

MORAL INQUIRY

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INTRODUCTION

First off, I will insist that our knowledge of moral behavior is contingent upon a process called “*human inquiry*.” This process results in the forging of beliefs that are embraced by both individuals and communities of individuals. Here I’ll defend a foundational philosophical distinction between two broad areas: *descriptive inquiry*, that is, the process of forging beliefs that approximate the *Truth*; and *prescriptive inquiry*, the process of forging beliefs that pertain to *Value*. I shall argue that these modes of inquiry are NOT incommensurable, but rather, relate to one another in enormously complex ways. Although, the boundaries between Truth and Value are far from clear, if there is such a thing as “The Good,” our knowledge of it is contingent upon our knowledge of “Truth.” However, I will also argue that both the descriptive and prescriptive modes of inquiry are, not only unclear, they are also inherently fallible, and open-ended, which explains why human beings often disagree what’s true and good, and frequently change their individual and collective minds.

All descriptive theories attempt to explain, predict, and/or control natural phenomena. This kind of theorizing involves the verb “is” and the evaluation of beliefs that are labeled either true or false. Unfortunately, there are several competing theories of Truth. Some philosophers argue that Truth is a one-to-one *correspondence* between our beliefs and some knowable external reality. Others argue that Truth is a matter of internal consistency or *coherence* between old beliefs and new beliefs, or coherence between the beliefs of individuals and groups, and/or between groups. Some even argue that Truth is whatever powerful people say it is: an extremely cynical philosophy that has ancient origins that is very difficult for philosophers to refute.

Whatever Truth is, we do know that our beliefs about it have a tendency to change over time. I used to believe in Santa Claus, the Easter Bunny, and governmental efficiency. Scientists used to believe that the earth is the center of the universe, and that bloodletting cures insanity. Based on the flow of history, it is safe to assume that most of what we believe to be true today will eventually be regarded as either imprecise or false. We also know that human beliefs concerning Truth vary between individuals, groups of individuals, and between cultures. Generally speaking, we deal with this *cognitive dissonance* by summarily dismissing beliefs that conflict with our own. Our beliefs are true, theirs are false.

Human beings also believe that some human behavior is good and praiseworthy, and that other behavior is bad and blameworthy. It is true that human beings murder each other, steal from each other, drive too fast, and fart in elevators. Under most circumstances, none of these behaviors are considered to be good or praiseworthy, although there may be particular circumstances when they might be. Farting is a perfectly natural phenomenon open to descriptive inquiry. It can be explained in terms of the laws of human physiology, (the production of nitrogenous waste) and the laws of physics: our knowledge of both sets of laws change over time. Killing and stealing can also be explained in biological terms. But many philosophers argue that there is a

difference between inquiring into whether something is true and/or whether it is good.

If Truth involves a correspondence between our beliefs and reality, we might argue that Goodness involves a correspondence between our prescriptive beliefs and what is in fact, good. Unfortunately, moral philosophy is not that simple. In fact, it's not even clear that Truth involves correspondence, let alone value.

My view is that the line of demarcation between the descriptive "is" and prescriptive "ought" is extremely ambiguous. Descriptive theories aim to explain, predict, and control our behavior. These theories are either true or false. Prescriptive moral theories explain whether or not those beliefs correspond to what's good or bad. For example, if you want to know whether or not *I believe* that capital punishment is morally good, or not you could begin by asking me. That's fine, assuming that I know what I believe and that I don't lie to you. Fortunately, beliefs are not only mental entities, they also influence our behavior. So if you want to know what I believe to be true or good, observe my behavior over a period of time. You could listen to my lectures, or see if I've ever signed petitions for or against capital punishment, etc.

In my case, I'm not exactly sure what I think about capital punishment. Over the years I've changed my mind. I do know that if a member of my family or a close friend was murdered, my behavior would be profoundly influenced by emotion. I'd insist on retribution. In a moment of moral weakness, I might even attempt to exact retribution on my own. I think it is "true" that in all times and in all places, human beings seek retribution for harms inflicted by others. It is also "true" that human beings often kill one another. Now whether these behaviors are good or not is another question.

Scientists today have begun to cultivate a line of scientific inquiry that I call "descriptive psychology." Some of these inquirers explain our moral behavior by examining the structure of our brains. Then they suggest that the brain module responsible for morality was shaped by millions of years of evolution. Based on this line of inquiry, many philosophers argue that, over time, as this line of descriptive inquiry unfolds, it will gradually replace prescriptive inquiry. That is to say, prescriptive inquiry will someday be absorbed by descriptive inquiry in the form of brain science. I don't believe it. Prescriptive moral inquiry is here to stay. Nevertheless, I think that descriptive inquiry certainly elucidates prescriptive inquiry. To me, the only way to make sense of prescriptive inquiry is via descriptive inquiry: that is to say, we must establish how we, in fact, go about making value judgments. This is an empirically based activity in which we can all participate. All we have to do is observe how we employ moral language in our everyday lives, and how we arrive at moral judgments. Descriptive ethics, therefore, involves the collection of data that relates to moral behavior and the forging of our moral beliefs. It can involve biological inquiry, psychological inquiry, economics, sociological inquiry, and/or political inquiry. But in the final analysis, it turns out that there is something left over that resembles universal morality.

You may also notice that I am disinclined to spin a fine distinction between "ethics" and "morality." In fact, I shall use those terms as synonymous. The language that we employ within the moral domain is an essential ingredient

for productive. Unfortunately, moral inquiry has always been complex, convoluted, and ambiguous. Thank God for philosophers! I'll at least try to identify some of those messy borders.

GOOD AND BAD HUMAN BEHAVIOR

Another empirically-based observation evident to prescriptive inquiry is that it produces judgments containing an "ought." *Positive* moral behavior is judged to be "good" and therefore we "ought to do" those kinds of things. *Negative* behaviors that are "bad" and therefore we "ought to not do" those things. In a nutshell, morality consists in urging ourselves and others to do some things and not to do other things; and, therefore, we may have either *positive duties*, *negative duties*, or both. Moreover, we *praise* or *blame* each other, both, for doing good things and for not doing good things.

There is also widespread agreement that throughout human history, morality involves rules of conduct. In general, we praise persons that obey the rules and blame those that do not. But there is a lot of disagreement over specific moral rules and how we go discovering which rules to follow under various circumstances. Many philosophers argue that moral rules are simply statements of personal preference, while other philosophers say that moral beliefs are merely expressions of tradition and convention. Let's just say that traditionally, prescriptive moral inquiry usually addresses the question of rules.

Let's also agree that human beings make moral judgments, not only about specific acts of human behavior, we also make judgments about the character of the persons that perform these acts. This usually involves the analysis of internal mental things like intent, reasons, motivation, and conscience. Let's examine both good behavior and good persons.

When we say that a specific behavior is good, we are "prescribing" that behavior. Of course, we prescribe a lot of different kinds of behavior under a wide variety of circumstances. In fact, I think there are basically four kinds of behavior in which we use the adjective "good:" *moral behavior* (right or wrong), *conventional behavior* (good or bad manners), *prudential behavior* (practical/impractical), and *legal behavior* (lawful or unlawful)? Usually we invoke rules of conduct to frame these behaviors. But there are notoriously fuzzy boundaries here.

First of all, moral behavior is usually classified as a subcategory of normative human behavior, which is to say that not all human normative behavior involves morality. In our society unconventional behavior, such as belching and/or farting at the dinner table is widely regarded as bad behavior. So is eating with your mouth open, picking your nose, and scratching private parts in public, especially on television. Convention behavior is often dictated by a specific line habitual behavior expressed as rules, which constitute a body of collective beliefs called *tradition*. Most traditional behavior varies between cultures and within cultures. They also vary relative to time and place. Bad manners can evoke feelings of distaste or revulsion in others within those cultural settings, but are not necessarily viewed as immoral. However, philosophers argue over whether there is something more to morality than rules enforced by tradition and convention.

The category of legality refers to behaviors that are prescribed or proscribed by power-laden institutions through the enforcement of laws. If a behavior is illegal, it carries with it a *sanction* that is imposed by that institution. Legal sanctions can be imposed by a variety of institutions, including: political institutions (government), religious institutions (churches), and economic institutions (corporations). Lawmakers often pass laws that are unenforceable, or laws that lack sanctions.

Prudence is an old, and probably arcane, concept. As I use the term, it signifies behavior that either advances individual or collective interests; or, at least it does not undermine interests. Imprudent behavior may or may not violate good manners, conventionality, or the law. Generally speaking, overeating is neither illegal nor immoral, but if you do it often enough it is certainly imprudent. And, unfortunately, in the United States overeating has become conventional behavior. In other contexts, overeating might be regarded as bad manners. Some argue that it is immoral to overeat if other human beings are hungry or starving. In most places it is not illegal to deliberately fart in a public elevator, but it will almost certainly be regarded as bad manners. It might also be imprudent, if your boss is in the elevator with you at the time.

Obviously, there is a lot of legal behavior that is immoral, nonconventional, and/or imprudent; and there is a lot of illegal behavior that is neither: immoral, non-conventional, nor imprudent. And of course, it is usually imprudent to violate standards of legality. But it is only imprudent if you get caught breaking the law. Sometimes the government is incapable of detecting your bad behavior, (weak monitoring) sometimes the sanction that it imposes does not threaten enough to deter your behavior (weak sanction), and sometimes government simply lacks the power to effectively enforce the sanction.

Within our own cultural setting, it seems fairly easy to differentiate between the domains of morality, conventionality, legality, and prudence, but it is much more difficult to do it between cultures. All human cultures use legality to enforce morality, conventionality, and prudence to varying degrees. Libertarians prefer to limit use of the legal code to enforce these alternative forms of the good. We'll get back to that shortly.

Although it is very difficult to distinguish between these normative contexts, there are several common denominators. All of these domains tend to involve persons, behaviors, rules, and the assessment of praiseworthiness, and blameworthiness. Once we get beyond these rather obvious generalities, things get more complicated. If it is philosophically possible to draw a clear line between these categories, morality is usually distinguished on the basis of its alleged *universality*. But prudential behavior can also approach universality. That's because prudence is often enforced by the laws of nature. (It's almost never a good idea to step in front of a vehicle traveling 75 miles an hour!). And murder is universally regarded as illegal, even though all cultures admit various exceptions. In some cultures, it is conventional to kill women that have been raped.

So the precise borders between morality, convention, legality, and prudence are far from clear. This ambiguity contributes to interminable debate over normative issues that transgress these vaguely defined borders. From a

political standpoint, the most pressing issue is to what degree rules of conventionality, rules of morality, and rules of prudence ought to be enforced by government sanctions.

Not only do we make moral judgments in regard to our behavior, we also make judgments about the *character* of persons (or agents) that perform good or bad acts. We typically make these character judgments in reference to conformity to rules of morality, rules of convention, or rules of prudence. I will use the term “good person” to signify a “moral person.” Many philosophers argue that a truly “good person” acts in conformity with moral rules, even when convention and prudence dictate otherwise. Others say that good persons are simply conventional and/or prudent.

We can also inquire as to how we can become good persons. Are we good because we were taught to be good? Are we good because we inherited good genes? Can good persons become bad persons? Can bad persons become good persons? If so, are there more efficient ways to morally rehabilitate bad persons? Is spanking children an efficient rehabilitative tool?

So it is a universal empirical truth that human beings praise other persons for doing good things and we blame others for doing bad things; which is to say that we hold others *responsible* for their actions. We tend to praise most rule followers and blame most rule breakers. The assessment of praise and blame can be either *forward looking* or *backward looking*. Sometimes we praise and blame others in order to influence their future behavior, and therefore, we use those terms in the context of moral education and/or moral rehabilitation. When we assess praise and blame in a “backward looking” context, we aim at retribution; that is, to reward or punish others for their past behavior.

The concept of *retribution* captures the essence of how persons act, and how they ought to act, in response to both the good and the bad.

MORAL RESPONSIBILITY

The question of “*moral responsibility*” plays a central role in retribution. Moral responsibility, therefore, is also central to our feelings and ideas about *justice*. It involves the basic question of what kinds of persons are fair targets for *moral praise* and *moral blame*. Simply put, we praise or reward persons that do good things, and we blame persons that do bad things. But what is it about the nature of persons that justifies our penchant for holding them responsible for their behavior? Well, at least in the Western Liberal tradition we assess responsibility based on two main criteria: *rationality* and *free will*.

We praise and blame persons that are capable of applying rules and reasoning about consequences before they act. The assessment of degrees of rationality usually involves assessing mental processes such as logical reasoning, forethought, learning from experience, processing information etc. Thus, *mentality* is a necessary condition for the assessment of moral responsibility. But not all persons that possess mentality are morally responsible. We do not hold young children responsible for their behavior. But as they get older we tend to hold them more responsible. Nor do we hold persons that have

a "cognitive or defect" responsible for their actions. We generally do not hold animals morally responsible for their behavior.

We also praise and blame persons for acts of free will; that is, acts that they are capable of controlling. Basically, this means that we do not praise or blame persons for acts that are coerced by other persons or by their circumstances. Personal coercion generally involves the use of *threats* and *enticements* enforced by others. Both threats and enticements come in various degrees. Major threat: "Rob that bank or I'll kill your family!" Minor threat: "Rob that bank or I'll take your shoes!" Major enticement: "Rob that bank and I'll give you 10 million dollars!" Minor enticement: "Rob that bank and I'll give you one dollar." Generally speaking, we hold moral agents responsible for bad acts that were performed in exchange for enticements and we do not usually praise people that do good things in exchange for major enticements. In other words, responsible persons ought to be able to resist at least some threats and/or enticements. Philosophers argue over whether and/or to what degree threats and enticements undermine free will, and whether the concept of free will makes sense.

Not only do we hold individuals morally and legally responsible for their actions, we also hold groups of individuals legally and morally responsible for their actions. But the assessment of collective responsibility is much more difficult. Here's why. First of all, our individual association with groups is not always framed by rationality or free will. Sometimes we are coerced into joining groups, and sometimes we associate ourselves with groups without really knowing everything that they do. Sometimes we associate ourselves with group based on tradition alone.

Voluntary associations are those groups that we rationally and freely choose to associate with in order to advance our. These associations are usually organized hierarchies that involve leaders and followers. Generally speaking, we hold both leaders and followers responsible for their actions. But the responsibility of followers is contingent upon what knew beforehand and the presence of coercive influences. When we really know what an organization does and when we freely choose to follow its leaders, we are usually held responsible both individually and collectively for what that organization does. Hence, responsibility is diminished commensurate to both knowledge and freedom. Unfortunately, in the real world followers do not always possess perfect knowledge or perfect freedom. Moreover, hierarchies often delegate responsibility, which means that leaders at the top of an organization may not always know what lower level leaders are doing and sometimes upper level leaders employ coercive force on lower level leaders. For example, many of the Nazi doctors claimed that they tortured their patients because they would have been killed if they disobeyed orders. Therefore, this notion of collective (or shared) responsibility turns out to be very complex.

One such complexity has to do with how human beings behave in groups. To put it simply, how does social structure affect rationality and free will, or to what degree does "social causation" diminish individual responsibility. This question raises the larger question concerning the nature and extent of circumstantial coercion, the malleability of human nature, and the "nature v. nurture controversy." To what degree are human beings conditioned

by their social environment and their genetic makeup? There are two wrong answers:

1. Human behavior is *infinitely malleable* via manipulation of the social environment (*social determinism*). Therefore individual responsibility is impossible.
2. Human behavior is *not malleable* at all, but determined by our social environment and biology (*genetic determinism*). Therefore, the assessment of individual responsibility is impossible.

If the truth lies somewhere on the borders between these three extremes, then how do we go about divvying out personal and collective responsibility in our everyday lives?

SUMMARY

In sum, so far I have suggested that human beings, by nature, ask questions and propose answers to those questions. Philosophy is simply the study of this questioning and answering process, which I call human inquiry. Whether we like it or not, we are all philosophers in so far as we engage in this open-ended, inter-generational and intercultural process of questioning and answering. The answers to these questions are called beliefs, which are simply the artifacts generated by the process of inquiry. New beliefs compete with old beliefs within our individual minds or brains and also in our collective minds or networked brains, or *culture*. As the process of inquiry proceeds across generations, some beliefs survive while others suffer extinction. Some of our more general beliefs carry more weight than others. We call our more general, stable, and widely-held beliefs *theories*. But human inquiry is highly contextualized, therefore, different individuals and communities tend to ask different questions and accept different answers. But despite this variation, there are many basic questions and answers that crop up in all contexts, at all times, and in all places. Hence, there are two universal lines of inquiry that all individual human beings and all communities pursue. We all seek the answers to two basic questions: “What is Truth?” and “What is Goodness?” Our answers are embedded in theories.

So morality involves both descriptive and prescriptive inquiry. Despite the fact that we make judgments about the morality of behavior and persons, we don’t always agree with one another. We disagree over the composition of the moral universe. We disagree with one another over the rules of morality and as to whether we “ought” to hold certain individuals responsible for their behavior, and whether to praise them or blame them. We do not often agree as to what we ought to do or ought not to do; and we don’t often agree as to whether individuals or communities are good or bad. Any theory of morality must take these facts into account. I shall argue that libertarianism does that better than any other theory, but it’s not the main focus of the book. My primary concern will be to introduce you to the main lines of moral inquiry.

Here's my overall plan for the rest of this book. I will begin with a brief discussion of the three basic types of moral theory: teleological theories, deontological, and virtue based theories. Then I will examine five moral principles that underlie universal morality: utility, beneficence, nonmaleficence, liberty, and justice. Next, I'll discuss moral personhood and the composition of the moral universe. Finally, I will attempt to articulate a libertarian view of what constitutes the "Good Life."

CHAPTER I MORAL THEORIES

INTRODUCTION

Human beings ask questions about nature of morality. In the process of prescriptive inquiry, we employ a specific vocabulary. We also invoke theories to explain the nature of morality. All moral theories address the questions of what is Good, why it's Good, and where the Good is located? If there is anything "easy" about moral inquiry it's the fact that there are only three basic kinds of prescriptive moral theories: *teleological theories*, *deontological theories*, and *virtue-based theories*. Unfortunately, they often (but not always) provide different and mostly conflicting answers to these basic questions.

TELEOLOGICAL ETHICAL THEORIES

Teleological moral theories locate moral goodness in the consequences of our behavior and not the behavior itself. According to teleological (or *consequentialist*) moral theory, all rational human actions are teleological in the sense that we reason about the *means* of achieving certain *ends*. Moral behavior, therefore, is goal-directed. I have ice in my gutters right now. I am deliberating about when and how to get that ice out in order to prevent water damage inside the house. There are many strategies (means) that I might employ to remove that ice (end). Should I send my oldest son, Eli, up on the icy roof today? After careful deliberation I finally decided not send him on the roof because it is slippery and he might fall. How did I decide? Well, I took into account the possible consequences. There is nothing inherently wrong with climbing on the roof. What made roof climbing the morally wrong thing to do at this particular time and place were the possible consequences. The issue has moral significance in so far as it affects persons. So from the teleological point of view, human behavior is neither right nor wrong in and of itself. What matters is what might happen as a consequence of those actions in any given context. Thus, it is the contextualized consequences that make our behavior, good or bad, right or wrong. In the case of roof climbing in the winter, I decided to climb up on the roof myself, because it's dangerous. Eli might fall off and get hurt. If that happened, my wife would blame me and so would the community. But if I fell off the roof, I would be judged to be imprudent, but not necessarily immoral.

From a teleological standpoint, stealing, for example, could not be judged to be inherently right or wrong independent of the context and the foreseeable consequences. Suppose I am contemplating stealing a loaf of bread from the neighborhood grocery store. Many moral theorists would argue that morality requires an analysis of my motives (or intent) that brought about that behavior. However, from a teleological perspective, motives really have nothing to do with the rightness or wrongness of the act. What really matters lies in the potential pains and pleasures associated with the short-term and long-term

consequences. If my children were starving, and if stealing a loaf of bread would immediately prevent them from starving, then I might seriously consider stealing. But I'd have to know if the consequences would significantly harm the grocery store? What would be the odds of getting caught? If I got caught, what would happen to me? Would I go to jail? Get fined? If I went to jail, who would take care of my children? Therefore, even if my motive (preventing my children from starving) was praiseworthy, the act of stealing might still be wrong because other actions might be more cost-effective in bringing about the desired consequences. Perhaps I'd be better off signing up for food stamps or asking the storeowner to give me day-old bread. On the other hand, suppose that there were no other options and that I invented a foolproof system for stealing bread. Would I be wrong for doing it? If you think about the consequences of your actions when you make moral decisions, you are applying teleological moral theory.

