent a great deal of suffering for the least well-off denizens of the world. Unfortunately, by befriending these individuals I will cause a slight deterioration in my (now quite virtuous) character. It is not obvious that it would be wrong to befriend the wealthy individuals given the size of the benefit, although Ross’s view suggests otherwise. Ross’s hierarchy in the duty of beneficence seems to blind him to certain features of such moral situations (the suffering prevented), depriving him of the data to make a true judgment about it.

In claiming that the duty to promote virtue and intellectual activities always takes precedence over the duty to promote pleasure or (one assumes) to prevent pain or suffering (FE 287), Ross seems

forced to admit that there is a hierarchy within the duty of beneficence and that there would, it seems, be no case in which the duty to promote pleasure (or prevent pain) outweighs the duty to promote virtue. This is (again) in direct conflict with the attractive feature of his theory of *prima facie* duties. A view like this seems no different than views like Kant's, which, Ross says, "over-simplifies the moral life" by insisting, for example, that it is never permissible to tell a lie (KT 33–34).

After Ross says that the duty to promote virtue and intellectual and artistic activity comes before the duty to promote pleasure, he says that the goods of intellectual and artistic activity and virtue are comparable in terms of their goodness, since they are good in the same sense. He goes on to say that it will be an open question, then,

whether in any given situation it is rather our duty to promote some good moral activity [virtue], or some good intellectual activity, in ourselves or others; and in deciding which we ought to do we have to rely on our very fallible apprehension of the degrees of goodness belonging to each. (FE 284)

Ross admits that in some cases, then, it may be permissible to promote one's own or others' intellectual or artistic activity at the expense of one's own or others' virtue. Imagine that I am a very proficient scientist who works on and desires to know about courtship behaviour in fruit flies and that if I continue with my research, I will gain a significant amount of knowledge about it. However, this research will involve killing a lot of flies and this will, in turn, somewhat coarsen my character, leading to a deterioration in it. On Ross's view, it seems that provided that the value of the intellectual activity is on balance greater than the loss of virtue, it is, other things equal, right to promote the intellectual activity. Or imagine I am the father of a budding artist and I see that if I encourage my child she will develop artistic talents to a high degree. Imagine, further, that this will lead her to develop a sense of entitlement and so make her less virtuous. Again, provided that the good of artistic activity outweighs the disvalue of the deterioration of character, Ross says it is our duty to promote the artistic activity.

Balancing the duty of beneficence when the goods of virtue and artistic and intellectual activity are at play mirrors the manner in which Ross balances the duties of promise-keeping and beneficence in his heterarchical theory of *prima facie* duties. Suppose we agree with Ross in the verdicts about the above cases. One might think it a bit implausible that while one is permitted to sacrifice virtue to promote certain intellectual and artistic activities, one is not permitted to sacrifice virtue to prevent suffering or pain or to promote a surfeit of pleasure. Putting this aside, the main worry is that this structure exposes Ross (again) to the charge that his theory (like Kant's) shuts our eyes to the details of the moral situation. In the above case of the father, the structure of Ross's theory seems to blind the father to the moral relevance of any pain or suffering his daughter's character may impose on others (her friends and fellow classmates), since presumably, the duty to promote artistic activity always takes precedence over the duty to promote pleasure or prevent pain and suffering.

The concerns about Ross's hierarchical value theory may not end here. Ross is clear that in some cases the duties of promise-keeping and non-maleficence can outweigh the duty of beneficence and that in some cases the duty of beneficence can outweigh the duties of promise-keeping and non-maleficence. It is no longer clear, given that he says that the promotion of virtue and intellectual and aesthetic activities always takes precedence over the promotion of pleasure (or the prevention of pain), that this is still an option for him.

