Constructing a Theory of Justice

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The Approach to Truth

In seeking a theory of right and wrong, as in all other endeavors, it is necessary to understand the nature of the journey ahead. There are dangers, misconceptions and errors, waiting to lead the unwary astray. Preparations, therefore, must be made. To reach our goal, to be confident in our understanding, we must first be confident in our approach. The reasoning processes itself must be understood. We must be able to distinguish a good, from a bad, theory.

The brain, first and foremost, is an information processor. We do not perceive the world directly. We do not have within our minds a faithful recreation of the world. When we see or think about a flower, there is no actual picture of a flower in our brains. What we do have is the capacity to create a model, or a simulation, of the world. Collecting information through the senses, we then process that information. Our experiences are collected, weighed and analyzed. Similarities and differences are noted. Importance is assigned. Information, old and new, is compared; and ideas are formed and placed into categories. From these categories, these collections of ideas, concepts are formed. Concepts, and groups of concepts, in connection with their constituent ideas, are analyzed and then *interpreted*. The result is information beyond the initial sensations, beyond the initial evidence, which is formed and organized into a model of the world. This organizing process, whether true or false, involves the discovery and assignment of hidden relationships, causes and functions. Through method, through consciously organizing and directing our thoughts, we can hope to model the world ever more accurately.

Concepts and Categories

The importance of carefully forming concepts, and of placing these concepts within a proper intellectual framework, cannot be underestimated. The history of thought, and particularly philosophy, is an endless series of debates and confusion. The reason for this, in large part, was an improper understanding of the nature of truth, of categorization, leading back to the writings of Aristotle. Even today, many seemingly inexplicable disputes can be understood, if not resolved, by understanding the process category formation.

The process of categorization is based, generally, upon the recognition of similarities and differences.[1] Aristotle believed that membership within any given category is determined by the possession of necessary characteristics and the absence of disqualifying characteristics.[2] According to this position, for example, an animal would be classified as a bird, if, and only if, it possessed wings, feathers, and a beak and was able to fly and lay eggs. Certainly, all of this is true regarding a typical bird, such as a robin. But what about penguins? They cannot fly. And what if a new creature was discovered that in every way resembled a robin, except that it was

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[1] ELEANOR ROSCH, COGNITION AND CATEGORIZATION, ed. Eleanor Rosch and Barbara B. Lloyd, 31 (1978).

[2] ELEANOR ROSCH, COGNITION AND CATEGORIZATION, ed. Eleanor Rosch and Barbara B. Lloyd, 1-3 (1978).

blue and gave birth to live young? It may so happen that all birds do in fact lay eggs, but is it necessary? This may seem silly, but it can lead to very serious debate. Legal scholars, for example, have debated whether a law, to be a law, must include punishment for non-compliance. Is punishment a necessary characteristic of any law? Is this question even meaningful?

Modern research has shown, convincingly, that Aristotle was wrong – there is no such thing a necessary characteristic.[3] Instead, our brains are structured in such a way that we are predisposed to organize information into "natural categories."[4] [5] What makes the process of categorization "natural" is not that we are born with particular categories already in our memory, for we are not, but rather, that information tends to be processed by our brains in predictable ways.[6] By grouping information into categories, we are able to contemplate a much greater number of instances at the same time and to refer to these instances with much greater efficiency. (Natural categories should be distinguished from artificial categories, which are a matter of convention and definition.)

The most promising theory of natural concept formation, enjoying widespread support, is what has been referred to as a revised version of the *Dual Theory*.[7] Under this theory, membership within a category is understood to be determined through an interconnection of two processes.[8] The first process is a comparison of similarities and differences. Comparison, however, is based upon probabilistic calculations of the characteristics members *tend to have*; and as a consequence, there is no characteristic that an instance *must have* in order to be included as a member.[9] More specifically, membership within a natural category is determined by the mental processes of weighing the number and importance of similar attributes against the number and importance of distinguishing attributes,[10] taking into account the probability that attributes will occur, or will not occur, together.[11] Thus, a penguin is a bird, even though it cannot fly, because it has sufficient similarities, and insignificant differences, when compared to other organisms classified as birds.

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[3] Eleanor Rosch and Barbara B. Lloyd, Cognition and Categorization, 2-3 (1978).

[4] Eleanor Rosch and Barbara B. Lloyd, Cognition and Categorization, 2-3 (1978).

[5] According to the authors of *Cognition and Categorization*, "human categorization is not the result of arbitrary historical accident, but is the result of psychological principles of categorization. Eleanor Rosch and Barbara B. Lloyd, Cognition and Categorization , 27 (1978).

[6] According to Rosch and Lloyd, "Categories are considered to arise out of an interaction between stimulus and process. The contribution of the processor who brings a variety of capacities and strategies to the task of making sense out of the stimuli, objects, and events of the world is not overlooked." Eleanor Rosch and Barbara B. Lloyd, Cognition and Categorization, 2-3 (1978).

[7] Stephen, Laurence, Eric, and Margolis, To appear in Blackwell Philosophy of Mind, Concepts

[8] Stephen, Laurence, Eric, and Margolis, To appear in Blackwell Philosophy of Mind, Concepts

[9] Stephen, Laurence, Eric, and Margolis, To appear in Blackwell Philosophy of Mind, Concepts

[10] Eleanor Rosch, Cognition and Categorization, ed. Eleanor Rosch and Barbara B. Lloyd, 31 (1978).

[11] Eleanor Rosch, Cognition and Categorization, ed. Eleanor Rosch and Barbara B. Lloyd, 31 (1978).

The significance is that it is impossible to define what any concept is with exactness. To say that concepts cannot be defined with exactness, however, does not imply that concepts are incapable of being meaningfully understood. Natural categories are formed according to parameters imposed by the structure of our brains and by the nature of the information perceived through the senses, which is to say, natural category formation is not arbitrary. [12]

One important aspect of natural category formation, relating to comparison, is that there are both clear and gray instances of category membership. [13] What distinguishes a clear instance from a gray instance is that gray instances possess fewer or less significant similarities, and/or greater or more significant differences, than other members of the group bear in relation to each other. A robin is clearly a bird. The membership of a penguin is somewhat more precarious. Furthermore, natural categories are exclusive, which is to say, there are clear instances that cannot be included as members. [14] An alligator, for example, cannot reasonably be classified as a bird. Thus, the range of reasonable disagreement regarding membership within natural categories is confined within the narrow boundaries in which gray instances appear.

The second process under *Dual Theory* relates to the fact that concepts are often embedded within mental structures. [15] Mental structures provide explanatory schemas that can be used to facilitate the process of categorization.[16] In other words, concepts are often embedded within theories. Theories provide explanations of the nature, or essence, of concepts, as well as the relationships between concepts, in terms of causation and function. A full and scientific understanding of the concept of bird, for example, is not limited to a comparison of visible features; it also includes an explanation of the arrangements of atoms, of molecules, and of DNA, which give rise to the various visible features. An alteration of DNA, by being the cause of other more visible changes, is of more consequence than a mere surface alteration (such as the loss of a wing or a claw). In the same way, the concept of water can be formed though sensations of touch and sight; but the essence of water can also be explained in terms of the interactions of atoms. The significance of such observations is that, though natural concepts cannot be defined, they can be explained. There may no such thing as a feature that an instance *must* possess, in an absolute sense, in order to qualify for membership within a category; but some features can, to a high degree of probability, be shown to be essential through scientific inquiry (though scientific theories can always, at least potentially, be overturned through observation). Thus, in this sense, the possession of essential properties can properly be regarded as a qualification for membership. [17]

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[12] ELEANOR ROSCH AND BARBARA B. LLOYD, COGNITION AND CATEGORIZATION, 1-3 (1978); DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 198-205 (2003).

[13] ELEANOR ROSCH AND BARBARA B. LLOYD, COGNITION AND CATEGORIZATION, 2-3 (1978).

[14] ELEANOR ROSCH AND BARBARA B. LLOYD, COGNITION AND CATEGORIZATION, 2-3 (1978).

[15] Stephen, Laurence, Eric, and Margolis, To appear in Blackwell Philosophy of Mind, Concepts, 10
[16] Stephen, Laurence, Eric, and Margolis, To appear in Blackwell Philosophy of Mind, Concepts, 10
[17] Stephen, Laurence, Eric, and Margolis, To appear in Blackwell Philosophy of Mind, Concepts

When developing an ethical theory, therefore, it should be bore in mind that we are dealing with concepts, which can be elucidated and explained, but cannot be defined. Furthermore, confidence can often be increased through comparison, by comparing gray instances to those that are clear.