HEDONISM

Teleological moral theories must somehow connect the consequences of human behavior to the foundational moral concepts of *good* and *bad*, *right* and *wrong*, and *moral* and *immoral*. The hallmark of most teleological moral theories is that they identify these moral concepts with *pleasure* and *pain*, or *happiness* and *unhappiness*. Hence, moral acts are considered good, right, and/or moral in so far as they lead to pleasurable consequences; and bad, wrong, or immoral if they lead to painful consequences. This longstanding moral doctrine is called hedonism. Now once we accept the hedonist doctrine that the good=pleasure and bad=pain, we find ourselves faced with a number of interesting philosophical dilemmas.

If there is a compelling reason to accept hedonism, it is the fact that all human beings have the ability to differentiate between pain and pleasure. When we experience pleasure or pain, we are immediately aware of that fact. We are also immediately aware of the fact that pain and pleasure are subject to greater or lesser degrees. In general, we universally seek pleasure, and avoid pain. According to many hedonists pleasure and pain can be *quantified* and therefore, they argue, that it open to objective, descriptive scientific inquiry.

Many hedonists observe that pleasures and pains can be measured in quantitative terms such as: *intensity*, *duration*, *fecundity*, and *likelihood*. Today, the *intensity* of pleasure and pain can be indirectly measured with the use of state-of-the-art brain imaging technology. We now know that certain kinds of pleasures light up specific parts of the brain and that intensity correlates with the degree to which the brain lights up. The human orgasm is generally acknowledged to be one of the more intense pleasures that human beings can experience. Scientists have observed the brain activities that accompany orgasms under scientific conditions, and know what specific parts of the brain light up. Interestingly, it is the same part of the brain that lights up when human beings have another intense experience; that is religious experiences. Most adults have had orgasms, few have had religious experiences. As a general rule, the intensity of the pleasure associated with eating pizza is much less intense than orgasm. However, if you get a bad pizza, or if you eat too much of it, and

subsequently, throw up, that can be a pretty intense pain. And, some human beings are physically incapable of having an orgasm. Naturally, they tend to rank pizza higher on the pleasure scale.

The *duration* of pains and pleasures can be accurately measured with the assistance of a much older technological device; a simple clock. The duration of the pleasure associated with pizza eating is contingent upon how much pizza is available, and how tasty your pizza is, and how fast you eat it. In general it's probably true that if your brain generates pleasurable experience while you are eating pizza, that pleasure usually lasts about thirty minutes, at best. If you stretch that experience much more than that the pleasure diminishes proportionately. If you eat it one molecule at a time you will not experience intensity at all, but it would take a long time to eat the pizza. If you eat it too fast, you might also miss out on a lot of the intensity.

At best the human orgasm lasts only a few seconds, although the sensual experiences that lead up to orgasm are also pleasurable. Depending upon your sexual prowess these lower-level sensual activities can last quite a while, but that orgasm will still only last a few seconds. Although I haven't checked out the research, I'd estimate the average duration of pleasurable sexual activity and pizza eating to be about thirty minutes. A skilled hedonist learns how to maintain maximum intensity and duration of the experience of pleasure.

The experience of pleasure and pain is very complex. Sometimes pleasurable experiences lead to painful consequences and sometimes painful experiences lead to pleasurable consequences. Some pleasures are more likely to lead to other pleasures. The fecundity of a pleasure, therefore, refers to the probability that it will lead to future pleasures. Admittedly, the pleasures associated with reading Aristotle's *Nicomachean Ethics* registers low on the intensity scale (it may occasionally even fall into painful zone) and it takes about a week to read it, and therefore it has more duration than sex or pizza eating.

However, the intensity, duration, and fecundity of pleasure are often subject to the laws of probability; that is to say; there is often a quantifiable *likelihood* that some human acts that one would anticipate to be pleasurable turn out to be painful, and some normally painful acts turn out to be pleasurable. Generally speaking, if you like eating pizza, it is usually a reliably pleasurable experience. But sometimes you do overeat and/or get a lousy pizza. Female orgasms are dependent up acquired skills, and therefore are less likely than male orgasms. But females also have the capacity to experience multiple orgasms, whereas males a refractory period between orgasms. The likelihood, of having a child after having unprotected sex is fairly low, depending on whether there is a fertilizable ova present. And, pregnancy can be interpreted as being either good (pleasurable) or bad (painful), depending upon the context. If you do have children, both the pains and pleasures can have a long of duration: your entire lifetime.

Some hedonists distinguish between higher intellectual pleasures and lower physical pleasures. The physical pleasures that typically light up our spinal cord and the inner regions of our brains tend to score high in intensity and likelihood, but rather low in duration and fecundity. Intellectual pleasures involve the pleasures associated with higher-level thinking that result from

exercising the cerebral cortex. These pleasures typically lack in intensity, but often register high in duration and fecundity. I've read Aristotle's *Ethics* 10-15 times and have experienced new (low intensity) pleasures every time. But if you happen to read at a third grade level, the likelihood of you ever "cashing in" on the experience of reading Aristotle is remote. Nevertheless, most (but not all) hedonists argue that "higher" intellectual pleasures are somehow quantitatively superior to "lower" physical pleasures.

Other philosophers, argue that even if it turns out that the higher pleasures are quantitatively inferior to lower pleasures, they are nevertheless, *qualitatively* superior. What exactly this means is beyond my philosophical acumen. Is classical music really qualitatively superior to bluegrass music or rock and roll? Nevertheless, the vast majority of practicing hedonists acknowledge that the "Good Life" ultimately consists in a good mix of both higher intellectual and lower physical pleasures. After all, even philosophers occasionally eat, drink, and have sex. On the other hand, if you live life wallowing like a pig in the lower pleasures, and never experience the higher pleasures, your life will probably be shorter and the variety of pleasures experienced will be very limited. If you neglect the lower pleasures you probably won't have many friends and you'll probably not live very long either.

Finally, the intensity, duration, fecundity, and likelihood of experiencing pleasure can be predicated over the long-term and short-term. There are many pleasures such as smoking tobacco that are highly pleasurable over the short-term, but highly painful over the long term. Other pleasures, such as vigorous physical exercise and practicing violin scales can be painful over the short-term, but tend to pay off over the long run. The basic problem with managing our personal pains and pleasures over the course of our lifetimes is that it is usually much easier to predict the intensity, duration, fecundity, and likelihood of short-term pains and pleasures. Unfortunately, that's why most of us tend to overly indulge ourselves in short-term pleasures like smoking, having unprotected sex, and running up credit card debt, often at the expense of our long-term pleasure.

So, hedonists argue that morality consists in choosing pleasurable consequences over painful consequences. If this is true, the next question we have to deal with is "Whose pleasure counts?" There are two moral traditions *egoism* and *altruism*. Both theories are subject to descriptive and prescriptive philosophical analysis.

Egoism is the hedonistic doctrine that holds that the "Good Life" consists in the optimal experience of *personal* pleasure. Altruism is the hedonistic doctrine that states that the "Good Life" consists in cultivating the experience of pleasure in others. Of course, both doctrines are subject to philosophical debate. Descriptively, we might ask, "Are human beings, in fact, selfish or altruistic by nature?" Prescriptively we might ask, "Is human selfishness and/or altruism good?"

First of all, let's be honest and admit that the descriptive question of whether human beings are selfish or altruistic can be resolved fairly easily based on empirical observation. When we objectively observe human behavior over the long course of history it's hard to ignore the *fact* that we humans do, more often than not, pursue personal pleasure, and often do so at the expense of

others. So let's provisionally designate egoism as the default position. But let's also admit that human beings also often sacrifice personal pleasure, and even endure pain, for the sake of others. But we're much more likely to exhibit altruistic behavior toward our close relatives and friends than toward strangers. Therefore, in human nature we find a lot of egoism and *kin altruism*. Finally, let's also observe that most religions and moral codes encourage their believers to increase altruistic behavior and decrease egoistic behavior. In short, human nature propels us toward egoism and kin altruism while human *culture* propels us toward ideal altruism.

Descriptive egoism states that human beings are, as a matter of fact, selfish and that we are more often prone to serve our own interests than the interests of others. *Prescriptive egoism* takes the view that selfishness morally good. The most cogent defense of prescriptive egoism can be found in Western economics, which is based on the premise that when human beings act out of self-interest, it's good for everyone. Free market capitalism, which is based on reciprocity, provides the most efficient and humane way to distribute resources. When two rationally self-interested human beings cooperate with one another based on mutual self-interest, we call it *reciprocal altruism*. Is that really altruism, or is it just egoism? We'll talk more about that later.

Descriptive altruism says that human beings are programmed by nature, to sacrifice their own self-interest in order to advance the interests of others. *Prescriptive altruism* says that, even if it is true that human beings are naturally selfish, it is not good. Good human behavior, they argue, must intentionally address the pleasure and pains of others. Prescriptive altruism is contingent upon knowledge of what others regard as painful and pleasurable and the capacity to avoid pain and promote pleasure for others. We can't assume that everyone likes pizza.

In sum, teleological theories generally require that we anticipate how pleasure and pain (or, *happiness* or *unhappiness*) will be redirected as a consequence of our actions. Therefore, teleologists, are usually *hedonists* who believe that all morally good acts promote pleasure and that all morally bad acts promote pain. In the social context, the obvious question is whose happiness counts in this *cost-benefit analysis*? Again, an *egoist* believes that moral decisions ought to be based on how one's personal happiness or pleasure is affected by that decision. An *altruist* thinks that moral decisions ought to take into account how other people are affected.

DEONTOLOGICAL THEORIES

There are many philosophers who reject the entire teleological agenda by arguing that moral goodness has nothing to do with generating pleasure, happiness, and or consequences. *Deontological theories* are by definition *duty-based*. That is to say, that morality, according to deontologists, consists in the fulfillment of moral *obligations*, or *duties*. Duties, in the deontological tradition, are most often associated with obeying *absolute moral rules*. Hence, human beings are morally required to do (or not to do) certain acts in order to uphold a rule or law. The rightness or wrongness of a moral rule is determined

independent of its consequences or how happiness or pleasure is distributed as a result of abiding by that rule, or not abiding by it.

It's not difficult to see why philosophers would be drawn to this position. In ordinary life, we often encounter situations where doing our duty toward others does not necessarily increase pleasure or decrease pain. In early nineteenth-century America, many members of the anti-slavery movement argued that slavery was wrong, even though slaveholders and southern society in general, economically benefited from it. Suppose, also that the slaveholders were also able to condition the slaves to the point where they actually enjoyed living under slavery. From a teleological perspective, slavery might appear to be an ideal economic institution. Everybody is happy!

A deontologist, however, would argue that even if the American government conducted a detailed cost/benefit analysis of slavery and decided that it created more pleasure in society than pain, it would still be wrong. Therefore, deontologists believe that right and wrong have nothing to do with pleasure, pain, or consequences. Morality is based on whether acts conflict with moral rules or not, and the motivation behind those acts. An act is therefore, good if and only if it was performed out of a desire to do one's duty and obey a rule. In other words, act out of a good will. Hence, slavery is wrong, not because of its negative consequences, but because it violates an absolute moral rule. The problem here is: "How does one distinguish absolute moral rules from mere convention, prudence, or legality, without reference to the distribution of pleasure and pain?" In the Western tradition there have been two approaches to the establishment of deontological principles: *divine command theory* and *Kantian theory*.

DIVINE COMMAND THEORY

Divine Command Theory states that the moral goodness of an act is based on religious authority. Hence, for many Christians, killing another human being is wrong simply because it violates the God's 6th commandment. In short, the rightness or wrongness of an act is based on the truthful pronouncements of an outside authority, that is to say, "It is wrong because God or one of God's designated spokespersons said it is wrong." Divine command theorists argue that moral rules are universal because all human beings were created by the same omnipotent, omniscient, and omnipresent God. There are several sources of religious authority: personal revelation (God personally tells you the rules), or the revelation of others (God personally tells someone else the rules and they pass them on to you). When we accept the authority of others from the distant past, moral rules are usually encapsulated in ancient sacred texts that allegedly were written under divine inspiration. Rational theological discourse, therefore usually focuses on whether a specific person or group, that interprets this God-given moral rule, speaks with legitimate religious authority. Sometimes, theologians even debate over the authenticity of the sacred texts and/or their meaning. Theologians might also inquire whether acts such as: killing in time of war, killing a fetus via abortion, or executing a convicted mass murderer are violations of "Thou shall not kill?" But they ordinarily don't calculate cost/benefit ratios.

Sometimes divine command theory relies on teleological considerations. For example, many religions also use the omniscient, omnipotent, and goodness of God as a means of rewarding compliance and punishing non-compliance. God rewards believers and punishes non-believers. Sometimes these positive or negative consequences are felt in this life, (in the form of good or bad fortune here on earth); sometimes the consequences are felt in a subsequent life (in heaven, or hell where either eternal reward or eternal punishment is administered by God.)

So even though many of us approach morality from the standpoint of divine command theory, we must recognize that the only possible basis for rational debate is over the actual meaning of the moral rule and authority that sanctions it. Moreover, religion's tendency to rely on the unquestioned authority of religious experts, often leads to unquestioned immoral behavior. In other words, religion does not, and must not, have a monopoly on morality. So beware of those that argue that morality is contingent upon religion and its institutions. If there is such a thing as morality apart from mere convention and prudence, then religion must ultimately be judged based on morality, and not the reverse. Historically, religion has been both a noble servant of morality and an evil purveyor of immorality.

The obvious puzzle here is that in the history of the human race, many religions teach their believers that the tenets of their own particular religion are universally true and everyone else's universally false. Historically, this has contributed to wars over religion and the seats of religious authority. Therefore, I don't believe that morality is contingent upon religion. In fact, I think religious beliefs can be judged based on morality. Yes, there are immoral religious tenets, and immoral religions. Personally, I find it difficult to believe that God would ever command us to kill or subjugate other humans. So there must be some way for us to know the rules of morality apart from the dictates of religious authority.

NATURAL LAW THEORY

In the Western deontological tradition moral rules have also been derived, not only from divine command, but also from the so-called "facts" of human nature. The fundamental assumption here is that moral goodness can be somehow deduced from a set of descriptive, natural facts. This approach has always been attractive because, like divine command theory, it claims to provide an objective and universal foundation. Moral rules based on natural law, like the dictates of science, are portrayed as objective and existing independent of personal, social, or cultural beliefs. Natural law theory (or naturalism) is often invoked in support of divine command theory, secular humanism in the Western Enlightenment tradition, and even evolutionary biology.

The key here is to identify natural attributes that provide the basis for knowledge of moral goodness. We might argue, for example, that human beings are rational by nature and therefore any act that is performed after sufficient and effective reasoning is good. The assumption is that all rational persons will arrive at the same moral conclusions if only they reason properly. Moral disagreements, therefore, turn out to be a conflict between rational and irrational agents. For example, suppose I was to discuss the issue of slavery with a

slaveholder and attempt to convince that person to liberate his/her slaves. If we are both rational, eventually I should be able to convince that person that slavery is wrong. Then again, if I fail, I might decide that either: a.) I did not argue effectively. b.) The slave-holder is simply irrational, and therefore, unable to follow my rational argument. Convinced of my righteousness, I might decide to forcibly liberate his/her slaves. I might even decide that the irrational slaveholder is not a person worthy of moral consideration and simply kill him/her in the process.

Other natural law theorists say that all human beings naturally seek to possess *private property* and therefore any act that interferes with the pursuit or holding of property is wrong. So if you try to steal my guitar, you are violating the natural and moral law that states that I have a right to keep property that I own. The slaveholder might argue that my attempt to liberate his slaves violates his *right* to own private property. I might retort that slaves are not property but persons.

Finally, evolutionary biologists have sought to empirically identify the genetic characteristics that comprise human morality. Typically, they argue that moral behaviors such as kin altruism, reciprocal altruism, feelings of sympathy, and consolation are evolutionary traits that have contributed to human survival.

The basic problem with naturalism is determining which human behaviors or attributes are empirically consistent with our nature. Are human beings really naturally rational? Do we really naturally pursue private property? Are we natural hedonists? Suppose we are, in fact, all three. What happens when those natural impulses conflict? Is it not possible for me to irrationally pursue property or pleasure? What happens if my lifelong pursuit of private property interferes with my personal happiness? Even if we could establish an exhaustive list of natural human attributes, how would one go about deciding which ones can serve as the grounding for morality? After all, one might argue that human beings are also naturally selfish, xenophobic, erotic, sexist, and violent. Some philosophers have attempted to contrast natural acts with unnatural acts, arguing that human beings by reason of rationality, alone are capable of acting unnaturally. This line of argument is often linked to theological premises that blame our propensity to perform unnatural acts on the fact that God granted human beings freedom of the will. Unnatural acts, for example, might be attributed to our failure to subject our free will to other natural constraints such as reason or conscience. However, once we become engaged in the theological debate over freedom of the will, the prospects for arriving at a consensus on a specific moral issue becomes much less likely.

We might also argue that just because human beings are naturally prone to perform certain acts, it does not necessarily imply that those acts are morally good. That is, there may be a difference between a descriptive "is" and a prescriptive "ought." Philosophers call it the "*is/ought gap*." To confuse the two, they argue is to commit the *naturalistic fallacy*. For example, if it is true that human beings are, in fact, naturally selfish, does that fact necessarily imply that selfishness is morally good? If human beings are, in fact, naturally selfish, does that suggest that prescriptive egoism is true? Again, what happens when natural selfishness conflicts with other natural human attributes such as: our natural propensity to live in communities, or possess private property?

Despite its inherent vagaries moral philosophy probably cannot altogether avoid naturalism in the sense that we surely must take into account natural human behavior in deciding what we can reasonably expect in our treatment of one another. Indeed, the history of human moral codes testifies that it is possible to conceive of absolutely binding moral rules, based on natural law, that ordinary individuals, because of their biological or social nature, simply cannot live up to. A moral rule is called *superogative* or *idealistic* if it calls for a level of moral turpitude beyond the reach of us ordinary individuals. Many philosophers argue, for example, that it is simply overly idealist to expect teenagers to refrain from engaging in sexual activity: its natural behavior. However, many deontologists would argue that, just because teenagers find sexual activity pleasurable and pre-marital celibacy to be difficult, if not impossible to live up to, that doesn't mean that the moral rules pertaining to pre-marital sex are invalid. The rule is right. It's their acts are simply wrong.

KANTIAN THEORY

In the Western philosophy deontological ethical theory has been dominated by two alternative theories: *divine command theory* and *Kantian theory*. Immanuel Kant's major theoretical work, *Groundwork for the Metaphysics of Morals*, is probably representative of the most palatable form of secular deontology. It is also rooted in natural law theory.

First of all, Kant argued that morality is only possible in a community of beings that possess the natural attributes of *rationality* and *free will*. Thus, we cannot justly hold someone responsible for his/her actions unless that person is capable of *knowing* right from wrong; and unless that person is capable *doing* right and avoiding wrong. Knowing what's right or wrong is different from doing what's right or wrong. Kant is not sure whether or not human beings do, as a matter of fact, possess the attributes of rationality and free will, but he is certain that morality is impossible without those attributes. I think he's right. Attempts to reconstruct morality by avoiding rationality and/or free will are, at least in my view, woefully incoherent. But I digress...

Recall that deontological theories avoid both consequentialist reasoning and hedonism, in favor of a duty-based system of rules. Now Kant acknowledged that human beings do, as a matter of descriptive fact, pursue pleasurable consequences in their life. And he also observed the fact that, through personal and collective experience we can discover general rules that maximize pleasure and minimize pain. Recall my earlier discussion of rules of prudence: "Look both ways before you cross the street." It's certainly a valid prescription that you ought to follow. But just because you look both ways doesn't mean that you are a good person. Abeyance to the rules of prudence that govern the distribution of pain and pleasure has nothing to do with morality. Hence, Kant distinguishes between the rules that govern pleasure, which are relative to the tastes and inclinations of particular individuals; and the rules that govern morality.

Rules of prudence take the form of hypothetical imperatives. If A then B: "If you like chocolate ice cream, go to Graeters and buy it." Moral rules, however, are not contingent upon our individual interests, wants, or taste. They

are universal. The hallmark of Kantian morality is its alleged *universality*. But how does one go about identifying these universal rules of morality? Well, Kant argued that we need to apply a rule, which he called the *categorical imperative*. Categorical imperatives take the form “Do A.” You do it not because of any pleasurable consequence, but because it’s the right thing to do. It is your moral duty to abide by any particular rule that is consistent with the categorical imperative. In the *Groundwork* Kant offers us several different formulations, including: “always act on universal principles” and “always treat persons as ends and never as means.”

Now what does Kant mean when he says that we ought to act on universal principles, or rules? Well, a good way to start would be to ask the following question. “Could I rationally prescribe that rule to apply to all persons, in all times, and in all places?” Take for example the rule: “Look both ways before crossing the street?” Now clearly, in our automobile-based society the highways would be very unsafe if no one “looked both ways.” But, note that what makes this a valid rule is the presence of automobiles and the potential for being struck by them, and the painful consequences that flow from all that. Therefore, this is really a hypothetical imperative, “If there are cars around, look both ways.” If you live in a society of pedestrians, the rule makes no sense.