Ross says that you ought to keep your promises unless keeping the promise is "likely to do much more harm than good" (FE 77; also RG 35). He seems to hold, then, that the duty of promise-keeping can *sometimes* outweigh the duty of beneficence. This suggests that the duty of promise-keeping is in the same category as the duty to promote virtue and intellectual activity, that is, the category including the element of the duty of beneficence that *always* takes precedence over the duty to promote pleasure and avoid pain (the other element of the duty of beneficence). It might be strange to hold that while the duty to promote pleasure and pain could never outweigh the duty to promote virtue and intellectual and artistic activities, the former duty could outweigh the duty to keep your promises, a duty which,

Ross says explicitly, has the stringency sufficient to outweigh the duty to promote virtue and intellectual and artistic activity in some cases. This might suggest that no matter how much pain or pleasure is at stake we ought always to keep our promises. This seems not only false but completely contrary to the original spirit of the heterarchical structure of Ross's theory of rightness, and puts it his view (again) in the same (dubious) category as Kant's (at least on Ross's reckoning).

Of course, the duty of promise-keeping could be demoted so that the duty to promote pleasure and avoid pain sometimes outweighs it and vice versa. But in this case, the duty of promise-keeping falls into the category of those duties that are always outweighed by the duty to promote virtue, in which case the duty to promote virtue would always outweigh the duty to keep your promises. This (again) seems to conflict with the attractive heterarchical structure of Ross's theory of rightness and it seems just plain false. Suppose I have promised to help you enhance your virtue. On my way to discharge my duty I see that I can enhance a slight bit more virtue in someone else to whom I have made no promise. Let's assume the other consequences of the two acts are of equal value. Ross is highly likely to reject that it is permissible to break the promise to promote more virtue on the grounds that to break the promise would involve treating a promise rather too lightly (RG 35), though his own value theory implies this when married to his theory of rightness.

In reply, Ross might argue that the reason the duty to promote virtue and intellectual and artistic activity always comes before the duty to promote pleasure or to prevent pain is that this is necessary to preserving the intuition that it is never permissible to promote vicious pleasures. There is no similar reason for maintaining that the duty to keep one's promises comes before the duty to promote pleasure or to prevent pain. This might leave Ross free to say the duty to keep promises can both outweigh the duty to promote virtue and intellectual and artistic activity and in some cases be outweighed by the duty to promote pleasure and to prevent pain. But, as we have seen above, it is not always true that we have no reason to promote vicious pleasures. This is not a good reason to give absolute priority to the duty to promote virtue and intellectual and artistic activity



over the duty to promote pleasure and to avoid pain. In any case, Ross can avoid concerns of the kind raised above in a generally more attractive way, namely, by dropping the claim that virtue is always better than pleasure and the avoidance of pain, which, as we have seen, has some, quite counter-intuitive implications of its own.

There seems, then, to be several potentially very unattractive implications of the hierarchy among values in Ross's value theory. The hierarchy among values has undesirable implications for Ross's heterarchical theory of rightness, marring and conflicting with the structure that made it attractive in the first place and that arguably gave it advantage over its utilitarian and deontological competitors. Ross should adopt a heterarchical structure in both his theory of rightness and his theory of value. With this structure in place in both cases Ross can avoid falling prey in his theory of value to some of the worries that he poses for the rivals to his theory of *prima facie* duties, though whether this will be defensible in the final analysis remains to be seen.

## 5

Ross defends both a pluralistic theory of value and a pluralistic theory of rightness. His theory of rightness has a plausible and attractive heterarchical structure. His theory of value has by contrast a hierarchical structure. This comes out very clearly in Ross's claim that any amount of the non-instrumental value of virtue outweighs any amount of the non-instrumental value of pleasure or avoidance of pain. The chapter raised two challenges to the status that Ross accords virtue relative to pleasure (pain). First, it argued that Ross failed to provide a good argument for thinking that virtue is always better than pleasure and that it is in any case implausible to think that any amount of virtue (or avoidance of vice) is better than the avoidance of any amount of pain or suffering. Second, it argued that the inflexibility of Ross's value theory exhibited in his claim about the relative value of virtue produces tension with and mars the attractive or heterarchical structure of his theory of *prima facie* duties. Ross would have developed a more plausible version of value pluralism had it included the attractive heterarchical structural that

was core to his highly plausible and influential theory of *prima facie* duties.

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