Inference and Deduction

The process of interpreting information is commonly referred to as inference. Inference, as we have seen, is at the heart of the thinking process. It is the first of two types of reasoning, namely, inductive reasoning and deductive reasoning.[18] Inductive reasoning is typified by the scientific method; it is the process of arriving at conclusions based on evidence.[19] Inferences necessarily go beyond the evidence itself, providing new information.[20] It is for this reason that inferences can never be guaranteed to be true;[21] they involve a *mental leap* from perception to interpretive conclusion.[22] Thus, confidence in an inference can always be undermined; there is always the possibility that new, conflicting evidence may be discovered.[23]

Deductive reasoning is the process of arriving at a conclusion by recognizing the necessary implications of combined assumptions.[24] In other words, deductive reasoning exposes those conclusions that must be drawn, given the premises, in order to avoid inconsistency.[25] Geometry is a typical example of this type of reasoning. In a sense, deductive reasoning allows for absolute certainty; unlike inductive inferences drawn from evidence, deductive reasoning provides no new information.[26] However, the objective truth of any deductive conclusion is always dependant upon the truth of the underlying assumptions, and the truth of the underlying assumptions, in turn, must be supported by evidence.[27] [28]

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[18] MANKTELOW KEN, REASONING AND THINKING, 1-3 (1999).

[19] MANKTELOW KEN, REASONING AND THINKING, 2 (1999).

[20] SACHA BEM AND HUIB LOOREN DE JONG, THEORETICAL ISSUES IN PSYCHOLOGY, 11 (1997).

[21] MANKTELOW KEN, REASONING AND THINKING, 2-3 (1999).

[22] ANTONIO DAMASIO , LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 199 (2003).

[23] MANKTELOW KEN, REASONING AND THINKING, 2-3 (1999).

[24] MANKTELOW KEN, REASONING AND THINKING, 3 (1999).

[25] SACHA BEM AND HUIB LOOREN DE JONG, THEORETICAL ISSUES IN PSYCHOLOGY, 9 (1997).

[26] MANKTELOW KEN, REASONING AND THINKING, 3 (1999).

[27] SACHA BEM AND HUIB LOOREN DE JONG, THEORETICAL ISSUES IN PSYCHOLOGY, 18 (1997).

[28] All knowledge is based upon sense perception. In the words of Estes, "the basis of all mental activities is a memory in which representations of previous experiences are recorded. We have no way of getting directly at the nature of these representations, but a great deal of indirect evidence from research on memory supports the idea that they are encoded in terms of attributes of objects or events." Estes, W.K., *Classification and Cognition*, Oxford University Press, p. 12 (1994).

Thus, deductive reasoning can entail no greater certainty than the inductive premises upon which it is based;[29] and inductive reasoning, as we have seen, can never lead to an absolute degree of certainty.[30] Indeed, all knowledge is ultimately based upon inference and cannot, therefore, be proved in an absolute sense.[31] This is true of even mathematics. Gödel is famous for having proved that "no matter what axioms one chooses as the basis from which to prove the truths of arithmetic, there will always exist propositions that can neither be proved true nor false." In moments of reflective honesty, therefore, if not in everyday discourse, belief ought to be expressed in terms of probability only.[32] Nothing is absolutely certain.[33]

An important qualification, however, should be made. It may one day be possible to provide justification as to why one underlying inference is more likely than another (at present we can only agree or disagree). The difficulty is that we know very little about how the brain actually creates an inference.[34] But if we do someday understand how the brain processes information, as is likely, we will also understand how inferences are made. This, conceivably, would provide a means for judging the merit and reliability of our inferences. Knowledge would remain a matter of probability, to be sure, but the degree of probability would itself be ascertainable.
Be that as it may, although inferences are currently incapable of formal justification, many inferences are easily recognized as very highly probable. Such inferences, seeming obvious, gain the assent of nearly all reasonably informed individuals. Many of the ideas of math and science, for example, possess such a high degree of probability as to be true for all practical purposes. Such inferences will be referred to as fundamental assumptions.

<div align="center">Theory</div>

Creating a theory is an act of organizing one's ideas into a coherent framework of thought, or model, corresponding to reality. The better the theory, the more accurately reality is represented. Good theories are built upon a foundation of fundamental assumptions, which is to say, highly probable inferences.[35] Collections of inferences often contain hidden, implicit information. A good theory will make this information explicit through deductive reasoning, revealing what must be true in order for consistency to be maintained. Good theories, when making inferences,

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[29] Sacha Bem and Huib Looren de Jong, Theoretical Issues in Psychology, 18 (1997).

[30] Manktelow Ken, Reasoning and Thinking, 2-3 (1999).

[31] Roger Sperry, Science and Moral Priority, 18 (1983).

[32] To his son Marcus, Cicero wrote: "…we Academicians are not men whose minds wander in uncertainty and never know what principles to adopt. For what sort of mental habit, or rather what sort of life would that be which should dispense with all rules for reasoning or even for living? Not so with us; but, as other schools maintain that some things are certain, others uncertain, we, differing with them, say some things are probable, others improbable." Cicero, On Duty (Trans. Miller, Loeb Classical Library, 175 (1997)).
[33] Roger Sperry, Science and Moral Priority, 18 (1983).

[34] Antonio Damasio , Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 198 (2003).

[35] Roger Sperry, Science and Moral Priority, 18 (1983); Manktelow Ken, Reasoning and Thinking, 2-3 (1999); Sacha Bem and Huib Looren de Jong, Theoretical Issues in Psychology, 18 (1997).

take into account the greatest amount of relevant information. Good theories are as simple as the nature of the subject allows, and no simpler; complexity is not added merely for the sake of adding complexity. Arbitrariness is avoided. A good theory, moreover, accounts for the relationships between ideas and concepts. Concepts can often be embedded within concepts, forming a hierarchy of ideas. Ideas can also be dependent, or derivative, from other ideas. Ideas can be connected by spatial and temporal relationship, by functional relationships, and by causal relationship. Good theories, therefore, maximize explanatory power by accounting for the greatest number of features and phenomena in terms of function and causation.[36]

Despite the apparent simplicity of these goals, the process of theory making is inherently problematic in that the various goals themselves sometimes conflict. One potential source of conflict is the tension between the goal of taking into account as much relevant information as possible and the goal of maintaining consistency. It sometimes happens, for example, that all of the foundational facts appear sufficiently probable, and yet, they cannot all be true at the same time.

It should be noted that theories, like concepts and categories, are only necessary due to the limitations of the human mind. We are born knowing nothing; we die before we ever learn even a fraction of what there is to know; we forget much of what little we do learn; and our ability to contemplate more than a few things at the same time is highly limited.[37] Viewed in this light, theories are a way of efficiently managing the partially known, given the limited resources of the mind. Be that as it may, it is our ability to theorize and think abstractly that is the defining feature of humanity and the key to our survival.

Method

Ethics has traditionally been regarded as the child of philosophy. The annals of philosophy ring with a chorus of famous and illustrious voices – the difficulty is that each of these voices sings forth a different doctrine. The question, then, is how do we respond in the midst of such confusion. One option, perhaps the easiest, is simply to choose a favorite voice. Another option is to seek the truth directly, ignoring, or rejecting, all ancient and modern theories. In either case, we are faced with the same dilemma: we must have some method for discerning the truth. But how are we to hope to find answers where so many imminent thinkers have disagreed? As is often the case, there is a deeper question lurking in the background: why, in fact, are there so many opposing philosophical theories?

Randall Collins has suggested that the emergence of conflicting schools of thought is due in large part to the organizational structure of intellectual communities.[38] Social networks are

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[36] Lawrence Kohlberg, The Philosophy of Moral Development: Moral Stages and the Idea of Justice, 14, 19, 26 (1981); Daniel K. Lapsley, Moral Psychology, 45 (1996); Sacha Bem and Huib Looren de Jong, Theoretical Issues in Psychology, 15 (1997).

[37] Damasio, R. Antonio, Descartes Error: Emotion, Reason, and the Human Brain, 173-198 (1994).

[38] Randall Collins, The Sociology of Philosophies, 876 (1998).

typically organized in such a way that there is only a limited amount of attention space. This forces intellectuals to compete for recognition – and only ideas that receive recognition are recorded by history.[39] The result is what Collins refers to as the law of small numbers: "*the number of active schools of thought which reproduce themselves for more than one or two generations in an argumentative community is on the order of three to six.*" [40]

What is particularly important for our purposes, however, is the manner in which attention is gained. In order to interest an audience, one must first identify an unsolved problem and then convince others of the importance of solving that problem.[41] One method of demonstrating importance is to exploit an already popular position by developing or extending that position.[42] A particular position can only be made popular in the first place, however, by drawing a line of opposition; in other words, attention is gained in an intellectual community by demonstrating that one's ideas can be significantly distinguished from the ideas of others.[43] [44] This, in turn, can be done in two ways. The first method is to maximize distinctiveness by taking an extreme position, contrary to another extreme position.[45] The second method is to seek creativity through synthesis, by combining various extreme ideas into a more inclusive and moderate structure of thought.[46]

What I would like to suggest, then, is that theories maximizing distinctiveness are generally incomplete, in that they do not account for as much information as possible, but rather, focus upon some information, while discounting or ignoring other information. And indeed, it would seem strange if two or more opposing schools of thought could succeed historically, unless each recognized some essential part of the truth. Theories of synthesis, on the other hand, having a tendency to take into account more relevant information, are more likely to correspond to the true state of reality. A note of caution, however, should be provided. If Collins is correct, no

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[39] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 876 (1998).

[40] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 81 (1998).

[41] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 80 (1998).

[42] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 38-39 (1998).

[43] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 38 (1998).