Let’s try another rule. How about the rule: “Always keep your promises.” First of all, we know that human beings have always made promises. We also know if everyone makes promises, but they never keep promises, the whole concept of a promise is derailed. Or suppose you know that human beings only follow the rule: “I keep my promises, if and only if, keeping that promise increases my own personal pleasure, or the pleasure of most persons.” If I ask you for a loan, and if you knew that promises are subject to hypothetical conditions, would you lend me \$20 based on my promise to repay you? If you knew that no one ever keeps their promises, would you still float me that loan? The basic idea here is that the idea of a promise carries with it duty to fulfill it. But what happens if I simply cannot repay that loan, even though I promised to pay you back today? Am I a bad person?

For Kant, and all deontological theorists, the morality of human action cannot be separated from intent. Morally good actions arise out of good intentions and morally bad actions arise out of bad intentions. Deontologists say that morally good actions are brought about by a *good will*. For Kant, a good will is a will that molds itself in conformity to these absolute universal moral rules. So if I make a promise that I intend to keep, but circumstances impede my ability to keep that promise: say I get hit by a car and cannot afford to pay back the loan. If I intended to pay back that loan, and later regretted that I could not do it, then I might be morally “off the hook.” Suppose that you I do, in fact, pay back that loan, but not because it’s the right thing to do, but because I knew that if I didn’t pay you back, you would stop by my house and beat the crap out of me? Morality cannot be based on fear of getting caught!

Hence, this gives rise to another useful Kantian distinction. He argues that there is difference between a “good person” and a “good citizen.” A good person follows the dictates of the categorical imperative, and therefore, acts in conformity to universal moral rules that hold true at all times in all places. A good person does not worry about pain or pleasure, and does not engage in

cost/benefit analysis. He/she acts out of a good will. You do not have to threaten good persons to do the right thing.

In contrast, a good citizen does the right thing purely out of fear of getting caught. I chose to pay you back only because I wanted to avoid the pain associated with getting beaten up. Note that if I believed that I could effectively defend myself, or hide from you, I might choose not to pay you back. A society comprised entirely of good citizens requires clear laws, monitoring for compliance, and the effective enforcement of those rules. But a society of good persons would not require monitoring and enforcement. No one would break promises, steal, or murder. We wouldn't need a police force, judiciary, or prisons. Sounds great!

The problem here is how does one go about creating a society comprised of good persons? I think at any given time and place, a certain percentage of human beings are "good persons," that do what's right without having to be threatened. I will never murder a student. But it's not the punishment that deters me from killing. If it was legal, I still wouldn't do it. If the law required me to kill students caught cheating, I still wouldn't do it. Killing students is just wrong. On the other hand, I am prone to violate local speed limits when I suspect that there are no policemen around to exact a fine. Interesting, the last five times I've been caught speeding the policemen gave me warnings and not tickets. Why? Prudence, I try to be extraordinarily respectful and friendly to policemen, and they usually reciprocate by not ticketing me. Try it out!

Another formulation of the categorical imperative says to "always treat persons as ends and never as means." What does that mean? Recall that all teleological theorists distinguish between means and ends. In general, good ends justify the means by which those ends can be realized. Of course, rationality of action depends on weighing the quantity of pleasure derived from achieving the end against the cost of pleasures sacrificed as means. Kant argued that this cost-benefit analysis works well enough for the amoral world of pleasure, but it fails miserably as a foundation for morality. That's because all human beings are rational agents in possession of free will, which bestows upon us infinite value. Therefore, it turns out to be irrational to sacrifice the happiness of a single individual or a minority group in order to make a majority happier. In other words, we cannot treat human beings as if they are *things* or *property* to be sacrificed in pursuit of pleasure.

The easiest way to understand what Kant has in mind is to focus on the Kantian imperative stating that we must "always treat persons as ends and never as means." He suggested that it's best to think of humanity as if it were a "kingdom" composed of "ends;" that is a *kingdom of ends*. When we treat persons as means to our own ends we essentially de-humanize them and devalue them to the level of mere things or property.

Actually, I think most libertarians respect Kant, but find his philosophy to be other-worldly and impractical. It's easy to talk about universal moral rules in the abstract, but it's hard to find many of them in the real world. But many libertarians do rely on that deontological rights-based framework.

HUMAN RIGHTS

The concept of a right is an outgrowth of eighteenth-century Western Liberalism, which is based on natural law. Most historians look to John Locke and Immanuel Kant for the foundations of right-based morality. The idea back then was to buttress moral, political, and social arguments by insisting that at least some moral claims naturally demand the unquestioned recognition of others. Hence, rights are contrasted with privileges, personal ideals, and optional acts of charity, which do not require universal and absolute conformity. As you may have noticed, many contemporary issues in the United States focus upon purported rights: the right to life, right to die, right to privacy, right to bear arms etc.

To deontologists, a moral right implies an inviolably universal claim. However, rights cannot be construed as exceptionless unless we can also establish a corresponding universal exceptionless duty on the part of others. The absolute right to life, for example, is meaningless unless we can also affirm an absolute duty on the part of others to refrain from killing. However, that duty is often suspended, especially in cases of self-defense. Moreover, rights often conflict with other rights: as in the case of abortion where the fetuses' *right to life* may conflict with the mother's *right to life*, or *right to privacy*. Therefore, some deontological philosophers conclude that rights are best construed as *prima facie* universals, in the sense that they are to be treated as universals unless they conflict with other universals. Hence, it is a universal moral rule to tell the truth, but sometimes telling the truth might result in harm to innocent persons. Since we cannot always be completely truthful and protect innocent lives at the same time, we must choose which moral rule to uphold. Intuitively, we would probably agree that protecting innocent lives is more important. But I'm not sure why. Are you?

So when deontologists invoke the language of rights, they necessarily also invoke duties (or obligations) on the part of others. A *positive right* is a right to actually "possess" something or achieve some worthwhile goal. A positive right, therefore, asserts an obligation on the part of others to actively assist. For example, in the United States, the right to an education implies the duty to provide for public schools. In contrast, a *negative right* is a right to "pursue" something or do something. A negative right merely entails an obligation on the part of others to refrain from interfering in that pursuit, but it does not necessarily oblige us to assist. If a person has a positive right to say medical care, then health care professionals and/or society have a positive obligation to fulfill that that right. If a person has only a negative right to health care, health care professionals and/or society merely have an obligation not to interfere in an individual's pursuit of health care in a competitive economic environment. In general, libertarians are exclusively devoted to negative rights and egalitarians are committed to at least some positive rights.

Most philosophers argue that rights and their corresponding duties must somehow be grounded. That is to say that, there must be some *sanction* or *enforcement* associated with that right. Divine command theorists ground human rights in the word of God, and threaten noncompliance with the wrath of God. (Unfortunately, God doesn't always punish evildoers on earth, although he may

have something in mind for later on!) Natural rights theorists ground human rights in natural processes and warn of impending natural consequences for rights violations. Hence, if we do not take care of the earth, nature will retaliate with ecological disaster. (Unfortunately, Mother Nature doesn't always punish wrongdoers in a timely fashion.)

Philosophers have also attempted to ground rights in either a legal system or in a moral system. *Legal rights* are enforced by the power and authority of the government, and therefore, violation of a legal right usually carries with it a *legal sanction* or punishment. If you steal my guitar and get caught the government will throw you in jail! Of course, enforcement of legal rights depend on the state's ability to find the wrongdoers and punish them

Moral rights are usually enforced by publicly invoking *praise* and *blame*. We praise individuals for morally good acts and blame them for transgressions. We identify models of moral behavior and encourage others to emulate that behavior. Conversely, if you steal my guitar, and get caught the community will blame you and perhaps ostracize you. Moral rights enforced only through moral sanctions are, obviously, rather precariously perched since many unsavory individuals are impervious to public condemnation. Not everyone has a conscience and corresponding feelings of guilt. That's why many of the most important moral rights, such as the right to private property, and the right to life are also protected by legal sanctions. On the other hand, there are also many laws on the books that violate widely held moral beliefs. After all, slavery was once legal in the United States. It is now legal for politicians to accept campaign donations from major corporations. Is that morally acceptable? The relationship between legality and morality is philosophically intriguing.

In summary so far, moral theories are highly generalized beliefs that explain why some of our actions are good, while others are bad. Moral principles are lower level beliefs that are more or less universal. These principles can be justified based on either teleological theories, deontological theories, or both. There are five moral principles that all human societies, in all times, and in all places, employ in their moral decision-making, they are: liberty, beneficence, non-maleficence, utility, and justice. Moral dilemmas arise out of the fact that it is often the case that fulfilling one moral principle often conflicts with one or more other principles.

VIRTUE-BASED MORAL THEORIES

Most of the discussion so far in this book has related to moral theories that were articulated in the late eighteenth century. But moral theory has been around a lot longer than that. In the Western world (and the Eastern World) there is a venerable system of moral reasoning based on the idea of virtue. Let's call those various systems *virtue-based moral systems*. In the history of Western moral theory, there are two different types of virtue-based systems. The non-secular line of inquiry relies on divine command theory in order to discern moral virtues from vices, as illustrated by the Judeo-Christian moral tradition. The secular line of inquiry relies primarily on reason and experience, and not divine

command theory. It goes back to the ancient Greeks, via the writings of Homer, Hesiod, Plato, and Aristotle. The particular virtues espoused by non-secular and secular theories are often contradictory; therefore it's hard to discern the common thread that binds these two virtue-based systems. But I'll try.

First of all, all virtue-based systems tend to elevate community over individuals. Therefore, they tend more toward *communitarianism* than *individualism*. Secular virtue-based systems usually identify communities with political regimes. In the case of the Greeks, it was the city-state. Judeo-Christian non-secular virtue-based systems theorists identify with religious communities.

For both the non-secular and secular traditions, the virtue of something refers to its excellence: something that performs its function well. So anything subject to degrees (good, better, and best etc.) has its virtue. Hence, virtue determines status within a prescriptive hierarchy. Although we can talk about the virtue of a specific kind of computer over others, the Greeks most often referred to virtue as excellence of human character and behavior. Aristotle differentiated between two spheres of human activity that are governed by virtue: the intellectual sphere and the social or political sphere. *Intellectual virtues* reflect excellence of thought (wisdom etc), while *moral virtues* reflect excellence of human behavior (courage etc.) Hence, Aristotle, a hedonist, envisioned two alternative paths to human excellence and consummate happiness: the intellectual life of the philosopher-scientist and the social life of the politician. It's not clear which road to the good life that Aristotle valued more.

All virtue-based moral systems focus on big questions such as: "What is the 'Good Life?' And "How do I go about living the 'Good Life?'" Therefore, they tend to focus on how to live one's life, over the long run, rather than how to address particular issues that pop up at any given time. In short, virtue-based systems focus on character development within harmonious communities. These systems also tend to rely on moral exemplars, or role models. Once a person has internalized the virtue of kindness, then that person will exemplify that virtue in his/her actions.

All virtue-based moral systems differentiate between virtues (good behavior) and vices (bad behavior). Ultimately, non-secular virtue-based theories differentiate between virtues and vices based on religious authorities, usually traced back to the authority of the Bible and/or its official interpreters. The Christian authorities have identified *faith*, *hope*, and *charity* as its primary virtues. If you pursue these ideals over the course of your lifetime, you'll lead a "good life."

Aristotle believed moral virtue consists in choosing the mean between the extremes of excess and deficiency within any given sphere of action. The vice of excess consists in choosing too much of a good thing and the vice of deficiency consists of not enough. Excellence is found midway between the two. For example, the virtue of bravery can be found midway between the vices of cowardice and foolhardiness. Today bravery is most often confused with foolhardiness. Obviously, an excellent army must have brave soldiers that are not afraid to die. But the purpose of going to war is to kill the soldiers in the opposing. An army of foolhardy soldiers will not last any longer than an army of cowards.

Below is a list of Aristotelian virtues, their respective spheres of action and their corresponding vices.

ARISTOTELIAN VIRTUES AND VICICES

SPHERE OF ACTION	VICE OF DEFICIENCY	MEAN OR VIRTUE	VICE OF EXCESS
Fear	cowardice	courage	foolhardiness
Pleasure and Pain	insensibility	temperance	self-indulgence
Acquisition (minor)	tight wad	liberality	spendthrift or prodigality
Acquisition (major)	undue humility	pride or proper ambition	undue vanity
Anger	unirascibility	patience or good temper	hotheadedness
Self-Expression	Self deprecating	truthfulness	boastfulness
Conversation	boorishness	wittiness	buffoonery
Social Conduct	cantankerous	friendliness	obsequiousness
Exhibition	shamelessness	modesty	shyness
Indignation	spitefulness	righteous indignation	envy

Hence, moral virtue, according to Aristotle, is a character trait; a disposition of an individual to act in a certain way, under certain circumstances. These circumstances usually involve how we respond to emotional states via the exercise of reason. These habits or dispositions are cultivated via social and political institutions, especially institutions of education. The idea is to encourage desirable habitual behaviors (virtuous) behavior and discourage undesirable (vicious) behaviors. The actual standard of the virtue of courage varies between individuals and in different kinds of situations involving fear. For example, under conditions of war, the standard of courage would be different for soldiers and policemen, on the one hand, and civilians on the other. I'm sure Aristotle would have argued that men are more likely to be courageous than women, however, I think that's wrong. It would be irrational to expect soldiers and civilians to act the same way under battle conditions. There are dangerous situations in war where certain responses are indicative of a foolhardy character. Courageous soldiers retreat in those situations. There are also situations where cowardly soldiers retreat, without just cause.

Moral education must begin at an early age and consists in developing the habit of choosing the mean between the extremes. Moral character is, therefore, cultivated in children by teaching them to emulate the behavior of virtuous adults. A child becomes virtuous when he/she habitually does the right thing and experiences pleasure upon doing it. Although knowing what the right thing to do is a necessary condition for virtue, it is not sufficient. You must also be able to "do the right thing." Hence, Aristotle made a distinction between virtue and mere continence, or "weakness of the will." An *incontinent* person knows the right thing to do, but is unable to do it because he/she is driven more by base feelings than reason. A *continent* person knows the right thing to do and even succeeds in doing it, but he/she does not feel pleasure upon doing it. In

contrast, a virtuous person is not driven by base feelings and therefore feels good upon doing the right thing. An adult habitually prone toward excess or deficiency has a vicious character and will always act that way. Aristotle did not believe that vicious adults could be easily rehabilitated into virtuous adults. Send the bad guys to prison in order to protect us from their excesses, and to enforce justice. But don't waste time and effort trying to rehabilitate them. That's why both Plato and Aristotle were advocates of rigorous childhood moral education.

The Greeks favored a *republican* form of government, modeled after the Greek city-states where the early communitarian philosophers like Plato and Aristotle lived. Republicanism according to the Ancient Greeks requires the cultivation of a common set of virtues, or character traits among its citizens. So in contrast to liberal democracies where "the right precedes the good," in a republic, "the good precedes the right." Republican communitarians, therefore, seek to promote standards of excellence consistent with the good of the whole community. Aristotle's *Nicomachean Ethics* was probably the first systematic exposition of a secular virtue-based ethical system. Here are a few more tidbits.

First of all, it is important to note that Aristotle is a hedonist and therefore, he thought that the end or goal of all deliberate human action is pleasure, or happiness. Not pleasure in the immediate present but pleasure over the course of one's entire lifetime. A good person experiences pleasure at the right time, place, and degree. Aristotle also distinguished between *higher pleasures* and *lower pleasures*. Lower pleasures (eating) are those pleasures that animals are capable of enjoying, while higher pleasures (reading philosophy) are pleasures that can only be appreciated by rational human beings. Rationality, unfortunately, is not distributed equally among human beings. Some of us are only capable of experiencing the lower pleasures, while others (usually the upper classes) can experience the higher pleasures.

While the Greeks favored Aristocracy as a form of government, some recent communitarians advocate cultivating character traits that are essential for participation in democratic self-government. For example, they argue that democracies must cultivate civic virtues such as friendship and caring in children in order to prepare them to cooperate in a communal setting. They argue that when children are raised in a culture based on unbridled self-interest, meaningful communal relationships become difficult to sustain.

Finally, virtue-based moral systems share one common feature with teleological and deontological moral systems: they are subject to human inquiry. Therefore, there is a lot of variation within that broad framework. There is very little consensus among virtue-based ethicists as to the nature of the Good Life, what specific virtues comprise the Good life, and how to go about teaching virtue. However, don't get me wrong! This is not intended as an indictment of virtue-based moral systems, but rather a more general observation pertaining to all moral systems. As I stated from the very beginning of this book: Do not fall for the now fashionable argument that living the good life is easy, or that the study of ethics is easy. You can spend your entire lifetime questioning and answering these kinds of questions, and as you grow older you will no doubt change your mind many times over. Despite all this, I do think that moral

inquiry will invariably revolve around the moral theories and principles discussed in this book.

CHAPTER II

THE PRINCIPLES OF BENEFICENCE AND NONMALEFICENCE

INTRODUCTION

To many philosophers, beneficence and nonmaleficence are almost synonymous with morality. In ordinary language, the term *beneficence* (or sometimes called *benevolence*) indicates an obligation to "advance the most important *interests* of others and remove *harms*;" that is, to perform acts of mercy, kindness and/or charity. Exercising beneficence can consist in either providing a person(s) with something good, preventing something bad, or the undoing of something already bad. It is usually construed as a teleological principle calling upon us to increase pleasure and reduce pain in others. In order to perform an act of beneficence you must expend something on behalf of another person, usually time, energy or resources. The principle of *nonmaleficence* (or, the harm principle) refers to the moral obligation not to unjustifiably harm others. Before we can make much sense of these fundamental principles, it is essential that we examine the two concepts that are a part of their common conceptual framework: that is, the concepts of *interests* and *harms*.

INTERESTS AND HARMS

As Joel Feinberg has suggested, *interests* are "anything we have a stake in." Obviously human interests can be of greater or lesser value. In fact, philosophers often distinguish between interests that are mere *wants* (or desires) and *needs* (or essentials). Harms consist in the invasion of an interest, which suggests that harms can also be evaluated as greater or lesser. Although I may *want* a new electric guitar, to add to my collection, it's not really a need. Why? Because I am not really harmed very much if I do not get one! On the other hand, if I was a professional guitar player and my only guitar was stolen, I'd need to get another one. Why? Because, everyone has a substantial interest in earning enough money to meet their needs, and a guitar player cannot make a living without a guitar. Admittedly, there is a certain degree of malleability involved in drawing the line between wants and interests, but we really do all share a common set of needs. As Bernard Gert has argued, generally speaking, we all have a major interest in staying alive; being relatively free of physical and psychological pain, and being relatively free of disability. Conversely, we all agree that *death*, *pain*, *disability* and *loss of pleasure* are harms, and that all rational persons seek to avoid these harms, unless they have a good reason not to avoid them. The moral principles of beneficence and nonmaleficence require a relatively clear philosophical distinction between wants and needs.

The principle of beneficence implies that assisting others in securing their most important interests (needs) and removing harms is good. It is also nice to help secure their less important interests (wants), but generally speaking, we

are not morally required to help others secure mere wants. So I don't have a moral obligation to wash your car this weekend as an act of beneficence, but if you show up at my house hungry, I'll gladly feed you! But it probably won't be "surf and turf."

If some interests are greater than others, then obviously, some harms are greater than others. Rational human beings naturally seek to avoid suffering major harms by risking lesser and/or improbable harms. For example, I got the flu shot this year. It hurt for a couple of days. It took about a half hour of my day that I could have spent reading or playing guitar. But it was a rational decision. Why? Who wants to be sick for two weeks? An irrational person, however, often risks high probability major harms, for reasons that most rational people do not find particularly convincing. Suppose I know that I get the flu every year but I refuse to get the shot because I'm afraid of needles. Is that a good reason? Is it irrational? Is it irrational for a person to knowingly have unprotected sex with a person infected with the AIDS virus? Hint: Does it make sense to risk contracting a deadly, highly contagious disease in order to experience a few seconds of intense pleasure?

So all human beings take risks in order to realize their most important interests and avoid major harms. Rational persons take into account the magnitude of the interests at stake and the probabilities of suffering harm. Irrational persons have unprotected sex with strangers and risk contracting a life-threatening disease, in order to experience a rather intense experience of pleasure for a few seconds. It's easy to talk about needs and wants in the abstract, but the fact of the matter is that we do not always know what our own interests are, nor do we necessarily know how to attain them. If we do not always know what's in our own best interests or how to attain those interests, we know even less about the interests of others and even less about how to attain those interests.

Now, what does all this say about beneficence? Given the fact that we are often confronted by individuals who find themselves in need, (or at least they believe that we are in need), how much of my time, effort, or resources am I morally required to risk (or sacrifice) in order to fulfill those needs? Are there times when I might be morally required to impoverish myself (and my family) in order to fulfill the needs of others? Suppose that I meet a street person downtown, and discover that he/she is desperately in need of expensive dental work. Let's say a root canal. Am I morally required to provide it, even if it means taking out a loan? Am I a bad person if I do not help out? So what are the limits of beneficence?

As it turns out, this issue is enormously complex. Some philosophers follow Kant and differentiate between *perfect duties* and *imperfect duties*. *Perfect duties* are duties that are absolutely morally binding and require one specific action in order to be fulfilled. For example, I have a perfect duty not to unjustly kill other human beings. It requires one specific course of action: NOT killing another person without a good reason. *Imperfect duties* are also absolutely binding, but their fulfillment is subject to our own individual circumstances and choices. Hence, in the case of the homeless person with a toothache, I might fulfill the requirements of beneficence by referring that person to an appropriate governmental agency; or, in the very least I might

decide to buy him a bottle of Tylenol. If I were a successful dentist, I could choose to provide those services as an act of personal charity, or refer him to a friend that does pro bono dental work. But is it immoral to do absolutely nothing?

Once you discover that this homeless person has dental problems, it dawns on you that others might have that same problem. Are you morally required to canvass the city looking for others in need of dental work? What do you do if you discover that there are fifty homeless persons with serious dental problems? Does knowledge of needy persons, automatically require beneficence? How much of your personal time, energy, and resources are you morally required to expend? If you cannot help everyone, how should you decide who to help? How would you decide? Would it be unfair to help some and not help others? And finally, what if someone has a life-threatening tooth infection but they refuse your offer of assistance? In other words, does the exercise of beneficence require other principles such as utility, justice, and liberty?

There's also a coterie of other well-known problems associated with beneficence: most notably its tendency to generate unanticipated consequences. Here's a basic question for you. If you are in need and if you have a choice between: A. Expend your own time, energy, or resources to meet that need; or B. Expend a benefactor's time, effort, or resources. Would you choose A. or B.? When Hurricane Katrina struck the gulf coast, armies of beneficent volunteers flocked to Louisiana to help with the cleanup. If your property was damaged and would you rather pay an unemployed person from Louisiana to help clean up, or get a bunch of beneficent high school students to do it for free? What would you choose? Duh...Let me guess.

It is a well known fact that at least some acts of beneficence foster habitual dependency upon benefactors. When offered assistance human beings, naturally, reallocate their own time, energy and resources. That is inevitable when your act of beneficence saves someone time, energy, or resources. But you may not agree with their reallocation. They may choose to spend their savings on more cigarettes, alcohol, or lottery or tickets. At least some persons on Food Stamps buy unhealthy foods: pop, snacks, and foods high in saturated fats. On the other hand, they might also donate their savings to their church or another charity rather than stave off future dependency.

Human beings form habits. Once we accept the assistance of a benefactor, we reorder our lives and form new habits. Let's face it! Unemployment can be habit forming, especially if you are unskilled: so can watching television and hanging out with your unemployed friends. In short, sometimes we need an incentive to work, and sometimes beneficence undermines those incentives. On the other side of the equation, there are some highly beneficent individuals that expend an extraordinary amount of their time, energy, and resources doing charitable work. Sometimes charitable work can interfere with other obligations toward one's own family and work. Is it really good to spend all of your time at the food kitchen when your children need help with their schoolwork? Sometimes when you expend your time, effort, and resources in pursuit of beneficence, at some later point in time, you may find

yourself unable to meet your own needs. Therefore, beneficence can at least sometimes, contribute to future dependency and reliance on benefactors.

There is also a cluster of problems associated with knowing exactly what to do in order to exercise beneficence. Are you really helping an alcoholic if you give him money? Does unwittingly contributing money to an inefficient charity really constitute beneficence? How much research effort should I expend before contribute to any given charitable organization? Similarly, how well should I know the person that I'm attempting to help?

In general we tend to exercise beneficence toward our relatives and friends much more often than we exercise it toward strangers. We're all egoists at heart. Hence, we all are more likely to spend our time, energy, and resources padding the wants and desires our relatives and friends, than we are likely to expend our time, effort, and resources in meeting the needs of strangers. Therefore, it's pretty difficult to acculturate beneficence toward strangers, especially when they live on the other side of the world and do not look like us or act like us. Unfortunately, some of the neediest persons on earth live on the other side of the world in places where it is extremely difficult and expensive to provide assistance. So sometimes, beneficence conflicts with utility.

Nevertheless, we still teach our children to be more beneficent toward strangers. Indeed, that's why the major religious traditions teach us to "love thy neighbor." But are there limits to what we can realistically expect out of acculturation? Even if we could manufacture a society of generous benefactors, would that necessarily, be a good society? Do we really want to live in a society of dependents supported by benefactors? Does the mere presence of benefactors spawn more and more potential beneficiaries? If so, is the elimination of poverty by encouraging beneficence a viable long-term strategy for the elimination of poverty.

The libertarian view on beneficence is fairly clear cut. Since we are all owners of our time, energy, and resources, it's up to us individually to decide how we allocate those things. Ownership trumps everything. I own my body, which sometimes provides me with an advantage in the pursuit of my interests, and sometimes it provides a disadvantage. Sometimes my interests do not match up very well with my natural advantages. Even though I'm only 5'9" I suppose I could have pursued a career in the NBA, even though I've never exhibited one ounce of natural ability in that area. I have some natural talent for playing music, but I'm not anywhere near as talented as most professional musicians. If I had chosen to spend my life in pursuit of playing guitar, rather than teaching college, I would be competing under a decided natural disadvantage, and consequently, I would probably be unable to meet my own needs, let alone the needs of my family.

It is important to acknowledge that libertarians have an optimistic view of human nature. All of us are endowed with natural advantages. It's up to us to choose to compete in areas where nature has given us a leg up. In short, poverty can be often traced back to bad decision-making: failure to discover, develop, and cash in on our natural endowment. Unfortunately, some of us have natural talents, but choose not to develop those talents. But again, it's your life.

It is also true that some of us are also saddled with profound disabilities that prevent us from cultivating our abilities. At least some of these

persons will be dependent upon beneficiaries for their entire life, such as some quadriplegics, and persons with profound brain damage. (Human being in comas may or may not be persons.)

There will always be a few persons that really need our help, primarily children and persons suffering chronic disease. Libertarians, like everyone else, are willing to donate their time, energy, and resources in order to advance their most important interests. The main difference between libertarians and everyone else is that they are more likely to exercise beneficence more efficiently, and try to help out only those who really need help. They are also profoundly averse to governmentally-funded beneficence, which is notoriously inefficient and less likely to serve those who are truly in need.

So libertarians are free to discuss beneficence with one another and make suggestions to one another as to which individuals need help and how to help them. They can choose to form or participate in collective acts of charity. For example, we might decide to pool our resources and form a charitable organization to provide dental care to the needy. On the other hand, you might decide to give to a college or university, hoping to reduce future dependency.

Again, libertarians have a lot of faith in human nature. Although we are programmed by selfish genes, human beings are also biologically programmed to experience feelings of sympathy toward others that are in need. Therefore, as individuals most of us are both selfish and fairly beneficent. But we are not unmitigated altruists either. We do feel good when we help out others. Libertarians also acknowledge that there is a darker side to human nature. We can't deny the indisputable fact that many individuals simply do not need our assistance and that many charities are bogus and/or inefficient. That's why it's never a good idea to give to charities that contact you over the phone or over the Internet. Some of them might be worthwhile, but you have no easy way of knowing which ones are legitimate. I think morality calls upon us to exercise beneficence toward individual persons that we know something about, and that we ought to support charities that we know something about. We should also be mindful that charities target different beneficiaries. The Special Olympics, Make a Wish Foundation, and the International Red Cross all try to do good things for different populations. Even if these charities were equally efficient (which is not the case), it would not be easy to decide which one to support. But if you choose to spend your time, energy, or resources in the service of persons (or non-persons) that are not in need or if you choose to support inefficient or bogus charities, you can do that too.

Every year I give a modest sum to my Alma Mater the University of Kentucky, because I know that it does a lot of good by providing educational opportunities. It's probably not as efficient as a private university, but I am confident that it is pretty efficient. But in the end, the fact is I own my money. I also donate old clothes to several charitable organizations, but honestly I don't really do it out of beneficence. I'm mostly interested in getting rid of unwanted garments that don't fit any more. I don't pat myself on the back, or brag about it. I don't deduct that stuff from our income taxes.

Human beings form a wide variety of organizations to serve a wide variety of purposes. We often pool our resources and form beneficent organizations. Local, state, and federal governments also provide beneficent

assistance via Medicare, Medicaid, and Food Stamp programs. Local governments provide, things like free health clinics, etc. Libertarians believe that, in general, private individuals and organizations are more efficient providers of beneficence. Most governmental attempts at providing beneficence are wrought with inefficiency and fraud. The most salient reason for this inefficiency is that governments spend other people's money and therefore are less likely to demand efficiency. Private charities are also inefficient, but are less likely to be inefficient for very long. When the inefficacy of private organizations is exposed, benefactors naturally withdraw their money and invest in other charities. When was the last time you withdrew your tax dollars? Governmental inefficiency is well documented. Look no further than FEMA's less than beneficent response to Hurricane Katrina or the government's less than beneficent efforts to rebuild Iraq. Libertarians do not argue that government ought to steer completely clear of charity. Government can certainly help the rest of us by exposing deceptive and/or inefficient charities and by prosecuting fraudulent charities.

So the libertarian vision of beneficence is that American society is better off with a wide variety of privately beneficent organizations that compete with one another for our donations, rather than one single governmentally supported monopoly, like FEMA or even the Red Cross. In fact, when we pay taxes to support these governmentally funded organizations, we often mistakenly believe that we've fulfilled our moral obligation toward those in need. But all we've really done is perpetuate these notoriously inefficient monopolies that waste tax money. And unfortunately, there is also another unanticipated consequence. The more we rely on government to serve the needy, the less inclined we are to contribute to private charities. The higher the tax rate, the less disposable money we have to invest in pursuit of our own self interest and the interests of others. In other words, governmental beneficence not only wastes money, but it also has the unanticipated consequence of undermining private beneficence. But then again, let's not assume that beneficence is a worthwhile social virtue. It may be the case that, over the long run, it causes more harm than good.

Finally, and perhaps most controversially, sometimes the best thing we can do for others is pad our own interests. What do you think would do more good for New Orleans? A. Spending a week sleeping in a tent, eating bologna sandwiches, drinking bottled water, and volunteering to clean up debris from the streets: or, B. spending a week staying in expensive hotels, eating in restaurants, gambling, drinking in bars, attending concerts, and buying souvenirs? I think many ideal altruists have a rather distorted view of economic activity. Most economists would agree that the best thing we can do for New Orleans is come down and spend our hard earned money in support the local businesses. In short, self-motivated acts can generate a lot good for others. So go to New Orleans and buy lobster tails, and perform an act of beneficence toward local fishermen.

NONMALEFICENCE

The principle of nonmaleficence says that, in general, it is morally wrong to inflict harm on others. That sounds simple enough, but it turns out to be enormously complicated given the fact that assisting others often consists in the infliction of a lesser and/or improbable harm in order to avoid a major immanent harm. Let's call these often unknown harms "side-effects." Hence, the best definition of nonmaleficence is probably the following: "*Do not cause other persons to die, suffer pain or disability, or deprive them of their most important interests, unless you have a good reason.*"

It is a timeless and universal Truth supported by both morality and legality that harm to others requires a good reason, or justification. There is a consensus among all human cultures at all times and all places that *self-defense* provides ample justification. In fact, we don't have to be taught to defend ourselves. We do it quite naturally, thanks to that selfish gene. However, we can be taught to do it more efficiently. But self-defense as a justification for harm to others is contingent upon true beliefs, namely that there is (in fact) a *threat* present, and that killing, inflicting pain, or disabling the alleged aggressor is the most efficient way to escape that threat. Of course, we can easily make mistakes about the degree of threat, the necessity for inflicting varying degrees of harm, and even the identity of the purveyor of a threat.

When I was a child, I was awakened in the middle of the night by a strange man sleeping in the bed in the bed next to mine. I went downstairs and told my parents. Of course, they didn't believe me because I had a longstanding reputation for sleepwalking and confusing reality with dream states. (Some say I still have that problem.) Anyway, my mother finally sent my father upstairs to prove to me that I was only dreaming. When he opened the door, there was a stranger asleep in my room. As it turned out this guy was no threat. He was just a drunk that had stumbled into the wrong house. (We didn't lock doors back then.) My dad, being a big strong man, picked him up by the seat of his pants and his shirt collar, carried him down the stairs, and threw him out the front door. He really didn't hurt him. As I look back, I'm sure that he could have inflicted serious harms on this guy. He could have beaten the guy to a pulp, or even killed him. He could have also called the police, which probably would have meant jail time for the guy and/or a hefty fine.

We never heard anything about this guy again. He probably lived somewhere in the neighborhood in a similar house. To this day, I'm not sure if dad did the right thing or not. He made a quick decision, decided that the intruder was no threat, decided that violence was unnecessary, and he decided not to get the police involved. But he could have been wrong. This could have been an armed serial killer that intended to kill all of us. He could have been a lifelong alcoholic with a history of spouse abuse that would have benefited from police intervention. The point here is that when we act out of self-defense we do not always have all the information that we need in order to make a perfectly rational, legal and/or moral decision.

Nonmaleficence is often violated under the guise of preemptive strikes, which are notoriously problematic, not only at the individual level, but at the collective level. In general, I'm in favor of laws that permit individuals to carry concealed weapons, but I'm also well aware that not everyone is well-skilled at assessing threats. We are now embroiled in a bloody war because our President

mistakenly believed that Iraq was in possession of “weapons of mass destruction,” and would eventually use them on us. As it turned out, this preemptive strike was based on imperfect information and thousands of civilian lives were lost, not to mention American and Iraqi soldiers. In short, preemptive strikes in the service of self-defense can often violate the principle of nonmaleficence.

Finally, the principle of nonmaleficence, invariably conflicts with other principles, especially: beneficence, utility, liberty, and justice. For now, we’ll move onto the principle of utility, but keep in mind that morality often involves multiple principles that often conflict in the real world. If anyone tries to tell you that ethics is easy, don’t listen.

CHAPTER III THE PRINCIPLE OF SOCIAL UTILITY

INTRODUCTION

The principle of utility states that actions or behaviors are right in so far as they promote *happiness* or *pleasure*, wrong as they tend to produce *unhappiness* or *pain*. We can apply this principle in the context our own individual lives, and in the context of our collective social lives. Libertarians generally encourage you to invoke the principle of utility when it comes to managing your personal life, but they generally do not endorse social utility.

UTILITARIANISM

The principle of *social utility* is usually defended in reference to the empirical fact that we are social animals and that morality in this context requires a degree of altruism; and that collective happiness requires a degree of self-sacrifice. Social utilitarians argue that an action is right to the extent that it produces “the greatest happiness for the greatest number” and it is wrong to the extent that it produces “the greatest unhappiness for the greatest number.” This sounds wonderful until you begin to look at it a bit closer.

Recall that both individual and social utility are grounded in teleological moral theory. Therefore, we’ll encounter some of the same issues of associated with hedonism and consequentialism, as discussed in the earlier section on Teleological Theories. A hedonist believes that the Good Life consists solely in the pursuit pleasure or happiness. The feelings of pleasure and pain are biological events that involve our central nervous systems, which are controlled by our cerebral cortex. We all obviously experience feelings of pleasure when we perform certain acts that fulfill biological functions such as eating, drinking, and having sex. We also experience pleasure when we perform certain intellectual activities, such as reading philosophy books, playing guitar, or drawing a picture. We sometimes, but not always, experience pleasure when we exercise beneficence toward others. Conversely, we experience pain when these functions are left unfulfilled, and sometimes we experience pleasure at doing the wrong thing.

Again, in order for utilitarianism to be applicable in the real world, pain and pleasure would have to be demonstrably objective and quantifiable. If a hedonistic calculus is possible, it would probably apply to our own individual decision-making. Traditionally this has involved the quantification of variables such as: intensity, duration, fecundity, and likelihood. Although I doubt that these variables can be precisely quantified, I do think that when it comes to ordering our personal lives, our brains go through hedonistic logarithms of some kind. Sometimes these are conscious processes, sometimes unconscious. Not only are we genetically programmed with many

our own particular interests, we are also programmed with a set of genetically-based interests that we share with other members of our species, and even other species. And of course, many of our interests are culturally bound and acquired via teaching and learning.

One fallacy of utilitarianism is the underlying assumption that both our collective goals and individual goals are best realized by advancing collective goals. Unfortunately, in the real world, the realization of collective goals often conflict with individual goals. Libertarians, therefore, argue that the most efficient way to realize collective goals is to advance individual goals. As Ayn Rand would say, "Selfishness is a social virtue."

Recall that if you are a hedonist, the most important question is: "Whose pleasure counts the most?" Social utilitarians are altruists to the extent that they believe that the standard of right or wrong is not the agent's own personal greatest happiness, but the greatest amount of happiness for the greatest number of people. Therefore, good behavior increases the number of persons experiencing pleasure among members of a specific group. Bad behavior increases the number of persons experiencing pain. But there are many hidden complexities associated with this.

A few years back, Cincinnati government officials had a referendum on whether to use the proceeds from a proposed sales tax increase to build two new sports stadiums for the Reds and the Bengals. A social utilitarian would have to examine how the costs and benefits would be distributed throughout Cincinnati, Ohio, the United States, or even the world. Let's just focus on Cincinnati.

First let's look at individual or personal utility. If I had a choice, how would I allocate my finite personal income in regard to going to sports arenas? Generally speaking, I attend one or two pro baseball games a year. I buy the cheapest seats. I've never attended a pro football game. I watch baseball and football on television, only because it's free, (Call me a "free-rider!") and that's only because it's usually more pleasurable than watching what is usually on television. I also listen to games on the radio when I'm traveling or doing some other task: again, only because it's free. If I had to pay to watch or listen to a football game or baseball game I wouldn't do it. However, I would willingly pay to hear a live band. In fact, I would spend a lot of money to hear one of my favorite European bands. In short, I allocate my personal funds based on my interests and I'm more interested in music than sports. If I had a choice between A. going to a sporting event at an arena for free; or, B. watching the game at home for free, I'd choose B., and stay home. In fact, in the past, my wife and I have been given free Reds tickets, but we didn't use them.

Libertarians acknowledge the unfortunate fact that we all pay taxes. But the higher my tax obligation, the less personal income I have at my disposal. The stadium tax alone probably doesn't add up to much in terms of my total tax contribution, but I've never actually figured it out. I'm sure that the city of Cincinnati cannot guarantee that every penny of that tax goes directly into the stadiums. Anyway, if someone could have convinced me that the money we spent on stadiums actually served the "public good," I might have supported it. But there are several conceptual muddles at work here too.

First off, I'm not sure that anyone knows exactly what the term "public good" really means. I have an imperfect concept of my own "personal good," in the sense that I have a pretty good idea of what makes me happy and what makes my family and friends happy. But admittedly I am occasionally wrong. I was surprised to discover that I like Indian food! But I'm not sure what it means when someone claims that something makes the whole city of Cincinnati happy. Why? Well, first of all, a city is a composite entity that includes a wide variety of conflicting individual interests. Some people benefit and others suffer as a result of all publicly funded projects. But there's another pernicious conceptual muddle at work here too.

All teleological reasoning involves both ends and means. It is one thing to say that an end is "good" and it's another thing to say that the means to achieving that end is "good." Social utilitarians tend to confuse these two variables. One might indeed argue convincingly that airports, sewers, gas and electric, police and fire protection, mail delivery, public transportation etc. are all public goods. It might, in fact, be true that a majority of the population benefits from each of these services. But that doesn't mean that the most efficient way to provide these services is through government. I'm not sure exactly how much of my tax obligation goes toward provision of any of these services. I don't think the city of Cincinnati knows either. So if spending tax dollars on any project can be justified based on social utility, its advocates would have to demonstrate, not only that the benefits to the community would outweigh its costs, they would also have to prove (or at least provide compelling evidence) that government offers the most efficient way to provide these benefits.

Now back to those sports stadiums. First of all, let's admit that it is more difficult to argue that sports stadiums serve the public good than sewers, clean water, and other public health related goods. If stadiums are, in fact, public goods, one would have to argue that there is positive cost-benefit ratio. The benefits outweigh the costs. But that's really not enough. It would have to be shown that the most efficient way to pay for this construction is with tax money.

Now in order to justify the use of tax money on stadiums, it would have to be shown to serve the public good. Now objectively speaking, the primary beneficiaries of the larger more modern stadiums would be the wealthy team owners, wealthy players, fans, perhaps a few downtown restaurant owners, hotel owners, parking lot owners etc. One could argue that the public good would also be served by increased tax revenue. If the levy fails, at least one of the local teams would probably move to another city. That would cause pain to those primary beneficiaries. Now the rub here is that the Reds and the Bengals asked the city to pay for these stadiums because the owners, players, leagues, and fans had already decided it wasn't worth it for THEM to pay the costs of building these stadiums using their own money. But note that they thought it was worth it to spend everyone else's money. In short, it's always better to benefit if you can get someone else to pay the cost. That's Human Nature in a nutshell!