[44] In the words of Collins: "A person can pick a quarrel with someone else, contradicting what the other is saying. That will gain an audience of at least one; and if the argument is loud enough, it might attracted a crowd. Now, suppose everyone is tempted to try it. Some arguments start first, or have a large appeal because they contradict the positions held by several people; an if other persons happen to be on the same side of the argument, they gather around and provide support. There are first-mover advantages and bandwagon effects. The tribe of attention seekers, once scattered across the plain, is changed into a few knots or argument. The law of small numbers says that the number of these successful knots is always about three to six. The attention space is limited; once a few arguments have partitioned into crowds, attention is withdrawn from those who would start yet another knot of arguments." RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 38 (1998).

[45] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 131 (1998).

[46] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 131 (1998).

philosophical theory can gain widespread attention across generations without containing a serious flaw.[47] In the words of Collins, "the imperfections of major doctrines are the source of their appeal. But there must be greatness on both sides: great doctrines, great imperfections."[48] The reason for this is that for a theory to gain historical prominence, there must be followers; and for there to be followers, there be something for succeeding generations to do."[49] Thus, "Great" theories, if not actually flawed, will be either vague or incomplete.[50] In this way, succeeding generations can make a name for themselves by correcting, continuing, or explaining the writings of the past.[51]

This, then, explains why, at least in part, so many extreme and often absurd ethical theories have been passed down through history. Nevertheless, there does remain hope for at least a degree of consensus. Beginning around 1600, a new organizational structure began to emerge in relation to certain sciences, resulting in what Collins refers to as rapid-discovery science.[52] Under this structure, there are still rivalries and conflicts, to be sure, but disagreements tend to take place primarily along a rapidly moving research front.[53] What is left behind is a trail of consensus, as researchers continually refocus their attention on the newest and latest developments of science. [54] Here, then, "is a genuine revolution in the inner organization of the intellectual world, overthrowing the law of small numbers which keeps the philosophical community fractionated." [55] It appears, therefore, that the best hope for achieving widespread agreement in the realm of ethics is to rely as much as possible upon the discoveries of science.[56] What, then, ought to be the role of philosophy?

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[47] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 32 (1998).

[48] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 32 (1998).

[49] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 32 (1998).

[50] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 32 (1998).

[51] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 32 (1998).

[52] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 523 (1998).

[53] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 524 (1998).

[54] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 524 (1998).

[55] RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 524 (1998).

[56] According to Collins, "The network of intellectuals has split into several branches: philosophers and general-purpose intellectuals, whose dynamics continue to be determined by the law of small numbers; rapid-discovery science, which developed out of a technique for evading the law of small numbers; and mathematicians, whose niche is a cumulative, self-entwining investigation which builds a core of virtual certainty in its lineage knowledge. Besides this, in a limbo between rapid-discovery science and philosophy, are the disciplines of social science and humanistic scholarship; they resemble the natural sciences in taking topics of empirical (including historical) investigation, but share with philosophy the social organization which produces intellectual fractionalization under the law of small numbers." RANDALL COLLINS, THE SOCIOLOGY OF PHILOSOPHIES, 876 (1998).

Philosophy, unlike science, does not involve fresh observations and the testing of hypotheses; rather, "philosophizing allows us to know in a different way those things we already knew."[57] Philosophy is what we do after we have collected our information. When isolated from the scientific method, from the collection of new information, philosophy is stagnant, flawed and incomplete. The truth is something that is approached, dynamically, as hypotheses are revised or reformulated, accommodating the continuous flow of information. Information should be sought and discovered, to the extent possible, before and after each new hypothesis. When viewed in connection with the scientific method, therefore, philosophy is the act of creating hypotheses based upon current evidence. Such philosophies, or hypotheses, as part of the process of data collection and reformulation, are subject to change. Once a hypothesis has evolved sufficiently, surviving testing and the influx of data, it may properly be regarded as an established, highly probable theory. Thus, science and philosophy cannot, in the end, be truly separated: science gives us the facts for which philosophy provides an explanation.

The best approach to developing an ethical theory, therefore, is to organize our ideas, in conformance with the characteristics of a good theory, while continuously seeking new information. Our first task, then, is to discover the fundamental assumptions, or concepts, underlying our ideas of right and wrong. We must, if possible, find premises to which nearly any reasonable individual would assent. These premises, moreover, should be grounded in our best current understanding of the mental processes responsible for ethical beliefs and decisions.

II

Fundamental Assumptions

There is only one way to discover whether or not people agree regarding the fundamental assumptions right and wrong: they must be asked. Moreover, they must be asked the right questions in the right way. And if we are to discover universal agreement, opinions must be gathered from a wide cross-section of people around the world. These results must then be repeated and tested to ensure accuracy. Fortunately, the work has already been done.

Research into the psychology of moral development has been pioneered by Lawrence Kohlberg. [58] Based upon carefully conducted interviews, involving people from around the world, Kohlberg has concluded that "in every culture and subculture in the world, both the same basic moral values and the same steps toward moral maturity are found."[59] These findings have been confirmed by hundreds of cross-cultural studies conducted by many different psychologists.[60]

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[57] George C. Christie and Patrick H. Martin, Jurisprudence Text and Readings of the Philosophy of Law, 2 (1995).

[58] George Sher, Moral Philosophy: Selected Readings, 83 (1987).

[59] Lawrence Kohlberg, The Philosophy of Moral Development: Moral Stages and the Idea of Justice, 14 (1981).

[60] Daniel K. Lapsley, Moral Psychology, 77, 80-81 (1996).

Indeed, according to Rest, "for no other measurement procedure in the field have such strong confirmatory trends been reported."[61]

What, then, is Kohlberg's theory regarding moral development? According to Kohlberg, all people, regardless of their culture or background, progress in their views of right and wrong by passing through a sequence of stages.[62] There are, in all, five stages through which a person can pass, although the rate of progression and the terminal point of development may vary from individual to individual.[63] [64] Nevertheless, one cannot rise to any particular stage of moral reasoning without first having passed through all of the preceding stages, which is to say, stage progression takes place according to an invariant sequence.[65]

It is important to note that the various stages are defined not according to their content (such as that it is wrong to lie or eat pork), but rather, according to the structural organization of the thoughts involved (such as that is wrong to this or that *because* one will be punished, or *because* it is against the law, or *because* it is contrary to universal principles of right and wrong).[66] Accordingly, in each new transformation, the emerging thought structure organizes morally relevant information in way that is more comprehensive, universal and consistent.[67] That is to say, each progressive stage is better than the former in that it takes into account more information, while more effectively eliminating inconsistency, avoiding arbitrariness, minimizing uncertainty, and recognizing true relationships.[68] [69]

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[61] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 81 (1996) (quoting J. REST, LAWRENCE KOHLBERG: CONSENSUS AND CONTROVERSY, 464 (MORAL RESEARCH METHODOLOGY, (1986))).

[62] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 45 (1996).

[63] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 17-20, 175 (1981); DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 45 (1996).

[64] Kohlberg's earlier writings postulated a sixth stage of moral development; however, the idea of a sixth stage was eventually abandoned due to a lack of empirical evidence. DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 64 (1996).
[65] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 20 (1981).

[66] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 57 (1996).

[67]LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19 (1981).

[68] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 14, 19, 26, 175 (1981); DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 45 (1996); SACHA BEM AND HUIB LOOREN DE JONG, THEORETICAL ISSUES IN PSYCHOLOGY, 15 (1997).

[69] To say higher stages are better than lower stages is not to say, however, that lower stages are entirely without merit. In the words of Kohlberg, "...because the highest stage includes the basic positive features of lower stages, only a normative ethical theory that includes all these features can tell us how we ought to make moral judgments." LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 180 (1981).

The passage from one stage to another, as suggested above, is brought about by the recognition of various conflicts and discrepancies.[70] These conflicts can arise either through direct contact with other people, or, more indirectly, through exposure to the moral reasoning of higher stages.[71] In either case, stage development "involves internal cognitive reorganization rather than the mere addition of more difficult content from the outside."[72] What, then, is the stuff from which moral ideas are made?

Interviews conducted by Kohlberg and others reveal that all people, beginning at the very birth of morality, recognize the *valuableness* of life, happiness, and equality.[73] Moreover, moral reasoning is driven by the natural tendency to empathize, as well as by the natural capacity to imagine ourselves in the position of others (role-taking).[74] This is not to say, however, that we are born with a full understanding of basic moral values, but rather, that the seeds of a more mature understand are there from the beginning.[75] Thus, moral values arise, in part, due to the tendency of our minds to manipulate and organize sensory information in particular ways, in part, due to the common experiences of life, and in part, due to our ability to consciously direct the flow of our own thoughts.[76] [77]

To fully understand the cognitive processes behind moral values, however, it is necessary to clearly recognize that we are by nature social creatures.[78] Our appetites, motivations, emotions and feelings are not directed only at ourselves, but are in large part directed toward activity within a group.[79] Regarding empathy, for example, there is evidence that even young infants are

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[70]LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 145 (1981).

[71]LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 80 (1981).

[72]LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 146 (1981).

[73] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 143, 175 (1981).

[74] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 139-140, 175 (1981).