The fundamental problem for utilitarianism is the fact that governments, forcefully, take tax money from one class of individuals and give it to another class. Since, I do not attend the games played at the stadium, and will not benefit from its revenues, why should I want to contribute to either

project? Social utility requires that at least some members of the community involuntarily sacrifice their own interests for the interests of others, even though they may not benefit personally. Again, it is often the case that what is represented as the public good, often conflicts with the private interests of some individuals. So why serve the public good rather than one's own private good?

Sometimes, it is possible to provide a large amount of quantifiable pleasure for a minority at a small cost to everyone else. Suppose, for example, that we have a small, but significant number of homeless children that could be helped by providing a shelter for them. Suppose we decided to accomplish this by imposing a small tax on everyone in Cincinnati. A utilitarian would not be able to justify imposing that tax, unless it could be shown that more people would be helped than harmed. One way to get around this would be to count not only the number of persons that experience pleasure and pain, but also weigh the intensity, duration, fruitfulness, and likelihood of the pains and pleasures involved. Hence, we might argue that if we weigh the amount of pleasure that homeless children experience, as the result of providing them shelter, against the minimal pain that tax payers experience, then we might rationally justify building that shelter at public expense.

But in the case of sports stadiums, we are not really talking about disadvantaged populations. In fact, another real world problem with social utility is that, in the United States, there is a culturally-based tendency to confuse the interests of the wealthy and powerful with the public good. That's because the rich and powerful have access to the media, lawyers, marketing expertise, and lobbyists. This tendency is manifest in what critics call "corporate welfare."

Suppose it is true that only the primary stakeholders really benefit from building expensive stadiums, and suppose that tax levy would be very small, could we justify building the stadium for that wealthy team owner at a small cost to the majority? If so, on what basis could we also justify building the shelter? So the basic problem here is that it is always preferable to have someone pay for the fulfillment of our interests. That's why we appreciate gifts so much! Therefore, once the city decides to underwrite professional sports, you can expect others to follow the leader. Indeed, that's how cities end up subsidizing orchestras, art museums, swimming pools, parking garages, and hospitals. How about a tax to buy a new Volvo for every philosophy professor in Cincinnati? Obviously, the more of these tax supported projects that a city takes on the more expended tax revenue. The higher my taxes are the less money I have to pursue my individual interests. When I can no longer afford to attend music concerts, why not petition government to build a concert hall and a guitar museum? I could craft some convincing arguments in support of the idea that it's a public good. "Just think about the tax revenues that these venues would bring in!" If enough guitar players rally behind my proposal, some self-interested politician will eventually champion its cause. Although this sounds utopian, can everyone's needs and wants be met this way? Where does it all end?

Another social utility-based issue has been the growing use of the *eminent domain* principle to seize private property to serve the public good. Historically, this legal principle has been used, primarily, to acquire the land we needed to build roads, sewage treatment plants, and court houses. But now, local governments have begun seizing private property in order to build shopping

malls, and arguing that more people benefit from a mall than from a private residence. Local governments bolster their argument by saying that the tax revenue is also greater for a mall than for a private residence. So here we have a prime example where the perceived public good conflicts with the private good. But seizing private property for the public good always sounds better when someone else's property is being seized. Utilitarianism's tendency to advance the public good at the expense of individuals and minorities invariably contributes to the "tyranny of the masses."

Now even if *x* is deemed a public good that does not necessarily mean that government is the best vehicle for providing it. Libertarians argue that the most efficient way to serve the public good is through the free market; that is to say that the best way to serve the public good is to maintain a political structure that supports individual enterprise and reciprocal altruism. That means government ought to make it easier for individuals to pool their resources in pursuit of their mutual self-interest. Libertarians argue that governmentally funded projects are paragons of inefficiency. That's because there are few, if any, incentives for public officials to do anything efficiently. Politicians are *price-insensitive* when it comes to spending tax dollars. All of their incentives are set by the "bring home the bacon" principle. This means that when politicians build stadiums using tax money, they, invariably, make sure that as many of their constituents get a slice of that bacon as possible. This leads to padded budgets and cost overruns. Politicians, therefore, make sure that local contractors and laborers get most of the jobs, even if they are more expensive.

We are all better stewards of our own time, energy, and resources. If we are not, we tend to lose those things. If the *price-sensitive* Bengals and the Reds were to build their own stadiums, with their own money, you can bet that the owners, players, fans, and leagues would insist on efficiency. After all, they would be risking their own money, not ours! "Bang for the buck." not "Bring home the bacon." Suddenly, out of state contractors and cheaper foreign labor suddenly look much more appealing. Suddenly, the teams would become more competitive and actually win a few games.

SUMMARY

On the surface, the "greatest happiness principle" carries with it a lot of intuitive plausibility. Collective beneficence carries a lot of persuasive force when it is employed in a social context. Critics of the gradual expansion of government are demonized when they object to publicly-funded projects that are presented as serving both the needy and the public good, such as: social welfare, schools, mental health agencies, health clinics, and alcohol treatment programs. But the principle of social utility is wrought with philosophical and moral chicanery. There are several well-established lines of criticism.

First of all, it is a well-known fact that it is notoriously difficult to predict the consequences of our actions over the short-term or the long-term. Therefore, there is a lot of uncertainty in our dealings with how our moral decisions affect individuals, and even more in uncertainty in our communal decisions. We often just don't know whether one act or policy will promote more pain than pleasure, and we don't know how those pains and pleasures would be

distributed over the short-run or the long-run. So what do we do when faced with those many cases where we just aren't certain? Do we guess? Given this complexity, social utilitarians tend to resort to intuitionism or some other principle, other than utility. Public policy issues such as sports stadiums, capital punishment, abortion policy, are all wrought with mind-boggling complexity and uncertainty. Libertarians argue that the best strategy for serving the public good is to let individuals decide, rather than empower government.

Most deontological theorists argue that utilitarianism often conflicts with our moral intuitions. Social utility has a built in bias against individuals and minorities. What happens when it seems to be in the public interest to inflict extreme hardship on an individual or minority in order to advance the public interest? For example, based on utilitarian reasoning, Japanese Americans were hoarded into detention camps during World War II because the government feared that some of them might support Japan and perhaps engage in terrorist activities. Indeed, the greatest happiness principle has often been used in support of totalitarian schemes in which the price paid for collective happiness has been personal freedom. The institution of slavery has often been justified based on social utility. That's why there is a consensus among contemporary philosophers that utilitarianism cannot operate without other principles, especially justice.

Rights-based libertarians believe that we have a right to private property that we acquire through the fruits of our labor and through voluntary exchange with our neighbors. Libertarians are against the use of physical force, by individuals, groups, and government in pursuit of individual and collective interests. There two exceptions: the application of physical force in acts of self-defense and the application of physical force in returning property that has been previously seized. Therefore, libertarians are against anyone (including government) seizing another person's property, even if those takers believe they can do more social good with it. As we will see in the next chapter, liberty almost always trumps beneficence and social utility.

Involuntary taxation is the handmaiden of social utility. But, for libertarians, it is very problematic in so far as it requires the coercive power of government. Although a certain amount of taxation is necessary to protect us from criminals and foreign invaders, libertarians are minarchists (advocates of small government) that seek to limit the power of government to self-defense. On the other hand, if you want to expend your own time, effort, and resources in pursuit of your own vision of the public good, you are certainly free to do that.

In summary, libertarians are deeply suspicious of the principle of social utility. The most troubling problem with social utility is its conceptual ambiguity, which can be easily manipulated by powerful individuals that would like the rest of us to pay for the realization of their private interests. But even if we could clearly differentiate the "public good" from the "private good" of powerful individuals and groups, we would still have to establish whether government is the most efficient provider. Serious social utilitarians, therefore, would have to compare the costs and benefits of both public and private provision. Libertarians argue that about the only things that government can do more efficiently than private initiative is provide an army, and a criminal justice system. Deontological libertarians argue that taxation violates property rights

and therefore any utilitarian projects beyond internal and external defense cannot be justified.

In the final analysis, the basic problem with the principle of social utility is that it assumes that it is possible to make unambiguous, objective statements about the public good. Unfortunately, there are not many things in life that are good for everyone. Typically, those who set themselves up as the cultivators of the “public good” turn out to be cultivators of their own “private good;” and also the “private good” of their relatives and friends. This is not to say that all social utilitarians are hypocrites. But I would say it’s a lot easier for do-gooders to serve the interests of others when they are spending everyone else’s time, energy, and resources.

CHAPTER IV

THE LIBERTY PRINCIPLE

INTRODUCTION

Liberty is the principle of self-direction. Liberalism is the Enlightenment political doctrine that values liberty above other principles, such as beneficence, utility, and justice. There are two strands of Western Liberalism: egalitarianism and libertarianism. The differences between these two stands will be discussed in the next section.

Both egalitarians and libertarians believe that human beings ought to be able to do, pretty much, whatever they want. Many philosophers follow John Stuart Mill's idea that utility and liberty are mutually supporting principles. A happy society is nothing more than a society that has a lot of happy individuals. How do we become happy individuals? Simply put, in order to be happy we have to have a certain percentage of our needs and wants fulfilled. But who has a more accurate of idea of what those needs and wants might be: a.) we ourselves as individuals, or b.) someone else? More importantly, does government really know how to make you happy? If we as individuals know what kinds of things make us happy, and if we are more likely to know how to attain those things, then any society that aspires toward collective happiness must protect an individual's right to pursue those things. In my mind, that is a simple empirical truth. Now this is not to say that we as individuals have perfect insight into what makes us happy. In fact, most of us tend to discover happiness over the course of our lifetimes via trial and error. My sole hypothesis here is that rational competent adults are better judges of their own personal happiness than government, and that the collective happiness is proportional to personal freedom.

But the liberty principle does have its own fair share of philosophical controversy. Obviously, some critics argue that human beings are neither rational nor do they possess something that resembles free will. Admittedly, that might be true. But if it is true, there is no sense talking about morality apart mere convention or politics. So my view is that moral responsibility implies rationality and free will. If I'm wrong, the whole libertarian agenda makes no sense. I think I'm on solid ground.

There are problems too. As we have already seen, the pursuit of pleasure by some individuals often conflicts with the pursuit of pleasure by others. After all, it is virtually impossible to live in a modern society without interfering with another individual's pursuit of pleasure. Here, there are varying degrees of conflict. For example, my elderly neighbor finds her pleasure working in the tranquil and serene confines of her garden. I enjoy playing electric guitar at a near-deafening volume level, but my elderly neighbor complains that my playing is both physically and aesthetically painful to her. Another neighbor experiences pleasure from raising vicious pit bulls, while my

children derive pleasure running around the neighborhood playing "Capture the Flag" on warm summer evenings. Any society committed to the private pursuit of pleasure or happiness and the liberty necessary to sustain it, must provide for the resolution of these types of personal conflicts. So over the years, philosophers have proposed a variety of *liberty limiting principles*, which include: harm to others, harm to self, harm to public institutions, offense, legal moralism, and social utility. Libertarians recognize only harm to others, and under limited conditions, harm to self.

HARM TO OTHERS

All libertarians recognize one liberty limiting principle: that is, *harm to others*. The formula says: "You can do whatever you want as long as you do not harm anyone else in the process." There are two objective ways to harm others: by forcefully seizing their property (the fruits of their labor) or by killing or injuring their bodies. The distinction between harm to others and harm to self, however, implies other distinctions; most notably a distinction between *self-regarding acts* (that do not harm others) and *other-regarding acts* (that harm others); and a distinction between *acts* and *speech*. Libertarians argue that a liberal government may regulate other-regarding acts, but they may not regulate self-regarding acts.

First of all, it takes "thick skin" to live under a libertarian society. My children and I must tolerate my neighbor's vicious barking dogs, unless I can prove that their enclosure is inadequate. Of course, if my dog-loving neighbor's pit bulls escape and bite my kids, then the government could justify regulating his actions (or the actions of his dogs). My elderly neighbor might occasionally have to tolerate my guitar playing, barking dogs, and screaming kids. She might consider wearing headphones or wear earplugs when she works in her garden. I might build a fence around my yard to protect my kids from wandering pit bulls. At any rate, unless there is objective harm to others involved, libertarians argue that these kinds of disputes are best resolved by rational individuals engaged in one-on-one bargaining, "you scratch my back and I'll scratch yours!" Simply put, don't want to employ the coercive power of government to solve all of our disputes.

What are some examples of these self-regarding acts that are obviously protected by the liberty principle? Let's start off with things that we all do at home. Clearly I should certainly be able to sleep in the new boxer shorts that I bought at Wal-Mart, read a book purchased on Amazon, pick my nose, or eat spaghetti with my hands. Clearly, none of these acts harm anyone. They don't even harm me. I would also add, sharing a bottle of wine with my wife. Of course, if I decided to go out joy riding afterwards, that might be a problem. I might harm others in a car accident. But the problem here is how to determine exactly how much alcohol consumption it takes to impede judgment. Laws in the United States are disproportionately influenced by powerful industries. In the case of the regulation of drinking and driving, on the one side we have the alcohol industry and its distributors that want us to be able to drive to a bar or restaurant and have a couple of drinks, without having to worry about getting arrested. On the other side, we have the insurance industry that would prefer that

we not only drive stone cold sober, but also that we drive only armored vehicles on the highways at 25 miles per hour, to avoid property and personal injury claims.

The real problem here is repeat offenders; that is lifelong alcoholics that repeatedly get drunk, get behind the wheel, crash, and harm others. Libertarians argue that DUI laws ought to focus on getting these people off the road. We all know that taking their licenses away does not deter them, nor do the modest court fines or brief jail. Libertarians would certainly support long jail sentences for alcoholics that repeatedly get into accidents. They will not support the expenditure of tax money to pay for rehabilitation either, even if those programs were proven to be efficient.

But the most basic problem is that the defenders of personal liberty must deal with a growing number of misguided Americans that want our highways to be as safe as our living rooms. While this might seem to be a worthwhile public policy goal, where does this quest for universal personal safety end? Do we want to live in vacuum sealed, risk free society, if it means giving up most of our personal pleasures: beer drinking, smoking, meat eating, sky diving, race car driving, or pot smoking? It's this very mindset that has fueled not only the ongoing wars on drugs, alcohol, and tobacco; but also the war on terror. Perfect security requires is perfectly incompatible with personal liberty. For thousands of years, despots have used the pursuit of security as an excuse to usurp personal liberty. Do you really believe that the same government that planned and executed the war in Iraq and the responded to Hurricane Katrina can be trusted to efficiently insure our security? Do you currently hold any stocks in the airline?

There is also a longstanding puzzle that arises in the context of speech. Of course, we have a legal right to freedom speech, but how far does that right extend? Libertarians consider speech to be (almost always) *self-regarding*, in the sense that words rarely "harm" other persons. Remember when we were kids we used to say, "Sticks and stones will break my bones, but names will never hurt me!" Admittedly, I don't enjoy being told that I'm a jerk, ass hole, idiot, or creep. Occasionally in the exercise of their free speech, students say bad things about me that, frankly, hurt my feelings. The problem here is how to deal with these hurt feelings in a free society. Some libertarians, like John Stewart Mill, defend free speech, in general, on utilitarian grounds by saying that by leaving speech unregulated we are more likely to find the truth in a diversity of expressed opinions. When students point flaws in my teaching, I try to fix those flaws. Trial and error implies feedback!

But clearly, some forms of speech do harm others. As Mill suggested, if I falsely yell, "FIRE!" in a crowded theater, and if I know that there really is no fire, my words may unnecessarily harm others. Sometimes in the exercise of free speech, we harm others by making false or derogatory statements or by verbally threatening to use violence. But today, there is an ever-growing list of things that we cannot say to others. If you ask a coworker to go out on a date, be careful. You might be contributing to a hostile work environment and be prosecuted for sexual harassment. Libertarians defend a rather narrow definition of harm by restricting to physical harm, or threats of physical harm.

HARM TO SELF

Many argue that “harm to self” can sometimes be invoked as a liberty-limiting principle. Acts of *paternalism* involve violating a moral principle, usually liberty, in order to provide an unwanted benefit or prevent someone from harming themselves. *Hard paternalism* is when you either provide an unwanted benefit or remove harm from a rational person. *Soft paternalism* is when the unwilling target of our beneficent acts is irrational. Paternalism can be exercised toward individual adults, or groups of adults. Paternalistic intervention can be exercised by either: individuals, groups, or the State.

Of course, not all acts of paternalism can be morally justified. Libertarians reject all forms of hard paternalism because they are against the use of coercive force against competent adults. At least some libertarians support weak paternalism; that is they are sometimes willing to violate the liberty of some individuals in order to protect them from self-inflicted harms. The following conditions must be met before paternalistic intervention can be morally justified:

Competency Requirement: The target of paternalistic intervention must be incompetent. Paternalism can never be justified on behalf of a competent person.

Harm Requirement: The target of paternalistic intervention must be either suffering from a major harm or facing an immanent harm. Paternalism cannot be justified merely to provide an unwanted benefit. It must aim to remove a major harm.

Redounding Good Requirement: The proposed intervention must obviously do more good than harm. Paternalism cannot be justified if the intervention is likely to do more harm than they are already experiencing, or may experience.

Least Restrictive Alternative Requirement: If several interventions are possible we are obligated to employ the least restrictive one.

In sum, libertarians regard all forms of paternalism as problematic.

OFFENSE PRINCIPLE

Another liberty-limiting principle that is often invoked in modern societies is the *offense principle*, which states that I am at liberty to pursue my own private interests as long as I do not “offend” others in the process. The difficulty with applying this principle is the fact that we all have different levels of sensibility. Some people are offended very easily. For example, some thin-

skinned individuals are offended when they see mothers breast-feed their children in public places. They insist that it ought to be done only in private places. But if we regulate public places in such a way to avoid all possible sources of offense, our collective liberty would be severely curtailed, and our public places would not be much fun for anyone. What I consider to be offensive might not be offensive to others. At least some people are offended by rap music, public nudity, burning the American flag, Rush Limbaugh's radio show, and houses painted pink. Therefore, the widespread use of the offense principle as a liberty-limiting principle will invariably lead to a pretty dull public sphere.

Now libertarians do not object if you choose to regulate your own personal behavior based on the offense principle. There are many things in life that I simply will not do because I do not want to offend others. I'll never use offensive words in reference to racial or ethnic groups such as: niggers, spicks, chinks, or Japs. (Oops, I just did!) Problems arise, however, when government attempts to enforce legal limits on speech based on the offense principle. That's because it requires some objective, mutually agreed upon standards.

First of all, libertarians argue that the concept of a public sphere is philosophically incoherent and a threat to personal liberty, and therefore, argue that that all places ought to be private places. If you call me "whop" (or any of the five or six ethnic slurs that might apply to my background) when you are visiting my home, I might ask you to leave and I probably won't invite you over again. That's easy enough, right? But how would we go about applying the offense principle in public places?

Suppose the city decides to purchase lakefront property to construct a public park and beach. The idea is create a place that everyone owns collectively. But whenever, any place is designated "public" (beaches, golf courses, libraries, cyberspace, television, radio etc.) there will always be those thin-skinned individuals that want to minimize their own exposure to behaviors that they find offensive. This means that public officials will always be placed in the unenviable position of having to set rules that limit offensive behavior. And, as the old saying goes, "The squeaky wheel gets the grease." That means that the threshold of offensiveness will usually be set at the lowest common denominator. No skimpy bathing suits, thongs, rap music, or Irish beer drinking music allowed. Many public places in the United States are so sterile that they are no fun.

We might argue that public acts that offend a majority of people can be restricted? Let's just vote? Others might argue that the main problem with offensiveness, is when it's involuntary; that is, only if, those offenses are imposed on others without their consent. For example, if you voluntarily attend a public art exhibit knowing that it contains homo-erotic material, then you cannot subsequently claim to be offended. Logically, you cannot be voluntarily offended! But enforcing voluntariness alone doesn't seem to solve much. Will Wal-Mart have to post signs that warn customers that they might encounter breastfeeding mothers, obnoxious children, obese customers, violent video games, condoms, birth-control pills, and racy tabloids?

Libertarians argue that the only way to avoid the sterility of an inoffensive culture is to limit the acquisition of public property, which will also

limit the government's ability to regulate those places. But in the final analysis, we'll just have to learn to be more tolerant of how others pursue pleasure.

HARM TO PUBLIC INSTITUTIONS

Other forms of speech might harm public institutions. For example I might make a public speech in which I advocate tax evasion as a means of protesting tax policy in the United States. However, if we accept "harm to public institutions" as a liberty-limiting principle, many morally repugnant institutions (such as slavery) might never have been repealed.

In the United States, one of the goofiest debates I've ever encountered has been over whether or not to legalize gay marriage. First of all, whether we like it or not, marriage in the United States has become a public institution regulated and controlled by federal, state, and local governments. It serves as a means of distributing resources, especially in terms of child welfare, health and life insurance. There are tax advantages and disadvantages attached to marriage. Now once something is designated as a "public institution" there is a tendency to assume that it universal and eternal, and therefore, immune to revision. Remember that slavery was at one time a public institution.

By both tradition and legislation, marriage in the United States is assumed to be between males and females. Critics of gay marriage argue that allowing gay couples to get married undermines the institution of marriage. From a libertarian perspective, this argument is incomprehensible, if not laughable.

First of all, there is an unstated premise that institutions ought to support nature, and that lifelong marriage between males and females is "natural." But there is a difference between pair-bonding and marriage. Pair-bonding among human is natural, standing up in front of a public official declaring "till death do us part" is a cultural practice. So is getting divorced, which also requires going before a judge (usually an old man) and paying for a lawyer to file the papers. My take on all this is that marriage is simply a contract between two individuals. Whatever conditions they agree upon is their business. I am also willing to admit that marriage is a religious event, in the Roman Catholic Church it is regarded as a sacrament. In that case, those individuals choose to be Catholics, and choose to say their vows before a priest. They may or may not choose to use artificial birth control. If you choose to be a Catholic, then you must deal with the fact that as an institution, it does not support gay marriage. You can choose to try to reform the church or you can choose to join another church that is more hospitable to gay marriage.

But once marriage becomes a public institution that affects the distribution of resources, that's when it becomes suspect. So why not leave government out of whole marriage issue. Whoever you choose to be your marriage partner is your business. Your choice does not harm anyone else. If a gay couple chooses to adopt children or have children via in vitro fertilization, that's their business. They are as likely, or as unlikely to be good parents as anyone else. Just because you have a marriage license doesn't mean that you will be a good or bad parent. Just because you have a license cut hair doesn't mean that you are a good or bad hair dresser.

So harm to public institution is a notorious bad justification for violating personal liberty.

LEGAL MORALISM

The liberty-limiting principle known as *Legal Moralism* holds that civilized society can justifiably enforce rules of morality. Hence, advocates of this principle believe that the liberty of individuals can be justifiably limited by a moral code imposed and enforced by government, even if there are no harms or offenses committed. For example, I cannot buy beer or wine on Sunday morning in Cincinnati. What's the justification? The city cannot reasonably argue that buying beer either harms others, harms me, or offends others. Apparently the law exists because the city simply believes that it is immoral to purchase beer at that time when you ought to be in church. Some forms of legal moralism also encroach upon the private, self-regarding sphere. Laws against, polygamy, fornication, and sodomy might be good examples.

The basic problem with using the power of government to enforce morality is determining whose moral principles to enforce. Given the variety of moral convictions expressed by the numerous religious groups practicing in the United States, legal moralism could also make for a very restrictive public and private life.

Libertarians believe that morality arises out of the interaction of individuals in communities. They argue back and forth and arrive at some basic rules of conduct. Legal moralism takes the onus of control away from individuals and places it in the hands of public officials. That's how we end up with laws against polygamy, and blue laws that restrict the sale of alcohol on Sundays. If you want to marry 3-4 other persons go for it: as long as everyone involved is an adult and as long as everyone agrees. One would have to prove that polygamy harms others in order to make it illegal. If I'm right, you can't justify its illegality by arguing that it undermines the institution of marriage, or that others find it offensive either. So I support both gay marriage and polygamy. But then again, I also believe that marriage is personal and religious. We don't need government to tell us who to marry. Politicians are not marriage experts and they not especially good at it themselves.

In summary, there have been many proposed liberty-limiting principles. The more the government limits liberty in public and private spheres, the less room there is for individuals and groups to pursue happiness as they see fit.

CHAPTER V THE PRINCIPLE OF JUSTICE

INTRODUCTION

So far we've discussed beneficence, nonmaleficence, utility, and justice. We've established that, in the real world, these principles often conflict. Acts of beneficence tend to violate the principles of utility, and liberty. Sometimes the principle of utility violates beneficence, and liberty, and sometimes respecting personal liberty undermines beneficence, nonmaleficence, and utility. If you are already convinced that ethics is enormously complicated, you're on the right track. However, I must warn you that the principle of justice increases its complexity even more. That's because the concept of "justice" is notoriously vague and therefore, it tends to contribute to interminable debate. Consequently, the pursuit of justice in its myriad and conflicting forms, also conflicts with beneficence, nonmaleficence, utility, and liberty. My argument here will be that there are political dangers associated with the single-minded pursuit of a vaguely defined theory of justice, especially when idealistic justice-seekers use it as a blank check to ignore the other principles. In short, justice, the "Queen of the Virtues" is the most complex of all of the moral principles, and it is also the most open to political machination.

ARISTOTLE'S VIEWS ON JUSTICE

The *principle of justice* is deeply rooted in Western thought. Traditionally, it reflects our notoriously vague notions about "fairness." In his *Nicomachean Ethics*, Aristotle observed that there are basically two spheres of justice: "justice in retribution" and "justice in distribution." However, both spheres are subject to a single *formal principle of justice*, which states that "equals should be treated equally and that unequals should be treated unequally," or in other words, "we ought to receive, no more, nor less than we deserve." Whenever we develop moral arguments about retributive or distributive justice, we naturally invoke the formal principle. This formal principle obviously leaves us in the dark concerning which individuals are, in fact, equals and how much pleasure or pain they deserve.

Material principles of justice link the formal concept to the real world. In the history of ethics, there are several recurring material principles, or *patterns* that human beings invoke when they justify one distribution rather than another. These patterns are: merit, equality, need, and social utility.

The *principle of merit* says that a just society is one where the best people get the most, and the worst people get the least. *Meritocracy*, therefore, implies hierarchical social arrangements, where the best persons occupy the higher rungs and the lower persons the lower rungs. All societies distribute at least some things based on merit, such as: Superbowl rings, doctoral degrees,

driver's licenses, and merit scholarships. Even if we wanted to, it would probably be impossible to separate merit from our idea of justice. Unfortunately, merit can mean many different things to different individuals and societies. We are all egoists, therefore, all tend to believe that we as individuals, our families, and our friends, are best and deserve to occupy those higher rungs.

The *principle of equality* states that at least some things in life ought to be distributed equally. Under normal circumstances, we usually divide up a pizza based on this principle. *Egalitarianism* implies that at least some social goods ought to be distributed equally. The problem lies in determining exactly what social goods ought to be redistributed equally, and what social goods ought to be distributed based on some other pattern such as, merit, need, or social utility. Clearly some things should not be distributed based on equality:

The *principle of need* states that resources ought to be distributed to each person according to individual need. Hence, rather than divide up that pizza equally, or based on merit, we might decide that it's fair to give most of that pizza, or all of it, to a friend (or stranger) who hasn't eaten in a week. We usually try to distribute things like chemo-therapy, welfare checks, and some scholarships based on need. There are some that will argue, unpersuasively, that everything should be distributed based on need. But that's extremely messy. The underlying assumption is that we can objectively determine who is truly in need. Of course, one might argue that the fact that you are in need, may or may not be a good reason for others to fill that need. It may or may not be unfair if you are currently in need because of your own bad decisions. If I'm in need of food because I spent all of my money on lottery tickets, it probably doesn't make much sense for me to claim that my hunger is unjust. But then again, one might argue that gambling is a disease and that the Ohio Lottery generates need. Libertarians are usually willing to help fulfill the needs of others, but not unconditionally. If someone is in need because of forces beyond their control, libertarians might be willing to provide temporary assistance. But, as I stated earlier, they are loath to set up a system comprised of beneficiaries supported by benefactors.

The distributive *principle of social utility* holds that we ought to distribute at least some things in such a way as to maximize a favorable balance between pain and pleasure in the whole community. Hence, we might decide to immunize all inner-city children in Cincinnati against certain diseases, regardless of merit, equality, or need, in order to minimize the long term social costs associated with treating them for preventable diseases later on.

Of course, the basic problem of justice is how to determine which material principle, or pattern, is relevant to the distribution of which particular resource. If I were to offer a scholarship to attend the Mount, should I award it based on social utility (cost-benefit), equality (have a lottery), merit (administer a test), or need (check your annual income)? Of course, different persons will benefit from the scholarship, depending on which material principle is invoked. So in the final analysis, one might ask: "Who really deserves that scholarship?" Libertarians argue that society ought to refrain from all redistribution schemes (equality, need, utility, merit) and allow the free market to do the distributing. In a free market, I can own a Mercedes Benz automobile, or perhaps more likely, a Gibson ES 335 electric guitar, if I am willing to pay the market price for it.

JUSTICE IN RETRIBUTION

Justice in *retribution* embraces the familiar notion of “an eye for an eye, and a tooth for a tooth,” otherwise known as the principle of *proportionality*. We are morally obligated to praise and blame others in proportion to what they deserve. Justice, therefore, requires that we get no more, nor less, than we deserve. Justice in retribution involves the familiar concept of payback. When we think about justice in retribution we most often apply it to our response to wrongdoing, and reduce it to the familiar maxim: “the punishment must fit the crime.”

JUSTICE IN DISTRIBUTION

Justice in distribution carries with it the idea that there are better and worse ways to distribute pleasures and pains within a community. Again, it says that we ought to get “no more, nor less than we deserve.” Hence, we suffer from an injustice when we either get more or less than we deserve. Of course, we don’t often complain when we get more of a good thing than we deserve or when we get less of a bad thing than we actually deserve.

When philosophers and economists talk about distributive justice, they usually distinguish between various classes of things that are subject to just or unjust distribution. One such distinction differentiates between human *wants or desires*, on the one hand, and *needs, or primary goods, or resources*, on the other. The principle of *justice in distribution* is only applicable under conditions of scarcity. When everyone has as much of something as they need or want, they usually do not complain of injustice. If Charles Darwin was right, we can expect a biological world characterized by scarce resources and competition between organisms to possess those resources. For human beings and some animals, possession of resources generally brings pleasure and the lack of resources, pain. Nature distributes resources based on “natural selection;” (John Rawls calls it the “Natural Lottery”) the strong get the resources and the weak generally do not. Is that fair? Is Mother Nature fair in her dealings with human beings? The principle of distributive justice comes into play when we humans decide collectively not to live under Darwinian rule, but instead, decide to *redistribute* resources and the pains and pleasures associated with them, based on justice. Since the 1970s, two full-blown theories of distributive have dominated moral and political discourse: egalitarianism and libertarianism. Both are most often construed in deontological terms.

EGALITARIANISM

Egalitarians (sometimes called) welfare liberals are aligned with the Kantian Tradition. Although they acknowledge that competition for most scarce resources is probably unavoidable, they also believe that, at least some very important resources (or needs) ought to be collectively redistributed by

government and not simply awarded as prizes based in free-market competition. Most welfare liberals point out that all competition occurs under unequal circumstances and that at least some things ought to be distributed based on equality or need. Contemporary welfare liberalism, in the neo-Kantian tradition, was given its classic formulation by John Rawls in the 1970s. His basic argument went something like this.

In human societies, the distribution of social goods is largely determined by a *natural lottery*. Some individuals are *naturally advantaged* with attributes such as intelligence, strength, health, good looks etc., while others are *less advantaged*. Whether you are advantaged or least advantaged, your socio-economic status is profoundly influenced by this *natural lottery*. There are two pillars of the natural lottery: our genetic heritage and our social environment.

It is well established that we are born into this world with a set of genes that have a profound influence on the course of our lives and our ability to compete for scarce resources. Some of these genes, accidentally turn out to be advantageous, others turn out to be disadvantageous. As we grow up, we gradually discover these advantages and disadvantages. And, of course, we all have a different set of genes, and different advantages and disadvantages in any given social setting. For example, when I attended Fairmount Elementary School, in Syracuse, New York, one of the first things I discovered was that I could run faster than almost anyone in the school, even older kids. As I recall, I lost just one race on the playground. It was to an African American girl by the name of Sally Thompson. (Of course, I was embarrassed by the fact that I was beaten by a female.) However, by the time I got to seventh grade, I could beat her too. In those years, I received a lot of praise from my peers for being fast. Did I deserve that praise?

When I got to high school, I was a sub-average student. In fact, I hated high school, mostly because I hated being told what to do. (I'm a "natural-born libertarian!") My guidance counselor told my parents that I was not college material. In other words, she didn't think nature had been very generous when it came to my allocation of brains. I was, however, good in Art and physical education. My sophomore year, the track coach, George Horning convinced me to go out for track. After he taught me how to run in a straight line, I became a local track star. I eventually attended Eastern Kentucky on an athletic scholarship.

Today it is a well known fact that the ability to run fast is largely a product of our genetic make up: length of legs and central nervous system. Now I did absolutely nothing to deserve the "speed gene," nor did I do anything to deserve the "bald gene." Both were blindly distributed by the natural lottery.

Another example of the workings of the natural lottery has to do with my social environment. I was lucky to have good parents. I certainly didn't deserve them. I didn't deserve to attend a school that had a track team. I certainly didn't deserve to have George Horning as a track coach. And I most certainly didn't deserve to get into EKV. In fact, I got into college without ever having taken the ACTs, which was a violation of NCAA rules. I took the ACTs in the Academic Dean's office my junior year. So today, I look back on my life and I ask myself. Do I really deserve my current status in life? I really can't think of anything I've done on my own. You really can't justly praise me or

blame me for much of anything. If that's the case, then it would not seem to be unfair if I was deprived of some of those things that I really didn't deserve to have in the first place. Hence, natural distributions, which are distributed blindly, are also undeserved. Egalitarians argue that justice can only be served by redistribution.

So, given the fact that we really do nothing on our own to deserve our genetic heritage or our social environment in general, we really can't say that we *deserve* those advantages or disadvantages. In other words, human social arrangements based on the natural lottery are unearned and distributed unequally. Now Rawls was no communist. He didn't believe that government could eliminate all natural inequality. What he did argue is that, in a liberal society, it is unfair to allow the advantaged to get richer, while the least advantaged get poorer. He therefore, proposed that government provide a *social limit* or a *safety net* that would halt the ever-growing *social distance* between the most advantaged and the least advantaged segments in society. This is to be accomplished by redistributing social goods. Remember Robin Hood? In other words, Rawls thought that the primary purpose of government is to provide *welfare* (or *security*) to the least advantaged. So before we can allow the rich to get richer, we must make sure that we maintain that *social limit* and minimize the *social distance* between the advantaged and the least advantaged. If this sounds goofy, think about it this way.

What's interesting about natural advantages is that they are rather fleeting. Anyone that is reading this essay is probably naturally advantaged to a certain degree. Although, you are currently advantaged, nature will eventually erode that advantage and you will eventually become a member of the least advantaged. Why? First of all, we all, sooner or later, will get sick or get old. Second of all, there's always bad luck! (Your home might get destroyed in a tornado!) Now given the fact that you will eventually be disadvantaged in the struggle for survival, what would you like government to do? Rawls and other welfare liberals argue that if you are rational and self-interested, you will willingly forego some of your unearned bounty in order to insure that your needs will be met when those advantages dwindle. Hence, an egalitarian system implies a system of government that minimizes the ill effects of the natural lottery. This, of course, implies a lot of government, and taxation.

If I were to play chess against Bobby Fisher, even though the rules of engagement seem impartial, I cannot reasonably expect to win. Indeed, some of us are *naturally advantaged* with unearned genetic and/or social attributes such as intelligence, speed, agility, and even good looks. Others are *disadvantaged*. As long as Bobby and I are competing for some trivial award, there is no problem. However, if the stakes include the provision of one's *needs*, or those resources essential to the preservation of our lives, then competition between advantaged and disadvantaged is considered to be unfair. Even though we might play by the same rules, we come to the game with unearned and unequal natural attributes.

While welfare liberals argue that the primary function of government is to *redistribute*, at least some resources, libertarians believe the function of government is to preside over a mediated form of Darwinism.

LIBERTARIANISM

Libertarians, following John Locke, are fiercely committed to both individual liberty and the private ownership of property. Human beings, they argue, naturally pursue ownership of their own private resources, which in turn satisfy their own personal needs and wants. The concept of ownership begins with the libertarian concept of *self-ownership*, or the notion that we own our bodies. If we are the natural owners of our bodies, then by implication we are also the owners of our time and effort, which we utilize in the acquisition of resources. Resources are those things that fulfill our needs and wants. Most philosophers and economists use the term “resources” to signify our most important basic needs. So a resource is something that we all need in order to attain something else. Natural resources such as clean air, water, trees, coal, and natural gas are “resources” in the sense that need them to breathe, drink, burn. The question is how does one go about acquiring these basic resources?

Recall that I suggested that the moral universe is composed of persons and property and that persons *use* property to meet their needs and wants. John Locke suggested that if we want to know who owns what, all we have to do is trace that resource back to the point where it made the transition from un-owned to owned property. Therefore, the initial acquisition of property sets the stage for all subsequent transfers of that property to others. According to John Locke, we come to own un-owned property by mixing it with our labor; that is, our time and effort. Imagine picking the apples off an un-owned tree. Once you mix your labor with the tree, the tree and its apples are yours until you either eat them all, let them rot, or are transferred to others.

This process of exchange is essential to the libertarian theory of justice. If you own your time, effort, and resources, you have a right to transfer those things to someone else. You can choose to donate your time, effort or resources to another person (most likely a relative or a friend), or you can exchange your time, effort, or resources, for someone else’s time effort, or resources. You can exchange one thing for another thing (called barter) or you can exchange your time, effort, or resources for money, which has become the primary medium of exchange in the Western world.

But recall that human beings are, by nature, rational and in possession of free will. They are also rabidly self-interested, and not necessarily good. Therefore, the transfer of time, energy, and resources in a social context can be enormously complex. Therefore, the justice in transfer requires limited governmental mediation. This mediation involves monitoring and enforcement of very basic rules to insure the voluntariness of the transaction. There are two ways that the voluntariness of a transfer can be undermined: imperfect information (fraud) and imperfect freedom (physical coercion). So if I agree to buy an apple from you and it turns out to be a peach, that is fraud; or if I agree to pay you fifty cents for that apple and run away without paying you, that’s theft. So, “justice in transfer” requires that government monitors and enforces a set of rules that minimize both fraud and theft in the marketplace. When government does not serve these basic functions efficiently, free markets collapse and

societies distribute social goods based on Darwinian principles; the strongest steal from the weakest. It is important to note that this natural occurrence takes place often, all over the world. It is not a rare event!

When free markets are working right, they provide for the peaceful transfer of time, energy, and resources between human beings. As buyers peacefully compete with other buyers for what sellers have to offer, and as sellers compete with sellers, for buyers, everything gets distributed fairly. Libertarians, therefore, insist that justice in transfer must preserve the moral values of *truthfulness*, and *non-aggression*. In other words, libertarianism is NOT an amoral political doctrine. These are universal moral values that apply, not only in Western cultures, but timelessly universal moral truths. It is a fact that human beings are opportunistic, and therefore will tell lies and employ aggressive means to get what they want, but this is not good. We must be taught not to lie, we must be taught to be non-aggressive, and we need government to enforce these universal moral values.

Now egalitarians equate economic justice with the equal, or near equal distribution of resources. Therefore, whenever any system of distribution yields an unequal distribution of resources in the end-state, that distribution is considered unjust, and therefore subject to social and political redistribution. Libertarians, however, do not seek a patterned form of justice in the end-state, but only that the competitive process that generated that end-state must be fair. Equality of opportunity is a notoriously slippery concept. For now, let's just say that equality of opportunity implies that all participants be informed about the rules of the game, and that all players must be free to enter or exit that competition.

If human beings are subject to natural selection, human needs and wants often exceed the supply of resources necessary to fulfill those needs and wants. Therefore, competition is inevitable. Under competitive conditions, libertarians call for *equality of opportunity*, or *procedural justice*. The principle of equality, therefore, applies only to the conditions under which individuals compete, but it does guarantee *equality of results* in the outcome of that competition. As long as the right to mix one's labor with unowned resources applies to everyone equally, the resulting distribution is fair. Once a resource is owned by some individual(s), they have the liberty to exchange those resources with others, without outside interference. Hence, individuals compete with one another for each other's resources. e.g. If I own a car, I ought to be able to sell it to whomever I choose. Hence, *contracts* between consenting individuals are essential to the libertarian plan for the distribution of social goods. The most important rule governing the forging of contracts between individuals is that the contracts must be *voluntary*. This means that both the buyer and the seller must be truthful when revealing exactly what the other will get out of the exchange. *Fraud* occurs when either the buyer or the seller withhold information that the other might require in order to make a voluntary, rational, self-interested decision.