[75] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 175 (1981).

[76] ROGER SPERRY, SCIENCE AND MORAL PRIORITY, 63, 71 (1983); LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 14 (1981); ANTONIO DAMASIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 42 (2003).

[77] In the words of Sperry, "in the processing of factual input, the brain mechanisms already are richly equipped in advance with established value determinants and intrinsic logical constraints in the form of combined innate and acquired needs, aims, and motivational and other goal-directed factors that have their origins partly in biological heritage and partly in prior experience, and that may also come formally through rational acceptance of ethical axioms." ROGER SPERRY, SCIENCE AND MORAL PRIORITY, 71 (1983).
[78] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 171-173 (2003).

[79] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 171-173 (2003).

emotionally sensitive to the distress of other infants.[80] Furthermore, children under two are frequently observed to share their toys and even to give away gifts.[81] And studies have shown that children in three different age groups have a high tendency to engage in spontaneous "helping."[82] [83] Be that as it may, children, and even some adults, do not fully recognize the significance of their own tendencies and feelings.[84] [85] Indeed, despite the possession of prosocial tendencies, children are, admittedly, both egotistic and selfish.[86] A possible solution to this seeming contradiction is to realize that while children have the basic cognitive equipment necessary for moral reasoning, they have not yet developed a coherent structure of thought capable of making sense of the various experiences of life.

That being said, let us now consider the stages of moral development. In order ensure accuracy, as well as to facilitate ease of understanding, I will combine into a chart various quotes and paraphrases from both Kohlberg and Lapsley. By way of introduction, it should be recognized that the development of the human mind is extremely complicated and that, as a result, many different cognitive processes are involved. I would not be surprised, for example, if the tendency to obey authority in Stage 1 is supported by certain temporary instincts, just as ducklings are induced for a time to follow their mother. Moreover, the ability to engage in abstract thought develops over time, as does are ability to discern reality.[87] What is particular important for our purposes, however, is that in each succeeding stage the moral reasoner becomes more aware of the needs and desires of a greater number of people, until, at the fifth stage, there is at last a full realization that everyone is valuable.

Stage 1:

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[80] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 166 (1996).

[81] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 168 (1996).

[82] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 169 (1996).

[83] In the words of Lapsley, "It would appear, then, that the young child presents a more complex developmental picture than the bare notions of egocentrism and egoism would otherwise suggest. Simply put, children are empathically sensitive and responsive to the distress of others, and they engage in prosocial behavior. What is more, these inclinations are evident at a very young age and long before sophisticated cognitive abilities are in place." DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 169-170 (1996).
[84] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 140-141 (1981).

[85] By way of example, consider the following illustration by Kohlberg, "Two adolescents, thinking of stealing, may have the same feeling of anxiety in the pit of their stomachs. One adolescent (stage 2) interprets the feeling as "being chicken" and ignores it. The other (stage 4) interprets the feeling as "the warning of my conscience" and decides to act accordingly. The difference in reaction is one in cognitive-structural aspects of moral judgment, not in emotional "dynamics" as such." LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 140-141 (1981).
[86] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68 (1996).

[87] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 44 (1996); KOHLBERG, THE PSYCHOLOGY OF MORAL DEVELOPMENT, 20 (1984).

Reason for Cooperating:	"Obey rules to avoid punishment."[88]
Cognitive Understanding:	"Reasoning at this stage is characterized by moral realism, egocentrism, physicalism, and heteronomy. Moral realism is reflected is reflected in the conviction that moral qualities attach to actions just as surely as physical qualities (mass, size, color) attach to objects. Certain actions are just good or bad in themselves in an absolute and literal way.No justification, no consideration of motives, is required… The moral significance of authority figures is defined physcialistically. Sanjam, who is rich, Jason, who is big, and Schick, who is famous, have greater moral authority and more valid claims to justice than Vikram, who is poor, Roy, who is small, or Zane, who is infamous. Finally, morality is heteronomous. That is, what is right and wrong is defined by those who have authority and power."[89]
Relation to Others:	"In stage 1, the psychological preferences of others are obscured by the agent's egocentrism (among other failings)."[90]
The Value of Life:	"The value of human life is confused with the value of physical objects and is based on the social status or physical attributes of the possessor."[91]
Discrepancies:	"The problem that emerges is how to secure one's own interests in the face of the potentially competing or conflicting interests of other claimants."[92]

Stage 2:

Reason for Cooperating:	"Conform to obtain rewards, have favors returned, and so on."[93]
Cognitive Understanding:	Justice is determined on the basis of pragmatic exchange.[94]
Relation to Others:	"With the decline of egocentrism the subject is now able to accurately infer the social perspective of other individuals. The child now sees that others have their own interests and desires, all of which are reasonable and justified. A kind of moral relativity emerges that sees all interests as equally valid."[95]

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[88] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19 (1981).

[89] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[90] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68 (1996).

[91] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19-20 (1981).

[92] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[93] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19 (1981).

[94] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[95] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

The Value of Life:	"The value of human life is seen as instrumental to the satisfaction of the needs of its possessor or of other people."[96]
Solution:	"One way to ensure that one's own needs are gratified is to establish pragmatic agreements with others ("if you scratch my back, I'll scratch yours"). Justice is thus seen as an instrumental exchange of favors, goods, or sanctions."[97]
Discrepancies:	"Stage 2 thinking is incapable, however, of settling disagreements and conflicts when they invariably do arise."[98]

Stage 3:

Reason for Cooperating:	"Conform to avoid disapproval and dislike by others."[99]
Cognitive Understanding:	"…being a good role occupant (loving wife, dutiful son, loyal friend); being altruistic, faithful, prosocial; being "good"; having praiseworthy motives or the appropriate relationship - supporting sentiments and dispositions - these are all seen as the foundation of shared moral norms."[100]
Relation to Others:	"At Stage 3 the moral reasoner takes the perspective of "us" members of society, where society is the collection of friends who are in close relationship."[101]
The Value of Life:	"The value of human life is based on the empathy and affection of family members and others toward its possessor."[102]
Solution:	"At Stage 2 the Golden Rule is understood in terms of pragmatic reciprocity: Do unto others what they have done unto you. At Stage 3, reciprocity is staged in more ideal terms: Do unto others as if the others were the self."[103]
Discrepancies:	"One limitation of this kind of reasoning is the lack of awareness that even good role occupants sometimes come into conflict. How to adjudicate conflicts even among individuals who are good role occupants, how to prioritize their claims, and how to relate to the

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[96] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19-20 (1981).

[97] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[98] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[99] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19 (1981).

[100] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[101] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[102] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19-20 (1981).

[103] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

broader society are intractable issues from the perspective of Stage 3."[104]

Stage 4:

Reason for Cooperating: "Conform to avoid censure by legitimate authorities and resultant guilt."[105]

Cognitive Understanding: "What regulates conduct is not shared relational expectations (as at Stage 3) but rather a consistent set of legal codes that is applied impartially… That is, the sentiments of duty, loyalty, and obligation attach not only to persons within the society of close relationships (Stage 3) but to the larger society as well. We have our interpersonal debts, to be sure, but we also owe a debt to society for the benefits we enjoy by virtue of our relationships to the formal institutions of society."[106]

Relation to Others: "At Stage 4 the notion of society is expanded to include the impersonal collectivity of citizens who share general social institutions."[107]

The Value of Life: "Life is conceived as sacred in terms of its place in a categorical moral or religious order of rights and duties."[108]

Solution: "Conflicts that are problematic within the confines of interpersonal community are referred to the system of laws and institutionalized practices of resolution. The needs, interests, and values of the social system and the desire to support societal institutions are important moral considerations at Stage 4."[109]

Discrepancies: "The obvious limits of the Stage 4 perspective, oriented to Maintaining rules and social order, are (1) it defines no clear obligations to people outside the order (for example, the nation-state) or to people who do not recognize the rules of one's own order; and (2) it provides no rational guides to social change, to the creation of new norms or laws."[110]

Stage 5:

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[104] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[105] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19 (1981).

[106] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[107] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[108] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19-20 (1981).

[109] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[110] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 152 (1981).

Reason for Cooperating:	"Conform to maintain the respect of the impartial spectator judging in terms of community welfare."[111]
Cognitive Understanding:	"The distinguishing feature of this stage… is the fact that reasoners are expected to articulate the difficult notions of social contract and natural rights in a quasi-philosophic moral theory. Principled thinking is self-reflexive philosophic discourse in the sense that principles are self-consciously articulated and appealed to in order to ground moral reflection."[112] Moreover, individuals at stage five engage in a high level of abstract thinking, involving concepts and categories.[113]
Relation to Others:	*Everyone* is equally valuable.[114]
The Value of Life:	"Life is valued both in terms of its relation to community welfare and in terms of life being a universal human right."[115]
Solution:	"At this first principled stage the ethical perspective of the ideal rational moral agent comes into clear focus. The rational moral agent, from a prior-to-society perspective, identifies liberty and human dignity as universalizable values that anyone would want to build into an ideally just society. We do not, of course, live in ideally just societies. Systems of law and government are often insensitive to fundamental rights and values. Consequently, it is now possible, from this moral vantage point, to criticize legal frameworks and existing institutional practices for their failure to protect or extend fundamental human rights… The ideal society is conceived along the lines of the **social contract**: Society is a system into which autonomous individuals freely enter in order to promote **fundamental values** and **general human welfare.** Exactly how to maximize individual rights and social welfare is established procedurally, that is, through procedures of agreement engaged in by free individuals."[116] [emphasis added]

What this suggest is that moral reasoning is primarily, if not entirely, an attempt to resolve the tension between one's own desires and the desires of others; that we are born with the basic cognitive equipment necessary to recognize the value of life, happiness and equality; and that

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[111] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19 (1981).

[112] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[113] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[114] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[115] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19-20 (1981).

[116] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

moral development can be seen as a processes, or journey, whereby we come to realize that other people – all other people – are just as valuable as ourselves.

That which is valuable ought to be protected and promoted. It would appear, then, that there are three fundamental concepts upon which morality is based, namely, that *life*, *happiness* and *equality* ought to be promoted. Moreover, the role and importance of desires, which are the foundation of moral reasoning, must somehow be taken into account.

<div align="center">

III

Moral Values and the Brain
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According to Dual Theory, as we have seen, to fully develop any concept requires explanation. Ethical concepts are no exception. The central idea behind any moral statement is that life, and certain experiences of life, are *valuable* and *ought* to be promoted. To fully understand right and wrong, therefore, we must first understand the cognitive processes behind our values and determinations of ought and should. To this end, we will consider various relevant brain processes, relying heavily upon the research of Antonio Damasio.

According to Damasio, underlying every active biological change is a complex system of innate and automated equipment aimed at the regulation of the life process.[117] [118] Damasio divides this regulatory system, or homeostasis machine, into five branches of functioning.[119] The lowest branch of the homeostasis machine includes metabolic regulation, basic reflexes and immune responses.[120] The next highest branch involves the physical behaviors, but not the feelings, associated with pleasure and pain, such as reactions of approach and withdrawal.[121] At the next branch are drives and motivations, which is to say, appetites.[122] These include hunger, thirst, curiosity and exploration, play and sex, as well as other natural motivations to act.[123] Even love and friendship are supported by appetites encouraging us to engage in friendly social interaction.

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[117] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 30, 35 (2003).

[118] In the words of Damasio, "The brain does not begin its day as a tabula rasa. The brain is imbued at the start of life with knowledge regarding how the organism should be managed, namely how the life process should be run and how a variety of events in the external environment should be handled. Many mapping sites and connections are present at birth; for example, we know that newborn monkeys have neurons in their cerebral cortex ready to detect lines in a certain orientation. In brief, the brain brings along innate knowledge and automated know-how, predetermining many ideas of the body. The consequence of this knowledge and know-how is that many of the body signals destined to become ideas, in the manner we have discussed so far, happen to be engendered in the brain. The brain commands the body to assume a certain state and behave a certain way, and the ideas are based on those body states and body behaviors. The prime example of this arrangement concerns drives and emotions. As we have seen, there is nothing random about drives and emotions. They are highly specific and evolutionarily preserved repertoires of behaviors whose execution the brain faithfully calls into duty, in certain circumstances. When the sources of energy in the body become low, the brain detects the decline and triggers a state of hunger, the drive that will lead to the correction of the unbalance. The idea of hunger arises from the representation of the body changes induced by the deployment of this drive." DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 205 (2003).

[119] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 37 (2003).

[120] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 31 (2003).

[121] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 31 (2003).

[122] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 34 (2003).

[123] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 34 (2003).

[124] At the next branch, near the top, are emotions, including, among other things, joy, sorrow, fear, pride, shame and sympathy.[125] [126] And finally, at the very top of the metabolic tree are feelings.[127] It should be clearly noted, however, that the regulatory processes are not truly distinct and separate, but instead, are organized according to a nesting principle, in which some components of simpler reactions are incorporated into the machinery of more complex reactions. [128]

That being said, perhaps the greatest contribution Damasio has provided is his explanation of the nature of feelings**.** Any explanation of feelings, however, necessarily involves an explanation of emotions.[129] Accordingly, the cognitive process leading to feelings typically begins when we perceive an emotionally competent object, such as a field of spring flowers, or a pleasant memory, or even a newly formed idea.[130] [131] These perceptions, in turn, are then evaluated.[132]

The evaluative process, according to Power and Dalgleish, can be separated into two steps, namely, *interpretation* and *appraisal*.[133] To distinguish interpretation from appraisal, consider the following example: Imagine that Johnny and Sally are two college students who happen to be sitting next to each other in class. Imagine next that Sally passes Johnny a note, which reads as follows: "Are you free tonight?" Johnny's first task is to interpret the note. And he is likely to have a very different response, depending upon whether the note is interpreted as a purely Platonic invitation to study, or as an invitation to go out on a date. Let us assume, however, that Johnny correctly decides that Sally has just expressed a romantic interest. Johnny's reaction is still undetermined, and will depend upon how he appraises the situation. It will make all the difference in the world, for example, whether he has secretly been in love with Sally for years, or whether one of his primary goals is to avoid her presence. Thus, our emotional responses depend,

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[124] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 93-96 (2003).

[125] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 34-35 (2003).

[126] Regarding the nature of primary emotions, Damasio writes: "In some instances, emotional responses may be strictly innate; in others they may require minimal help from an appropriate exposure to the environment. Robert Hinde's work on fear is perhaps a good pointer to what may happen in social emotions. Hinde showed that the monkey's innate fear of snakes requires an exposure not just to a snake but to the mother's expression of fear of the snake. Once is enough for the behavior to kick into gear, but without that "once" the "innate" behavior is not engaged. Something of this sort applies to social emotions. An example is the establishment of patterns of dominance and submission in very young primates during play." Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 47 (2003).

[127] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 37 (2003).

[128] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 37 (2003).

[129] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 145 (1994).

[130] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, Random House, 91-92 (2003).

[131] By way of qualification, it should be recognized that emotions and feelings can sometimes be experienced simply as a result of physical processes.

[132] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 130-136 (1994).

[133] Mike Power and Tim Dalgleish, Cognition and Emotion: From Order to Disorder, 55 (1997).

first, upon how we interpret the facts, and second, upon how we appraise those facts to correspond to our particular wants and desires.[134] [135]

An emotion, then, simply put, is a *physical* response creating a tendency to act in particular way. [136] Thus, for example, the emotion of fear involves the flow of blood to large skeletal muscles (to facilitate flight); a momentary paralysis (allowing an opportunity to determine whether aggression or hiding might be a better response); and the release of various hormones (increasing alertness and readiness for action).[137] Next are feelings.

According to Damasio, a feeling is "the perception of a certain state of the body along with the perception of a certain mode of thinking and of thoughts with certain themes."[138] Aided by the central nervous system, as well as certain biochemical processes, the mind is continually "mapping body structures and body states, and transforming the resulting neural patterns into mental patterns or images."[139] When the accumulation of these images reaches a certain level, feelings emerge.[140] In other words, in relation to emotions, feelings often involve the perception of various physical changes within our own body; a perception of the emotionally competent objects which triggered those emotions; and a perception of the connection between those emotions and the triggering events.[141] Moreover, feelings in their most advanced variety often involve an alteration in one's mode of thinking, resulting in thoughts which agree, in terms of theme, with the type of emotion being felt.[142]

Let us now examine the cognitive processes behind our desires and determinations of ought and should. Although Damasio does not directly attempt an explanation of desire, he does favorably

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[134] MIKE POWER AND TIM DALGLEISH, COGNITION AND EMOTION: FROM ORDER TO DISORDER, 55 (1997).

[135] In response to the question "to what degree are emotional reactions wired at birth?" Damasio responds, "I would say that neither animals nor humans are, of necessity, innately wired for bear fear, or eagle fear (although some animals and humans may be wired for spider and snake fear). One possibility I have no problem with is that we are wired to respond with an emotion, in preorganized fashion, when certain features of stimuli in the world or in our bodies are perceived, alone or in combination. Examples of such features include size (as in large animals); large span (as in flying eagles); type of motion (as in reptiles); certain sounds (such as growling); certain configurations of body state (as in pain felt during a heart attack). Such features, individually or conjunctively, would be processed and then detected by a component of the brain's limbic system, say, the amygdala; its neuron nuclei posses a dispositional representation which triggers the enactment of a body state characteristic of the emotion fear (we will see further on that the brain can "simulate" body states and bypass the body, and we will discuss how the cognitive alteration is achieved.). ANTONIO DAMASIO, DESCARTES ERROR: EMOTION, REASON, AND THE HUMAN BRAIN, 131 (1994).

[136] ANTONIO DAMASIO, DESCARTES ERROR: EMOTION, REASON, AND THE HUMAN BRAIN, 130-136 (1994).

[137] DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE, 6 (1997).

[138] Damasio, Antonio, *Looking for Spinoza: Joy, Sorrow and the Feeling Brain*, Random House, pp. 86 (2003).

[139] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, RANDOM HOUSE, 110 (2003).

[140] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, RANDOM HOUSE, 86 (2003).

[141] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 91-92 (2003).