Some extreme libertarians would argue that if the buyer is deceived, then it's the fault of the individual buyer: "Buyer Beware!" and that the government has no right to get involved. In late nineteenth-century United States, the conditions for economic activity were based on this *laissez faire*

governmental policy. As a result, consumers were never really sure what they were getting for their money. This was especially problematic in the patent medicine industry, which sold "medicines" by promising unsubstantiated miracle cures. That's why today we have the Food and Drug Administration, which protects us from false advertising of drugs and medical devices. Unfortunately, it does not do a very good job.

For a libertarian, life is like a game of chess. The participants play by the same impartial rules. However, these rules themselves do not guarantee that any one particular individual wins or loses, but only that the competition be conducted fairly. Of course, some players may come to the game with more experience, skill, and/or intelligence and therefore they may be more likely to win the game. Libertarians, therefore, believe that winners and/or losers, in either chess or life, are part of the game. Since the concept of fairness is rooted in the rules of competition, the purpose of government is limited to assuring fair competition for scarce resources.

The economic system known as *market capitalism* is a mainstay of libertarianism. Capitalists believe that all human beings naturally seek ownership of private property. This often precipitates competition for the most coveted, and therefore most valuable resources. Hence, in order for an individual to privately own any resource, it is often necessary to expend one's own time and/or already held resources. Hence, if I want to eat lunch in a fast food restaurant, it is necessary for me to exchange three or four dollars with the owner of the restaurant, who in turn must pay his suppliers and employees. Since the restaurant owner owns the hamburger that I want he/she therefore has a right to either sell it to me or not. If the hamburgers are especially good, then competition ensues. If more people want these burgers than the owner can produce, the rationally self-interested burger capitalist will probably the price of his product as high as possible in order to maximize his/her self interest and gain the greatest profit. I may either, choose to pay the higher price or spend my three or four dollars at another restaurant where the burgers are cheaper. If the quality of this competing capitalist's burger is high enough, other rationally self-interested burger freaks will gravitate toward the lower price.

Value under a capitalist regime, then, is purely a function of what people are willing to pay. Of course, it may be that no capitalist is willing to make the burger transaction on my terms. If there is no one around willing to exchange the amount of money that I want to spend for a burger, then I must either reallocate my personal resources (skip a video rental for tonight) or save up more money. If I were starving to death, the restaurant owner may choose to give me a hamburger, but that would be considered a voluntary act of charity and therefore, not morally required. Libertarians believe that all acts of charity must be voluntary and that the government oversteps its boundaries when it taxes some of its citizens in order to provide charity for others.

So if libertarians favor small government with minimal interference in voluntary non-aggressive exchange between individuals, welfare liberals favor intervention by government on behalf of the least advantaged segments of society: the poor, the sick, the elderly and children. Welfare liberals often defend their view based on rational self-interest: Since any one of us can become disadvantaged at any time, even those of us who are presently greatly

advantaged, it is in our collective rational self-interest to agree to contribute toward welfare.

So for libertarians, the rights of individuals are generally construed as *negative rights*, which guarantee only a right to compete for scarce resources without interference from others or the government, unless that pursuit harms others. Welfare liberals, claim at least some *positive rights* for all citizens, which guarantee actual possession of at least some resources, without having to compete. Welfare liberals, therefore, must necessarily use the coercive power of the government to take resources away from advantaged individuals (usually through a progressive income tax) and redistribute some of those resources to the least advantaged.

But the realm of positive rights has the potential for exponential growth. Some commonly proposed positive rights or entitlements include: the right to basic health care, the right to competent legal assistance, the right to a sufficient quantity of food, and the right to basic shelter. But what about other proposed positive rights? Do we have a right to procreate? If so, does that mean that reproductive medicine clinics have a duty to provide expensive fertility treatments for free? Do insurance companies have a duty to pay for them? Does government have a duty to pay for fertility treatments, abortions, or birth-control pills?

CHAPTER VII

SOCIAL AND POLITICAL PHILOSOPHY

Historically speaking, liberalism was a product of the Enlightenment. Modern *communitarianism* was primarily an outgrowth of the Reformation. If liberalism sought to emancipate individuals, communitarianism sought to emancipate groups or communities. Recall from your history classes that prior to the Reformation the Catholic church monopolized religious life throughout Europe. Any religious groups and/or individuals that disagreed with church authorities were subjected to coercive measures and forced into conformity. Remember Galileo? The Reformation broke the monopoly held by the Catholic church and opened the door for the creation of hundreds of protestant religious groups beginning with Lutheranism. Hence, governmental toleration for religious groups became more common.

In contrast to the atomic individualism characteristic of both the libertarian and welfare liberal strands of Western liberalism, communitarians emphasize our social or communal nature. Communitarians, therefore argue that natural human beings are not really atomic individuals at all, but rather members of groups and/or communities. Hence, individuals are really *embedded* in communities; and therefore our actual wants and desires are conditioned by our social interaction within a community. When my boys were younger they both wanted "Starter Jackets." Why? It's because most of their friends at school had them. In short, their taste in clothing and music was (and still is) largely dictated by the community of students at school, which is, in turn manipulated by corporate advertising. Strictly speaking, then, their desire to own a Starter Jacket or listen to the music of Green Day, are not really matters of free choice. Communitarian-minded Catholic schools seek to minimize the communal effect of advertising on the minds of students by requiring uniforms. They don't see it as violating the personal liberty of students, since student wants are not really expressions of atomic individuality, but rather blind conformity to corporate advertising.

Communitarians regard liberalism's commitment to unembedded individualism, conceived independent from its social context, as a convenient myth at best. Are most of your individual wants a matter of personal choice or are they the product of manipulative advertising? Association and relationship with others, communitarians argue, is natural, a part of the good life, a virtue, and can be conceived of as an "end in itself." Moreover, they believe that it is possible to prescribe a single concept of the good life, which all the individuals in a given community ought to pursue. For example, here in Cincinnati, pornography is regarded as incompatible with community standards and therefore discouraged by zoning laws. But high school football is considered to be very important, especially in Catholic schools

Obviously, the problem here is deciding who sets these community standards? Liberal critics of communitarianism argue that community standards are ultimately set by a few powerful individuals, who may or may not set those standards objectively. Hence, communitarians often advocate *legal moralism* as a liberty-limiting principle. Politically, communitarianism tends toward

aristocracy (or theocracy) rather than democracy. Here in Cincinnati, communitarian values are encouraged via the local newspapers and talk radio stations. Although some argue that the local media merely reflects community values, liberals say that the newspapers are merely inflicting their own personal perception of the good life on the rest of us.

Defenders of communitarianism say that *tradition*, more than anything else, frames the good life for a community. Therefore, some social practices become imbedded in the community over a long period of time. Liberals, however, say that tradition is often little more than a reflection of the effectiveness of a community's coercive measures, and are and not necessarily indicative of objective "Goodness." Communitarians regard the satisfaction of at least some collective wants and desires as "positive rights;" but these rights are not grounded in a theory of justice, but rather in the primary *virtues* of love, care, and friendship. Of course, in reality not all communitarian regimes exemplify these values.

There are two main rifts within communitarian scholarship. The first is over scale (or size) of the ideal community, the second is over the role of free will and democratic political institutions. The issue of scale recognizes that there are differing views concerning the possibility of creating large-scale, or even global, political structures that actually promote wholesome communities. *Large-scale communitarians*, like Karl Marx, believe that it is possible to form large political units that promote human well being. e.g. Communist China or the old Soviet Union. On the other side there are *small-scale communitarians* find human fulfillment only in small, intimate, inter-personal relationships as found in families, religious organizations, and local communities. They tend to resist the formation of large communities, and therefore seek to reduce the power of federal government over states and local communities.

Interestingly, libertarians and small-scale communitarians, therefore, share a deep suspicion of increased power of the central state and view the proliferation of large-scale bureaucratic institutions as a potential threat to the existence of these smaller, more intimate communities that truly define human fulfillment and individuality. Critics, of small-scale communitarianism, including some welfare liberals and socialists, point out that, even small groups (especially the traditional patriarchal nuclear family) can be incompatible with human fulfillment. Therefore, many individuals seek refuge from the tyranny of small communities in larger-scale political entities that offer protection. Other critics of small-scale communitarianism argue that the proliferation of independent, autonomous, self-defining communities invariably leads to large-scale relativism between those communities and the denial of any universal, inter-communal concept of the good. Hence, any collection of small-scale communities will end up competing with each other for scarce resources and eventually end up at war. The American Civil War was a good example of how large-scale federalists conflicted with small scale communitarians who advocated states rights.

Another point of philosophical contention between communitarians is a disagreement over the use of coercive measures. Of course, most communities are formed around common belief systems steeped in tradition. Indeed all communitarians embrace these community values over individual values.

However, if individualism and free will are totally rejected as moral values, then the political question arises as to what kinds of techniques should a community employ in its attempts to insure conformity to their collective beliefs. For example, some religious groups employ well-known psychological techniques to produce conformity; known as "brain-washing" or "indoctrination." Other religious groups do not employ such coercive methods but merely rely on education. However, critics point out that as a community grows in population and geographical size, the more difficult it becomes to maintain voluntariness. Indeed communitarian regimes may impinge on voluntariness in at least four ways.

First, many such communities use highly sophisticated techniques of indoctrination that make defection to another community psychologically difficult, if not impossible. Therefore, liberal regimes tend to regulate "brainwashing" as practiced by its communitarian sub-communities. Of course, the line between brainwashing and legitimate education will always be murky. Second, some particular communitarian regimes occupy geographical space. (e.g. an Italian-American neighborhood). The larger the area consumed, the more difficult it may become for discontents to leave that community because of transportation and/or moving costs. Hence, large public schools and public school districts tend to limit institutional options for those students that cannot afford to move to another district. Third, as common interests are identified (e.g. common defense needs) any confederation of communitarian societies will probably generate movement toward federalism. In the United States, this movement has fostered a longstanding debate over the nature and extent of federalism vs. states rights. Alexander Hamilton, among others realized that there would always be non-liberal forces at work to install one communitarian regime. The goal of liberalism is to resist this. Fourth, a confederation of voluntary communities would invariably include voluntary intolerant communities such as the Neo-Nazis. Depending on how this intolerance is exercised in relationships with other voluntary communities, these groups may precipitate enmity between opposing groups and perhaps even civil war. e.g. present day Bosnia. However, if the expression of intolerance is restricted to the area of speech, then a liberal society would be obligated to respect it.

Of course, this would require a rock solid distinction between speech and acts, which modern liberalism has been unable to sustain. Recall that liberalism, with its respect for free will and individualism, eschews all coercive measures and all forms of association are purely voluntary. Communitarians, however, are divided. Some are social determinists and deny free will altogether and therefore they may not embrace democratic principles. Politically, they tend to favor theocracy or aristocracy. However, some communitarians accept at least a sliver of free will and individualism. Therefore, they limit the coercive power of government and defend democratic political principles.

Historically speaking, moral theories and principles become imbedded in comprehensive doctrines containing full-blown social and political philosophies. *Social philosophy* has to do with the descriptive and prescriptive issues relating to how individuals and communities interact; *political philosophy* addresses the descriptive and prescriptive questions of who rules and why. Because these two sets of issues are so intimately related, philosophers put them

together into one discipline called *social and political philosophy*. There are many factors to take into consideration in deciding the question of sovereignty, or rules and who ought to rule.

First is the matter of the number of rulers. A *regime* is a *monarchy* if one person rules, an *oligarchy* if a few persons rule, and it is a *democracy* if everyone rules. Second, is the matter of the *governing principle*. Generally if the ruling principle is considered unjust, the regime is called a *tyranny*. If the regime maintains absolute and total control over the lives of its subjects it is labeled *totalitarian*. Otherwise, there have been four main kinds of (more or less legitimate) kinds of political regimes: *theocracy*, *aristocracy*, *capitalism*, and *socialism*. Theocracy and aristocracy are probably the oldest, while capitalism and socialism are comparatively recent regimes dating back to the Western Enlightenment of the late 18th century. Theocracy and aristocracy probably date back at least to ancient Egypt and Mesopotamia where civilization first took root. Theocrats drew their authority from divine command; which is to say, a few individuals were able to convince the rest of the community that leadership by them was willed by God, or that they themselves were Gods incarnate. In theocracies, policies are often derived from divine revelation and/or religious texts as interpreted by these religious leaders. Today the most powerful theocracies can be found in Muslim countries like Saudi Arabia and Iran. The first theocracies eventually became oligarchies as the number of rulers multiplied to the point where there was a ruling religious class, or priesthood.

Eventually, some rulers were able to establish sovereignty and hold political power without invoking divine command. The first *aristocrats* were probably scribes that held power by monopolizing knowledge through their ability to read and write. In ancient Mesopotamia, many religious leaders were also associated with astrologers, who professed the ability to prognosticate future earthly events, based on their knowledge of celestial events. Knowledge of celestial events was also important in order to establish a calendar. Knowledge of the art of war was always valuable to political leaders. *Fascist regimes* are led by military leaders that hold power by force. Many philosophers believe that all political power ultimately relies on military power. All oligarchies, especially aristocracies, have always been marked by a concentration of wealth and power. Over time, membership in the ruling class often became hereditary, thus solving the basic political question of who should rule. Today, many countries in South and Central America are ruled by wealthy aristocratic families. Closely related to the question of the regime, is the matter of socio-economic philosophy. In the Western hemisphere, most countries today are ruled by capitalism and/or socialism, which are both species of the comprehensive doctrines of liberalism.

LIBERALISM

In philosophy classes forget the contemporary verbiage “liberal” and “conservative.” Politicians have more or less destroyed the traditional usage of the term “liberal.” Traditional *liberalism* builds upon the descriptive theory that human beings are atomic individuals by nature, and that living the good life

depends upon an individual having the liberty to satisfy an his/her wants and needs. (In principle, republicans and democrats generally agree on this!) Historically speaking, many liberals have argued that in the state of nature, human beings lived independently in pursuit of self-interest. The first groups, families, clans, and communities we formed voluntarily out of self-interest; that is, they rationally decided that under some circumstances, living and cooperating with others can be advantageous. The greatest advantage was probably mutual protection from other predatory individuals and groups. Under liberalism, friendship and all other forms of association, are born out of mutual self-interest, "You scratch my back, I'll scratch yours!" Hence, social cooperation is based on *reciprocal altruism*.

With the advent of liberalism during the Enlightenment, government was no longer thought of as a matter of divine right to be exercised by ordained individuals, but rather as a *social contract* between the rulers and the ruled. The concept of a contract is quite simple. Rationally self-interested individuals come together to form communities in order to maximize self-interest. This often requires individuals giving up certain rights to the group that they ordinarily would exercise on their own in the state of nature. (e.g. The right to personally enforce justice.) Enlightenment social contract theorists often differed in what individual rights they thought individuals ought to turn over to government, and therefore they also disagreed over what they expected out of the contract. The authors of the United States constitution, the crown jewel of Enlightenment liberalism, promised its citizens "life, liberty, and the pursuit of happiness." Other Enlightenment philosophers merely sought governmental protection from those who would seize their private property; while others sought a more comprehensive set of rights. Hence, the difference between libertarians and welfare liberals.

Before the advent of voluntary communities, social distinctions were based on natural attributes. Hence, the Darwinian phrase, "survival of the fittest."

Liberalism acknowledges that although social distinctions are probably inevitable, all citizens should nevertheless be treated as political equals, even though they may not be natural equals. Hence, democracy, together with the concept that "the ruled rule the rulers," became the key political tenets of liberalism. So in order for liberal democracies to function, the government must treat its individual citizens as if they were, in fact, equals and therefore, exercise impartiality. Impartiality requires, that the government treat everyone as if they were equals. Hence, what is "right" is considered independent of whatever social distinctions and personal relationships that may arise within any particular regime at any particular time. So doing what's "right" is considered prior to what any concept of the "good," which is always "imbedded" in family, culture, friendship, or locality. That's why we find it morally repugnant for public officials to hire their relatives. *Nepotism* involves treating one's family and friends better than others, regardless of other more salient attributes.

Under liberalism, at least some social goods are to be distributed *impartially*. The problem here is that impartiality seems to undermine the basic concepts of family and friendship, which entail that we sometimes treat relatives and friends better than other persons. In fact, my family and friends would be

disappointed if I always treated them the same as I do strangers, even if I treated strangers extraordinarily well. Indeed, family and friendship demand that we treat our closer acquaintances better than everyone else. Would you be more likely to exercise beneficence toward family and friends or strangers?

If it is true that human beings naturally operate on the principle of rational self-interest, and if human beings, by virtue of being human, share these attributes, then liberal values must be universal. The most important of these universal liberal values are: liberty, justice, and equality. There is, however, an important rift within modern Enlightenment Project liberalism between *libertarians* and *welfare liberals* that can be traced back to the early social contract philosophers; especially John Stuart Mill and Immanuel Kant. Although, both camps embrace democracy and agree that liberty, justice, and equality are important social and political concepts, they disagree on how far communal interests can encroach upon individual interests and therefore, they disagree as to what liberty, justice, and equality entail in terms of government.

CHAPTER VIII

THE COMPOSITION OF THE MORAL UNIVERSE

So far I've discussed the main components of moral inquiry; that is the theories and principles that may (or may not) underlie moral deliberation. In this chapter I will discuss the kinds of beings that are worthy of moral consideration. From the standpoint of descriptive ethics, we can easily identify this class of beings via historical, psychological, sociological, economic, and biological inquiry. In other words we can explore what we in fact believe about the composition of the moral universe. However, we can also generate arguments that prescribe how we "ought" to draw those lines. In this chapter, I'll try to elucidate both the descriptive and prescriptive dimensions of inquiry into the nature of the moral universe.

THE MORAL UNIVERSE

It's a fact that when we conduct moral inquiry, we specify exactly what kinds of beings occupy, what I call, I call the "moral universe." This tiny corner of the larger universe is occupied by a class of beings that philosophers call "*persons*." Non-persons, things, or "*property*" often enter into moral inquiry and therefore can have moral significance, but only in relationship to persons. But the actual borders of the moral universe are not well marked, which is why we argue endlessly over the moral status of zygotes, fetuses, children, dead persons, comatose persons, enemy combatants, animals, and serial killers.

Suppose our family dog, knocked over my cup of coffee and ruined the keyboard on our family computer? Would it be morally wrong on my part to punish her by withholding her dinner, physically abusing her, or giving her away to a science laboratory? After all, she is my dog. I paid for her! But does my pet ownership carry with it any moral responsibilities on my part? This scenario raises a cluster of moral and philosophical issues relating to the treatment of animals by human beings. But what kinds of beings are subject to moral treatment? Morality generally involves discussion of rights, duties, and responsibility. But what kinds of beings can meaningfully serve as the subject of this kind of discourse? What is it about specific life forms that make them fit subjects for moral discussion at all?

Animal rights advocates, for example, argue that at least some animals fall within the domain of the moral universe and that human practices such as animal experimentation and factory farming are subject to moral limits. Some philosophers use the denotative class term "*persons*" or the attribute "*personhood*" to designate that class of beings that are subject to moral consideration. In respect to personhood, there are three categories that emerge from any philosophical analysis. There are *undoubted persons*, *undoubted non-persons*, and *hard cases*. Today, with a few exceptions all living human beings are generally considered to be *undoubted persons*, in the sense that we agree that

we ought to consider how our actions affect each other. Today, most of us in the Western world believe that all conscious, living human beings are persons, which means that we have moral obligations toward them. Historically, the idea of universal human rights is fairly recent. In centuries past, there was doubt as to whether women, children, and slaves were really persons.

The universe is also populated with undoubted non-persons, like my electric guitar, computer, or my bedroom slippers, that obviously have no rights or duties apart from me. No one would argue that moral principles such as such as: beneficence, nonmaleficence, utility, liberty, and justice apply to these things. Can I treat my bedroom slippers unfairly? (Or, better yet, do my dogs respect their personhood?) And finally, today philosophers acknowledge hard cases, a third class of entities that generate inquiry. Since the 1970s, we've been debating the personhood of animals, eco-systems, fetuses, and comatose human beings.

There are several different possible approaches to this task of differentiating persons from non-persons. One way to think about it is to ask yourself: "What descriptive attributes do all the undoubted persons have in common that non-persons simply do not possess?" We could start by saying all persons have at least some basic rights and/or duties. But that would beg the question. We might argue that all persons have the capacity to claim certain rights. But most of us regard human infants (who are too young to know their rights or communicate) as persons worthy of our moral concern. Finally we might decide that all persons have duties toward other persons and can be held responsible for, at least some of their behavior. However, again young children are not held responsible for very much of their behavior, but are nevertheless thought to be persons. Thus far, our analysis seems to point to one of two possible conclusions. Either children are undoubted persons and therefore we are missing something in our reasoning about personhood, or maybe our intuitions about the personhood of children cannot be rationally defended? What do you think?