[142] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 89 (2003).

mention Spinoza's view that desire is an awareness of appetites.**143** Desire, then, can be regarded, at least in part, as an awareness of natural dispositions, or homeostasis processes, of one sort or another. Furthermore, according to Damasio, all natural dispositions are responses to change, internal or external, representing either a threat or an opportunity for advancement.**144** Thus, desire can be understood, more fully, as the awareness of a threat or opportunity, which is to say, a want or insufficiency (for example, the appetite of curiosity can be regarded as a want of mental stimulation). But desire as it is commonly understood implies something more; it implies preference.

Preference is a way of relating to a particular idea, or ideas. In cognitive terms, preference can be understood as a mental tool facilitating the unequal treatment of ideas. The difficulty is that our ability to process information is severely limited.[145] As practical matter, there are only so many ideas that processed consciously, and only so many activities that can be pursued, during any given period of time. Thus, choices must be made. Damasio refers to this dilemma as the problem of order, proposing the following solution:

     (1) If order is to be created among available possibilities, then they must be ranked.
     (2) If they are to be ranked, then criteria are needed (values or preferences are equivalent terms).
     (3) Criteria are provided by somatic markers, which express at any given time, the cumulative preferences we have both received and acquired.[146]

In other words, the ideas we acquire and create throughout life are ranked in order of importance. [147] These rankings are based upon preferences.[148] Preferences, in turn, are identified by a special instance of feelings (somatic markers) that have been *attached* to specific ideas.[149]

How, then, do feelings become attached to ideas? According to Damasio, at least some of our preferences are natural.[150] In other words, due to the structure of our brains, there is a tendency for certain types of information to be processed in such a way that particular types of ideas are formed, and to these ideas specific feelings are naturally attached.[151] Feelings of attraction, for example, are naturally attached to images of the opposite sex. The situation is complicated by the fact that even natural preferences are often formed only following a process of evaluation, involving both interpretation and appraisal.[152] Most preferences, however, arise from secondary emotions, which is to say, emotions affected by learning and experience (though even these are built upon primary, or more fully innate, emotions).[153] These types of preferences are generated

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[143] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 34 (2003).

[144] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 35 (2003).

[145] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 176-177 (1994).

[146] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 176-177 (1994).

[147] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 176-177 (1994).

[148] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 174 (1994).

[149] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 174 (1994).

[150] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 174 (1994).

[151] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 131, 174 (1994).

[152] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 131-142, 174 (1994).

[153] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 131-142, 177 (1994).

as a means of predicting future outcomes.[154] Thus, most preferences are determined, at least in part, by cognitive processes involving conscious deliberation and choice.[155]

What, then, is the significance of the attachment of feelings to ideas? Damasio suggests that somatic markers modify the manner in which the brain manipulates ideas, thus creating a hierarchy of biases.[156] More particularly, somatic markers, according to this hypothesis, create a bias to "allocate attentional enhancement differently to each component, the consequence being automated assigning of varied degrees of attention to varied contents, which translates into an uneven landscape."[157] In this way, conscious attention can be focused upon ideas, according to their ranking of importance.[158] In connection, in order for rational thought to take place, the ideas focused upon must remain displayed in working memory for a few hundred to a few thousand milliseconds.[159] Moreover, somatic markers, being feelings generated from emotions, create a tendency not only to dwell upon ideas marked as important, but also a tendency to think and act in accordance with those ideas.[160] In other words, once preferences have been formed, ideas marked as more important are treated more favorably in cognitive terms than ideas marked as less important.

Accordingly, desire as it is commonly understood involves a degree of willful choice. Granting that all thought and action proceeds from natural dispositions, aimed at the promotion of life,[161] it necessarily follows that all preferences must spring from natural dispositions. Be that as it may, each and every one of us is equipped with an enormous variety motivations, appetites, emotions, feelings, etc. These wants and insufficiencies can often be satisfied in a seemingly infinite number of ways. As a consequences, selections must be made. In making choices, we are provided with some degree of guidance by innate preferences. Most preferences, however, as we have seen, are formed on the basis of experience. This, then, is where the cognitive operations of deliberation and choice come into play: we are capable of choosing, first, which appetites and dispositions to favor, and secondly, the manner in which we prefer to satisfy those appetites and dispositions.[162] [163] And such choices facilitate the creation of preferences, which is to say, the attachment of feelings to ideas. In sum, desire can be understood to arise from *the conscious choice to favor the satisfaction of particular natural wants and insufficiencies in particular ways, thus focusing attention upon those dispositions and ideas, resulting in a tendency to think and act accordingly*.

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[154] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 174 (1994).

[155] Antonio Damasio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 42 (2003); Roger Sperry, Science and Moral Priority, 63 (1983); F. C. T. Moore, The Psychological Basis of Morality, 7 (1978).

[156] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 177-178 (1994).

[157] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 177-178 (1994).

[158] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 177-178 (1994).

[159] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 177-178 (1994).

[160] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 174 (1994); Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 147-150 (2003).

[161] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 35 (2003).

[162] Antonio Damasio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 42 (2003); Roger Sperry, Science and Moral Priority, 63 (1983); F. C. T. Moore, The Psychological Basis of Morality, 7 (1978).

[163] One can, for example, choose to favor the natural appetite to learn over the natural appetite to play, while at the same time choosing to favor the satisfaction of that appetite through reading books on the philosophy of law.

This raises an important question: are desires created or merely discovered? As already mentioned, all action and desire spring from natural dispositions.[164] The issue, then, is whether true freedom of will is involved in the selection process. Regarding the selection of natural dispositions, the question is whether we *choose* to favor particular dispositions, as common sense would suggest, or whether deliberation is merely the process of consciously recognizing the relative strengths of our impulses. Similarly, regarding objects of satisfaction, the question is whether we *choose* which experiences to favor, or whether all deliberation and consequent selection is an attempt to find the best match between natural dispositions and means of satisfaction.

Having raised the relevant questions, it must be admitted that these questions cannot be answered conclusively given the current state of scientific knowledge.[165] [166] Be that as it may, the fact remains that people can, and often do, knowing act contrary to their own natural appetites (by choosing to follow other natural appetites).[167] Indeed, people often even knowingly act contrary to their own best interest.[168] This is due, in part, to the modulating influences of the human brain, which, according to Gazzaniga, make it possible for belief systems to "override primitive brain responses to environmentally induced painful and pleasurable events."[169] Belief systems, in turn, although undoubtedly influenced by culture and learning, are largely the result of conscious deliberation; in other words, even though there are limitations imposed upon human freedom, ample room remains for the possibility of meaningfully self-directed thought.[170] To return to our

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[164] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 35 (2003).

[165] ROGER SPERRY, SCIENCE AND MORAL PRIORITY, 30 (1983).

[166] Despite the inability of modern science to achieve consensus on the issue of free will, Sperry offers a possible view in favor of meaningful choice: "It is the idea, in brief, that conscious phenomena's emergent functional properties of brain processing exert an active control role as causal determinants in shaping the flow patterns of cerebral excitation. Once generated from neural events, the higher order mental patterns and programs have their own subjective qualities and progress, operate and interact by their own causal laws and principles which are different from, and cannot be reduced to those of neurophysiology... Compared to the physiological processes, the conscious events are more molar, being determined by configurational or organizational interrelations in neuronal functions. The mental entities transcend the physiological just as the physiological transcend the molecular, the molecular, the atomic and subatomic, etc. The mental forces do not violate, disturb, or intervene in neural activity but they do supervene. Interaction is mutually reciprocal between the neural and mental levels in the nested brain hierarchies. Multilevel and interlevel causation is emphasized in addition to the one-level sequential causation more traditionally dealt with." ROGER SPERRY, SCIENCE AND MORAL PRIORITY, 92 (1983).
[167] MICHAEL S. GAZZANIGA, THE SOCIAL BRAIN: DISCOVERING THE NETWORKS OF THE MIND, 25 (1985).

[168] It should be recognized, however, that many, perhaps most, human actions contrary to long-term best interest are not the product of fully-informed decisions. Ignorance of consequences and likely outcomes, for example, are doubtless the cause of much irrational behavior. Moreover, the will, or power of choice, may at times be overcome by sickness, intoxication, or even by the overwhelming strength of a maladaptive or inappropriate impulse. Action can even be the result of reflexes, bypassing the decision making process altogether. Nevertheless, many actions, even those contrary to self-interest, do originate from conscious deliberation and choice.
[169] MICHAEL S. GAZZANIGA, THE SOCIAL BRAIN: DISCOVERING THE NETWORKS OF THE MIND, 25 (1985).

[170] According to Damasio, "...although biology and culture often determine our reasoning, directly or indirectly, and may seem to limit the exercise of individual freedom, we must recognize that humans do have some room for such

question, then, are desires created or merely discovered? Assuming the reality of meaningful deliberation and choice, the answer must be that desires are in part determined and in part created.

Let us now consider what it means to say that something *ought* to be promoted. As with desires and preferences, it is reasonable to infer that statements of *should* and *ought* correspond to specific operations of human thought. (I here rely indirectly upon the research of Damasio.) According to this view, an *evaluation* that something should or should not be thought or done would trigger certain mental events. Thus, evaluations of *ought* and *should* would create a special type of preference, or assessment of importance, resulting in an increased tendency think and act accordingly.[171] And the awareness of such tendencies, in combination with the awareness of the ideas triggering those tendencies, in combination with an awareness of the connection between the two, would be responsible for those feelings commonly recognized as a sense of obligation or duty.

There are two kinds of obligations, obligations toward oneself, and obligations toward others. Perhaps the most reliable method of distinguishing one emotion from another is to consider the nature of the evaluation.[172] Accordingly, any *self-related* evaluation of *should* and *ought* would be based upon the recognition that a particular course of conduct would best promote one's overall goals, everything considered. This evaluation, in turn, would trigger an emotional tendency toward goal fulfillment. And the awareness of the thoughts and tendencies involved would create a sense of personal obligation.

What I would like to suggest, then, is that the concept of happiness is best explained as the satisfaction of desires.[173] It often happens, however, that what we thought would make us happy in fact makes us miserable, and what we thought would make us miserable turns out to be quite enjoyable. The reason for this is that people are not always fully, or even adequately, informed: what people say they want is not always what they really *would* want, *all things considered*. Not only are people often unaware of full consequences of their actions, but they are also often unaware of the true nature of their own appetites and desires.

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freedom, for willing and performing actions that may go against the apparent gain of biology and culture. Some sublime human achievements come from rejecting what biology or culture propel individuals to do. Such achievements are the affirmation of a new level of being in which one can invent new artifacts and forge more just ways of existing. Under certain circumstances, however, freedom from biological and cultural constraints can also be a hallmark of madness and can nourish the ideas and acts of the insane." ANTONIO DAMASIO, DESCARTES ERROR: EMOTION, REASON, AND THE HUMAN BRAIN, 176-177 (1994).

[171] It should be noted that assessments of *ought* and *should* are distinct from the cognitive processes involved in forming a determination to act. Nevertheless, what I am suggesting is that such assessments create a greater tendency toward action, and thus, a greater tendency toward forming the appropriate determinations, or wants.

[172] MIKE POWER AND TIM DALGLEISH, COGNITION AND EMOTION FROM ORDER TO DISORDER, 156 (1997).

[173] According to Feinberg, "Astute observers of human affairs from the time of the ancient Greeks have often noticed that pleasure, happiness, and satisfaction and states of mind which stand in a very peculiar relation to desire." JOEL FEINBERG, PSYCHOLOGICAL EGOISM (MORAL PHILOSOPHY SELECTED READINGS, 11 (1987)).

Another qualification is that people do not always desire what they *should* desire. To explain what is meant by this, it is necessary to make a distinction. In the sense discussed above, we can be said to have many different desires, many of which often conflict. We are also capable of selecting which desires to actually promote in thought and conduct. The difficulty is that a determination to fulfill a particular desire, if carried out, may undermine the realization of many other deeply held desires. Thus, it is possible for a particular determination to be contrary to the greatest overall satisfaction of one's desires; and where such a determination is made knowingly, that determination may be said to be irrational, in the sense that it is inconsistent with one's overall goals. In a fully "rational" world, therefore, people would generally want (or choose) to act in such a way as to promote the greatest overall fulfillment of their desires, taking into account the strength and number of those desires, as well as costs of fulfillment.[174] Be that as it may, people can, and often do, knowingly act contrary to the greatest overall fulfillment of their own desires. Indeed, one of the greatest perplexities of life is the sheer frequency of instances in which people engage in self-destructive conduct, even while bemoaning the inevitable consequences of their actions – and these lamentations are often expressed in terms of *ought* and *should*.

Moreover, as a practical matter, there are restrictions upon our freedom to choose. If through our choices natural appetites are left either unsatisfied or poorly satisfied, we must suffer a corresponding degree of psychological distress, while sacrificing opportunities for pleasure. What, then, are pleasure and pain? According to Damasio, pleasure and pain are categories of feelings. A feeling, in turn, is "the perception of a certain state of the body along with the perception of a certain mode of thinking and of thoughts with certain themes."[175] Accordingly, pleasure is the perception, truly or falsely, that the organism is thriving within its environment; pain, in contrast, is the perception, truly or falsely, that the organism is either being harmed or threatened.[176] That is to say, pleasure and pain are natural rewards or punishments for living well or ill, *attached* to certain types of experiences, having a tendency either to promote or subvert life with well-being.[177] [178] Thus, while pleasure is not identical to happiness, pleasure is often a

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[174] As I will argue shortly, people may *rationally* determine to promote the well-being of others, even when contrary to their own self-interest – so long as the overall amount of well-being in the world is thereby increased.

[175] Antonio Damasio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 86 (2003).

[176] Antonio Damasio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 33, 82-86 (2003).

[177] Antonio Damasio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 33, 82-86 (2003).

[178] It should be clearly noted that pleasure is not, as a general rule, the sole and single aim of our desires; rather, we typically desire experiences *with* pleasure. On this topic, Feinberg writes, "Now I have little doubt that all (or most) people desire their own pleasure, *sometimes*. But even this familiar kind of desire occurs, I think, rather rarely. When I am hungry, I often desire to eat, or more specifically, to eat this piece of steak and these potatoes. Much less often do I desire to eat certain morsels simply for the sake of the pleasant gustatory sensations they might cause. I have, on the other hand, been motivated in the latter way when I have gone to especially exotic (and expensive) French or Chinese restaurants; but normally, gastronomic sensations are simply a happy consequence or by-product of my eating, not the antecedently desired object of my eating." Joel Feinberg, Psychological Egoism (Moral Philosophy Selected Readings, 13-14 (1987)). Moreover, it sometimes happens that we choose to desire particular experiences *in spite of* any physical or psychological pain involved. And some people, for whatever reason, even appear to desire certain types of pain.

part of happiness.[179] In other words, the satisfaction of some desires necessarily comes at a price, whether in terms of loss of pleasurable experiences, actual suffering, or even sickness or death.

It is no surprise, then, that most people tend to prefer the greatest overall satisfaction of natural appetites; that they tend to prefer experiences and states of affairs maximizing the overall satisfaction of desires; and that they prefer their experiences to be mixed with pleasure, rather than pain. Moreover, certain experiences and states of affairs are much more likely to contribute to overall satisfaction than others. Nor should it be forgotten that all desires arise from an awareness of natural dispositions.[180] Consequently, even though happiness is grounded in choice, there is a great degree of regularity regarding the sorts of experiences that people actually do, or would, desire. Thus, in this sense, experiences such as freedom, learning, play, friendship and love can be regarded as valuable – because they are actually valued. In short, based on these views of human nature, personal happiness can be understood as *the greatest overall satisfaction of those desires one would have, all things considered, with each desire being properly balanced one against the other, taking into account both the strength and number of the various desires, as well as the costs of fulfillment.*

We are now prepared to return to the question: what is valuableness? To say that an individual is valuable is to make a statement regarding the *inference* that the life and happiness of that person *ought* to be promoted. Moral inferences of valuableness, in turn, are not merely expressions of approval or disapproval; they are meaningful ideas corresponding to the relationship between thought and action in the real world, capable of triggering real mental events, which do actually affect how we think and act. Thus, to infer that life and happiness are valuable is to ignite a tendency to promote the same.[181] The question, then, is how do we make the leap from the

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[179] To fully appreciate the distinction between happiness and pleasure, consider the following thought experiment: "To feel the full force of the paradox of hedonism the reader should conduct an experiment in his imagination. Imagine a person (let's call him "Jones") who is, first of all, devoid of all intellectual curiosity. He has no desire to acquire any kind of knowledge for its own sake, and thus is utterly indifferent to questions of science, mathematics, and philosophy. Imagine further that the beauties of nature leave Jones cold: he is unimpressed by the autumn foliage, the snow capped mountains, and the rolling oceans. Long walks in the country on spring mornings and skiing forays in the winter are to him equally a bore. Moreover, let us suppose that Jones can find no appeal in art. Novels are dull, poetry a pain, paintings nonsense and music just noise… What, then is Jones interested? He must desire something. To be sure, he does. Jones has an overwhelming passion for, a complete preoccupation with, his own happiness. The one exclusive desire of his life is to be happy. It takes little imagination at this point to see that Jones one desire is bound to be frustrated. People who – like Jones – most hotly pursue their own happiness are the least likely to find it. Happy people are those who successfully pursue such things as aesthetic or religious experience, self-expression, service to others, victory in competitions, knowledge, power, and so on. If none of these things in themselves and for their own sakes mean anything to a person, if they are valued at all only as a means to one's own pleasant states of mind – then that pleasure will never come. The way to achieve happiness is to pursue something else." JOEL FEINBERG, PSYCHOLOGICAL EGOISM (MORAL PHILOSOPHY SELECTED READINGS, 11-12 (1987)).

[180] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 34 (2003).