While I think there is a lot of room for debate over personhood, I think there is some agreement among philosophers that all persons do share (at least to a degree) four descriptive attributes: *consciousness*, *self-awareness*, *sentience*, and *intelligence*. All of these traits can be traced to biological processes related to the activity of a central nervous system and a cerebral cortex. Philosophically, these four concepts are probably not independent of one another. For example, I don't think you can be sentient or intelligent unless you are also conscious and self-aware. Do you think you can be conscious, sentient, and self-aware, but not be, at least to a certain degree, intelligent? Even though there is much ambiguity between them, these attributes do seem to be very important in any discussion of rights, duties, and responsibility. But it is at least possible that somewhere in the universe there exists a brainless species of beings that are conscious, self-aware, sentient, and intelligent.

Among the four necessary conditions, many philosophers (especially utilitarians) think sentience is probably the most morally significant. Sentient beings have the capacity to experience pain and pleasure, and therefore many philosophers contend that we must take this fact into consideration in our behavior toward them. We might even conclude that all sentient beings have a

right not to suffer needlessly. If a being is not sentient, and therefore is incapable of suffering, do you think that being has any rights at all? Can you harm non-sentient beings?

The necessary condition of intelligence is also notoriously murky. Obviously, a big part of the problem is that we don't know precisely what intelligence is. This makes it rather difficult to test for. Historically, our society has not fared well in the use of intelligence tests. In the nineteenth century, for example, we used intelligence tests to deny education and voting rights to African Americans and women, based on the purported "fact" of their inferior intelligence. In the early twentieth century, we also used similar tests to limit immigration from southern European countries. Whatever intelligence is, it seems to be linked to purposive behavior. I have observed the behavior patterns of my electric guitar for many years and I conclude that it exhibits no independent purposive behavior and therefore it has no measurable intelligence. However, I might also observe the behavior of a comatose human being and come to the same conclusion. Moreover, it is a fact that some primates are more intelligent than some human beings. Comatose humans, fetuses, and anencephalic infants do not score very well on IQ tests. Apes score pretty high, even on our obviously anthropocentric scale. If apes administered IQ tests to humans, I don't know how well we'd score.

Once we establish a theoretical model for discerning persons from non-persons, we then are morally obligated to modify our behavior accordingly. We surely have at least some *direct duties* toward all persons. This means that we must deliberate about how our behavior might affect them. In other words, morality demands that in our behavior toward other persons that we do certain things and/or refrain from doing other things.

So because you are a person, I have a direct duty not shoot you, without a good reason. (But don't worry about me shooting you. Other than self-defense, I don't think there any good reasons for one person to shoot another. All other alternatives would have to be exhausted first!) Morality also demands that we occasionally deliberately alter our behavior toward at least some non-persons. Under most circumstances, it would be morally wrong for you to smash my Yamaha guitar without my permission, even though it is not conscious, self-aware, sentient, or intelligent. We therefore have *indirect duties* toward objects that indirectly affect the interests of persons. So even though my guitar is a non-person, you still have an indirect duty not to damage it, because I am a person, and if you were to wreck it, you would indirectly invade my interest in playing music. Don't kick my dog either!

DISCRIMINATION

When we say that an act is discriminatory, we are saying that we are treating a person as a non-person. Hence, "discrimination" is a prescriptive concept based on descriptive criteria. Different cultures often draw these lines in different ways. Invariably, the concept of discrimination also draws upon the formal principle of justice, which prescribes us to "treat equals equally and unequals unequally." Discrimination, therefore, involves treating a person as a

non-person or thing. Although for most Americans, the most contentious issue that arises out of the attempt to draw that line of demarcation involves the moral status of fetuses, human beings have long struggled with questions of race and gender.

When we discriminate between various classes of human beings, we dehumanize them, or depersonalize them. Many human societies draw this line of demarcation based on tribal or religious affiliation, and therefore “dehumanize” those that are not in their tribe or religious organization. Once a group is dehumanized, they can be excluded from moral consideration. For a deontological theorist that mean violating rights, as outlined by the principles of liberty, beneficence, nonmaleficence, and justice. In the Western world, dehumanization can also involve the violation of property rights.

CHAPTER X UNIVERSAL MORALITY

One of the most profound implications of the worldwide access to information technology (Radio, television, Internet etc.) has been the growing realization that there is a lot of variation in the beliefs and practices exhibited by other cultures. This raises serious questions in terms of how we deal with moral disagreements between cultures. There are basically two positions that seem to dominate: *toleration* and *intervention*. The difficult question is: What kinds of cultural beliefs and/or practices are tolerable from a moral perspective, and which are intolerable and require intervention?

There are many hidden complexities here. To me the most troublesome is the rather ambiguous use of the term “culture.” So what is a culture? Let’s take a look at how we use the word. Here’s a few instantiations: Western culture, Eastern culture, American culture, European culture, French culture, Islamic culture, Appalachian culture, African-American culture, Native American culture, and corporate culture, (to name just a few). When we designate a group of humans as a “culture” we are actually expressing our approval of that group. We are really saying: there are many human beings that belong to that group and it has existed for a while. And although we may disagree with many of their beliefs and practices, we tolerate those differences (if not respect them). In short, cultural status is a prescriptive judgment.

Some cultural beliefs and practices are easily tolerated such as: food, clothing, art, literature, and music. Although these beliefs and/or practices are different from ours, we generally do not attempt force these preferences into conformity with ours. We generally don’t say: “We American really need to teach the French how to prepare their food!” or, “We Americans need to teach Muslim women how to dress more provocatively!” That’s because we accept the fact that food and clothing choices are “relative” to specific cultures.

On the other hand, we there are many beliefs and practices that tend to incite moral indignation and a corresponding desire on our part to intervene and “correct” that belief and/or practice. Here are a few cultural practices that incite our Western interventionist instincts: genocide, cannibalism, and slavery. These prescriptive judgments are contingent upon what we think about morality in general. Again, there seems to be two basic positions: *objectivism* and *cultural relativism*.

Objectivists argue that there are moral facts that can be discerned based on some publically verifiable criteria such as reason, experience, intuition, or authority or convention. A rationalist for example will typically argue if you exercise reason correctly you can know the good. Therefore when we seek to convince another culture that genocide is morally wrong, all we need to do is present a valid argument with true premises. Then, that other culture will respond by say: “Wow you’re right, we’re wrong! Thanks for pointing that out!” Unfortunately, that almost never happens, therefore we usually tend to employ coercive force to bring about change. For example, in many cultures it is morally acceptable for husbands to beat their wives. But if they do that when they are in the United States they’ll go to jail!

Relativists argue that morality is always relative to a specific culture and therefore all beliefs and/or practices are tantamount to choices of food and clothing. “Cannibalism is wrong in the United States, but some primitive cultures do it because of the scarcity of food and/or longstanding religious beliefs.” Personally, I don’t know if cannibalism is a universal moral wrong or not. I would argue that if there is a difference between killing human beings for food as a cultural practice is morally different from eating humans that are already dead. Therefore, full-blown relativists argue that intervention is never morally justified and that we must tolerate all moral differences.

Personally, I don’t know any full-blown relativists. On the other hand, I am generally opposed to cultural intervention for utilitarian reasons. That is, even if another culture routinely practices cannibalism, genocide, or slavery we might not be able to change those practices, even if we wanted to! For example, what would it take to force Islamic countries to allow women access to education? What would it take to end Genocide in Africa? Could we afford to intervene? Would the benefits outweigh the costs? And finally, given the fact that there are so many “immoral practices” worldwide, can we afford to go to war with every country that violates universal principles of morality. This is the general approach taken by libertarians. If I can convince you that you are morally wrong, I’ll do it. But if I cannot do that, I won’t use coercive force to institute change. As a moral libertarian, I probably won’t contribute to the survival of your culture by investing in companies that do business with you.

CHAPTER XI

A LIBERTARIAN GUIDE TO THE GOOD LIFE

In this book I have argued that libertarianism is incompatible with absolute cultural relativism. While it is true that any philosophical doctrine committed to maximizing personal liberty will require an extraordinary degree of toleration (Perhaps more than most people are willing to stomach!), libertarianism is also incompatible with infinite toleration. In other words, libertarianism implies a universal moral foundation and a vision of the Good Life that applies universally, to all persons, at all times, and all place. Now don't expect a detailed description of how to allocate our time, energy, and resources toward the harmonious realization of individual and collective goals, or a detailed roadmap outlining the path to the Good Life. But I do think you will find a realistic vision of how human beings can live together in relative peace and harmony, with a bare minimum of coercive force. You can decide whether this libertarian vision is compatible with the broad constraints of human nature, or whether it's just another idealistic theory hatched by other-worldly philosophers. In this chapter I shall argue that the libertarian concept of individualism entails four moral principles that contribute to a conception of the Good Life. These principles are: self realization, independence, honesty, and peaceful non-aggression.

SELF-REALIZATION

Libertarians relish the fact that we are all different. Although as a species, we do share some common characteristics, we do have different bodies and harbor different beliefs. And, perhaps most of all we all have our own individual abilities and talents, as well as inabilities. Most moral systems identify the Good Life with the cultivation of robotic uniformity, and therefore, seek to eliminate, or at least undermine individuality. Libertarianism encourages us to, not only value individuality, but also to cherish our differences, and resist efforts by others to gloss over those differences under the banner of a vaguely defined concept of the public good. This requires that we actively seek to understand ourselves, not as robotic members of groups, but as unique individuals with different bodies, and different beliefs. A libertarian concept of *self-realization* requires that we discover these differences over the course of our lifetimes, and that we value both ourselves and others, as individuals, and not merely as dutiful followers of leaders.

The cornerstone of libertarianism is its view that Mother Nature (or God) distributes natural advantages and disadvantages on a, more or less, equal basis. Equality of opportunity resides, not only in our individual differences, but also in that we live in an ever-changing world. Advantage and disadvantage are contextual, that is to say that the distribution of social advantages and disadvantages is contingent upon what's going on around us. Given the fact that we live in this ever-changing socio-economic environment, at any given time it

is up to us to figure out what we want to do with our lives, and determine what we're good at. When we do things that we're passionate about and good at, good things happen.

First of all, we experience pleasure when we successfully exercise our interests and talents, and we usually experience frustration when we struggle when our interests conflict with our talents. One undervalued talent that most human beings fail to develop is our capacity to overcome natural disadvantages by capitalizing on our other advantages. But this requires deliberate action on our part.

The basic problem with the libertarian concept of self-realization is that we are constantly being bombarded by cultural forces shaped by groups and leaders that aspire to control this process of self-realization. For example, public schools design uniform curricula in order to direct all individuals toward specific courses of study, regardless of their individual interests and talents. School board members even get together and decide what books students are to read. One of my pet peeves is how most public schools typically de-emphasize, and devalue things like mathematics, science, art, music, and physical education emphasize three R's: reading, writing, and arithmetic. A libertarian educational system is one that allows individuals to pursue self-realization by taking a variety of courses that help them discover their individual interests and talents. When leaders use the coercive power of the state to enforce conformity, we end up with a shallow individuals and a society of bereft of guitar builders, harp players,

INDEPENDENCE

Although libertarians are often portrayed as rabid defenders of "atomic individualism," that indictment is a gross oversimplification. That is not what most libertarians mean when they say that they value *independence*. There may be a few libertarians that value isolation from other human beings, and therefore choose to live alone in the mountainous regions of Montana, but most of us enjoy living in communities. But living independently in a communal setting can be a bit tricky. The main impediment to the realization of a community composed of independent individuals is the free-rider problem. Simply put: if given the opportunity most human beings would rather get something for nothing than pay the market price. But as Milton Friedman put it, there is, in fact, "no free lunch." Someone must pay the price in terms of time, energy and resources.

Recall that libertarianism is based on reciprocity, and not on a system of exchange based on charitable benefactors and dependent beneficiaries. The communal Good Life resides in societies composed of individuals that willingly choose to exchange the fruits of their labors and talents in the service of their own self-interest. But in order for this to work, individuals must be free to discover their interests and talents via the process of self-realization. So what does it mean to live independently in a communal setting?

Believe it or not, libertarians are really communitarians; but they are champions of the formation of "voluntary communities." Community is not an intrinsic good, but an extrinsic good. It derives its goodness from the production

of pleasure and happiness. If the costs of communal life outweighed the benefits, human beings avoid communities. In many parts of the world that's exactly what human beings do. We call them refugees. Dysfunctional communities that produce more pain than pleasure can only survive in one of two ways: convince its members that they are really happy; and/or employ coercive force to prevent them from leaving the community. Freedom of association is a value, a moral imperative that insures the eventual extinction of dysfunctional communities and the survival of functional ones. Freedom of association simply means that we must allow each other to peacefully enter and exit communities based on reciprocity. In short, if the church that you attend does not provide "bang for the buck," in terms of meeting your spiritual needs, you must be free to exit that church and find one that meets your needs. You can also choose to stay around and try to reform that church, but in the final analysis, churches must remain voluntary communities. Churches that employ ideology and use barbed wire fences and threats of physical force to maintain membership are, obviously, incompatible with the libertarian vision of voluntary association.

If the school that you attend does not provide you with "bang for the buck," you must be able to go to another school. If there are no other schools, you must be free to start one, without interference from your old school. Bad schools would have no students, and go bankrupt. In short, if everyone abandoned non-reciprocating churches, schools, and nations then eventually, then those dysfunctional institutions would become extinct and replaced by more efficient institutions. The same principle guarantees that inept doctors eventually run out of patients, and good doctors get rich. However, there is a catch. I must be able to acquire knowledge that my doctor is incompetent and that another doctor is competent, and I must be able to stop seeing the incompetent one in favor of the competent one. As it turns out, this gets complicated. It requires that a sufficient number of self-interested individuals choose to become doctors, and that they realize that if they are not very good, they will go bankrupt. On the other hand, under monopolistic conditions, individual doctors have no real incentive to be good doctors. They don't have to worry about losing patients. They have nowhere else to go. In short, any social system that protects individuals from competition will breed inefficiency. So if we want to reform the health care system in the United States, we must restore competition, and thereby force inept doctors into other professions. Sometimes self-realization requires a heavy dose of economic reality.

Human beings are social animals, and therefore, atomic independence is not an intrinsic good, in the sense that if I were truly independent of other humans, I would never own a guitar, an automobile, or a home. For libertarians independence means nothing more than a commitment to two-sided reciprocity; that is a desire to be both a benefactor and a beneficiary. Independence, therefore, implies the *prima facie* rejection of habitual dependency upon others. Now there are times in life, when we are going to be dependent upon others. Persons that are chronically ill, children, and the infirm elderly, quite naturally, depend on others. The most likely benefactors will always be their families and friends. And of course, families and friends are also more likely to know whether those persons are truly dependent, or free-riders in pursuit of that free lunch. The elderly can become dependent, either because of either poor

individual planning or poor collective planning by government. The chronically ill, are often ill due to lifestyle choices. Today, American society faces a health care crisis, largely, because of bad decisions. Hence, we now face an epidemic of preventable health problems due to overeating, overdrinking, smoking, and driving too fast. When individuals are shielded from the consequences of our bad decisions by idealistic and indiscriminate benefactors, we end up with a society that manufactures more free riders than benefactors. So the virtue of independence implies that we must hold each other accountable for our actions, and that we must teach our children that there is no free lunch.

In sum, libertarians do not deny the reality of dependency, they just distinguish between voluntary and involuntary dependency. Government is a notoriously inefficient instrument for both drawing this distinction, and providing relief for involuntary dependency.

HONESTLY AND FAIR PLAY

The libertarian vision of the good life is contingent upon individuals that value the Truth, speak the Truth, and actively pursue the Truth. Unfortunately, human beings also have the natural capacity to manufacture Truth in pursuit of self-interest. Hence, libertarians argue that we must monitor and enforce rules that minimize the incidence and profitability of deception. As we all know, that's a tall order.

Truth is nothing more than the terminus of human inquiry. The process of inquiry is not all that mysterious. It's the universally recognized process of trial and error. Over the long run, human inquiry does not coronate Truth, but merely eliminates Falsity. Deception artificially postpones falsification. Therefore, we must maintain monitor human inquiry in order to protect ourselves from those who seek to manufacture Truth in the service of self-interest. Deception is not merely a practice employed by cunning individuals. It is even more common in a social context. In short, all communities generate self-serving ideology intended to rewards the in-group and punish the out-group. The most prolific sources of self-serving ideology are large organized communities, especially nation states and multinational corporations.

Reciprocal altruism provides for the peaceful exchange of the fruits of our labor. I like to play guitar, but I cannot build one. But I can teach philosophy, which colleges and universities value. So by exercising my teaching talents, I can still own a guitar, an automobile, and a house. I'm not very good at brain surgery, automotive maintenance, or furnace repair, but I can still get those things done via reciprocity. When I pay that expert guitar builder, brain surgeon or mechanic, they can use that money to go to college, or send their kids to college, which in turn creates economic opportunities for me. The beauty of all of this is that it doesn't require a master planner, a head honcho, or a big boss man. None of us have to know (let alone like) the beneficiaries of our contribution. It's a self-organizing system and it does not require ideal altruism. But it only works when buyers and sellers can trust one another. I have to trust that if I pay for that guitar, it will be built to my specifications, and delivered to me on time. The luthier, on the other hand, must trust that I'll pay for that guitar

on time. In the absence of government, the luthier and I both would have to provide our own monitoring and enforcement. Market capitalism requires honesty, which unfortunately is not sufficiently cultivated by Mother Nature. It needs our help.

Honesty, therefore, is a necessary condition for peaceful voluntary exchange. Interestingly, rational human beings are highly skilled at the art of deception. We're natural born liars and natural born lie detectors. Therefore, it is not likely that the last vestiges of human deception will ever be excised from human systems, but we can at least minimize its frequency by monitoring and enforcement rules that support honesty and punish deception. We expect some professions to be especially prone to deception. We're especially vigilant in our dealings with used car salesmen and politicians. But many professions have devised systems that mask deception through the use of ideology. The main problem with the use of ideology is that it undermines reciprocal altruism; that is, it interferes in the voluntary exchange of goods and services by self-interested individuals and groups. Today most of us are vulnerable to the widespread ideology that religious leaders, doctors, and scientists are above reproach, and therefore, we can trust them, unconditionally, without monitoring their behavior. As a result, when we do look at these professions closely enough, we invariably find widespread fraud and deception.

Cheating is a subspecies of dishonesty. It involves the surreptitious violation of rules in order to gain an unfair competitive advantage. In grade school, children are taught the maxim: "Cheaters never prosper." But that's more ideology and a prescription for complacency. It assumes that the laws of nature alone provide sufficient protection from cheaters. But it takes human effort to maintain a serviceable level of honesty in all human communities. We must teach children, not only to resist the temptation to cheat, but also teach them how to detect cheaters, and to resist any ideology that call for "blind trust."

In general, deliberate, self-serving deception is a moral wrong, not only in our culture, but all cultures in all times, and in all places. Unfortunately, these cloaks of deception are also universally difficult to unmask when coupled with social and political power. It takes a lot of cooperation to enforce honesty.

PEACEFUL NON-AGGRESSION

Finally, libertarians are not only committed to honesty in transactions, they are also non-aggressive, that is, they do not believe in using violent force in the pursuit of individual and collective goals.

The concept of aggression, unfortunately, is highly malleable and therefore easily manipulated by powerful individuals and groups. Aggression can be easily confused with other harms and threats. Not all unpleasant acts toward others constitute aggression. Libertarians, therefore, restrict its usage to over acts physical aggression; that is physical threats against our bodies, or physical coercion. The classic forms of aggression are marked by the presence of physical lesions (black eyes, knife wounds, bullet holes etc.) that result in physical pain registered by our central nervous systems. Aggression is a deliberate act committed by aggressors. Aggressive behavior toward others is

necessarily involuntary. If you voluntarily agree to under physical harm, that is not aggression.

If everyone on earth was committed to non-aggression, there would be no retribution, and no escalating levels of violence among humans. But libertarians are not ideal pacifists. They realize that a substantial proportion of the human race will always choose to meet their wants and needs through the use of violent aggression or threats. They believe that the only justification for the use of violence is rational self-defense. Now, the concept of rational self-defense is a bit tricky, but cogent. Libertarians argue that liberty and security are often at odds, and that although the human tendency is to sacrifice liberty for security, rational self-defense implies sacrificing security for liberty.

Although self-defense is natural and therefore, it does not have to be taught in public schools, it also natural for human beings to employ violence in pursuit individual and collective goals. An in some environments, aggression can be a very efficient vehicle for achieving one life goals, at least for some unscrupulous persons. But the use of violence is a notoriously inefficient method for the distribution of our time, energy, and resources. A libertarian society, therefore, must monitor and enforce laws against unjustified aggression.

In conclusion, I have argued that libertarianism requires a moral foundation. It cannot survive in a social environment populated by unquestioning, habitually dependent, dishonest, and aggressive individuals. In fact, no society can survive under these conditions. That's why we must individually and collectively support the ideals of self-realization, independence, honesty, and non-aggression. We cannot simply rely on government officials to design meaningful, efficient, voluntary communities. We must do it ourselves.