[181] It should be mentioned that there is a particular confusion that has plagued philosophy since the days of Hume. According to Sperry, "probably the most influential factor currently sustaining the science-values dichotomy is the prevailing acceptance of the contention of professional philosophy that it is logically impossible to determine what "ought to be" from what "is," or to derive ethical priorities from objective facts. I think this oft-cited dictum has never been defensible from the standpoint of behavioral science and is best appraised as a logical artifact of a strictly pencil-and-paper approach in philosophy. Human values are inherently properties of brain activity, and we invite

recognition that our own life and happiness are valuable to the idea that we ought also to respect the life and happiness of others.

If Kohlberg and Damasio are correct, we come to the idea that others are valuable, and therefore worthy of respect, by a process of imaginative role-taking, supported by various social appetites, motivations, emotions and feelings, creating the capacity to empathize.[182] [183] In other words, as I imagine the process, we recognize, first, that we ourselves are valuable, second, that others are substantially similar to ourselves, and third, in order to maintain consistency, that other people are valuable as well. Ethical reasoning is thus, in part, a matter of rationality. To be rational, to be fully consistent, to be reasonable, our actions must accord both with our own desires and with the desires of others. And where conflicts arise between desires, and between people, reason requires the application of the principle of balance.

Thus, in a fully moral sense, ideas of *ought* and *should*, and therefore moral values, can be understood to arise from *evaluations* that certain actions, under certain circumstances, have a tendency to promote a proper balance between one's own interests and the interests of others, which is to say, a proper balance of life, happiness and equality.[184] This evaluation, in turn, would trigger corresponding alterations in attention and tendencies toward action, which being perceived, in combination with the various underlying ideas, would generate certain types of feelings, recognized as a sense of social duty or obligation.

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logical confusion by trying to treat them as if they had an independent existence artificially separated from the functioning brain. In the operations of the brain, incoming facts regularly interact with and shape values." ROGER SPERRY, SCIENCE AND MORAL PRIORITY, 71 (1983). What I would like to suggest, then, is that the question is not whether "ought" can be derived from "is," but instead, whether "ought" statements bear a meaningful correspondence to reality. And indeed, as we will see, it is no more difficult to derive an "ought" from an "is," than it is to derive an "is" from observation in the first place. Both are inferences generated by substantial similar mental processes.

[182] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 139-140, 175 (1981); DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 171-173 (2003).

[183] Role-taking, in its most mature form, involves not only considerations of what we would want or desire in the other person's shoes, but what we would want and desire if we were that other person. In other words, to truly empathize, we must imagine how we would think and feel if we possessed the same background, thoughts, desires and general perspective of the other person.

[184] It should be noted, however, that the concepts of life, happiness and equality cannot be entirely separated. Without life, there could be no happiness; and without life and happiness, there could be no equality. Indeed, the idea of equality can be regarded as a conclusion deducible from the idea happiness. By recognizing that we ourselves are valuable, that others are substantially like us, and that we ought to avoid inconsistency in thought and conduct, we can conclude that people ought to be treated equally. Moreover, in a sense, it might be said that fundamental moral values are as numerous as our desires. This conclusion comes from the realization that well-being can be defined as a combination of various experiences. Nevertheless, it is best, I think, to combine the valuable experiences of life into the single concept of well-being, for the reason that true happiness can only result from a balanced fulfillment of our various desires.

Part II
The Justification of Fundamental Assumptions

I
Confidence by Comparison

Fundamental Assumptions cannot be proved. But they can be justified. The solution lies not in seeking proof, but in providing reasons for having confidence. Confidence can be justified in a number of ways. One method is to provide confidence by comparison. One can compare an idea, the truth of which is somewhat questionable, to other ideas entailing greater probability. The more the idea resembles recognized truths, and the less it resembles recognized falsehoods, the more likely it will be to be true. Support for the reality of right and wrong can even be provided by undermining various arguments and discrepancies seeming to favor the opposite position.[185]

Are moral values real? To answer this question, we need to understand the nature of truth, reality and existence. A true statement is one that is consistent with fact or reality, being neither false nor erroneous.[186] The term reality, on the other hand, can be used to refer either to "the quality or state of being actual or true," or to the fact that something exists objectively.[187] And to exist is to have actual being, or to be real, or to occur, or when used in a special sense, to be alive.[188] What becomes obvious from these definitions is that truth, reality and existence are highly interrelated *concepts*, derived from many of the same specific instances. Insofar as it is appropriate, therefore, I will use these terms interchangeably. And as reality is a concept, there is little hope of providing an exact definition of what is, and is not, real. Thus, in order to determine whether or not there is indeed real right and wrong, we must first examine various specific instances of realty. Only then will we be able to properly determine whether moral values belong within the category of that which is real.

To facilitate comparison, then, let us review some of the attributes of moral values. Moral values are *concepts*, referring to various specific instances involving *relationships* between the thoughts and actions of conscious, thinking beings. More particularly, valuableness in a moral sense refers to the *inference* that a proper balance of life, happiness and equality *ought* to be promoted. Moral inferences, in turn, are based upon various perceptions, some *internal*, and some *external*.

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[185] This form of support is not so weak as it might at first seem. First of all, as we have seen, resolving apparent conflicts and inconsistencies is the natural process by which people pass from one stage of moral reasoning to the next. Secondly, as we have also discussed, all support must, in the end, be based upon inductive inferences. Induction, more specifically, is defined as, "any process of thought yielding a conclusion that increases information that reduces uncertainty in its initial observation or premises." And information only reduces uncertainty "in proportion to the number of possible states of affairs that it *rules out as false*." [emphasis added] Manktelow Ken, Reasoning and Thinking, Psychology Press, p. 142 (1999). Refutation, therefore, is essential to the argumentative process.

[186] *True*, ENCARTA 1999.

[187] *Reality*, ENCARTA 1999.

[188] *Existence*, ENCARTA 1999.

Regarding internal perceptions, moral inferences are based upon an awareness of our *wants* and *desires*, an awareness that certain courses of conduct are likely to bring about the best overall balance of our desires, and the particular awareness that such conduct will promote one's life and health. Regarding external perceptions, moral inferences are based upon an awareness of the wants and desires of others (based upon the inference that others are similar to ourselves), an awareness that certain courses of conduct are likely to bring about the best overall balance of competing interests, and the particular awareness that such conduct will promote the best overall balance of life, happiness and equality. The inference, then, is that we *should* think and act accordingly.

<div align="center">Concepts Correspond to Reality</div>

Are concepts real? In a sense, they are not. Indeed, concepts and categories would not even be necessary were it not for our limitations. We simply cannot directly contemplate more than a relatively small amount of information at any given time. But concepts do correspond to reality. When using concepts, we are still referring to reality, insofar as the specific instances upon which they are based, and their relations to each other, are real. There may, for example, be no one ideal, conceptualized bird, but the world is actually teaming with creatures collectively referred to as birds, and these creature do actually bear remarkable similarities to each other. In the same way, there may be no idealized moral entities, or moral values, existing "out there" in some metaphysical never-never land, floating next to numbers and perfect triangles; nevertheless, we really *should* promote the life and happiness of ourselves and others.[189]

<div align="center">Physical Objects are Real</div>

As a prototypical example of something that is real, let us agree that the existence of rocks can be regarded as a *practical* certainty. Accordingly, rocks, as we all know, have mass and take up space; and they continue to have mass and take up space, despite any lack of observation. Nevertheless, the existence of rocks cannot be observed directly.[190] More particularly, the *inference* that rocks exist is based upon perception.[191] Thus, according to Damasio, the process begins when the physical characteristics of an external object impinge upon our retinas, temporarily modifying the patterns of sensory maps present in our visual system.[192] In other words, the image we perceive is due, in part, to the nature of the object itself, and in part, due to the manipulation of sensory information by the brain.[193] The result is mental representations,

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[189] Symbolic systems, though providing an even higher level of abstraction, correspond to reality in much the same way that concepts correspond to reality. Mathematics, for example, provides some of the clearest instances of reality; and yet, numbers and signs do not exist separate from the mind of a thinker. Nevertheless, signs and numbers, like language in general, do refer, however indirectly, to real physical objects, as well to real relationships between those objects. Thus, even though different symbols can be invented and used, the relationships described by mathematics truly can be discovered – and as we will see, one of the common characteristics of all instances of reality is that truth is *discoverable*.

[190] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 199 (2003).

[191] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 199 (2003).

[192] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 91-92 (2003).

[193] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 91-92 (2003).

which is to say, thoughts corresponding to reality.[194] And it is from such mental representations that inferences are drawn.[195] [196]

By way of comparison, ideas regarding the reality of right and wrong, like ideas regarding the reality of rocks, are based upon inferences derived from perception. The difference, however, is that inferences regarding the reality of rocks are based, to a greater extent at least, upon information equally accessible to the senses of others. Moral inferences, on the other hand, are based not only upon information relating to other people, but also upon private perceptions relating to our own wants and desires; for we must first recognize our own importance in order to recognize the importance of others.[197] Moreover, moral inferences correspond to the *relationship* between thoughts and actions, whereas inferences regarding the reality of rocks refer primarily to physical characteristics, such as having mass and substance. Such, then, are some of the similarities and differences regarding moral inferences and inferences relating to rocks.

Events, Causal Relationships and Physical Laws of Nature are Real

We observe events on a daily basis which we believe to be real. We believe, similarly, that when lightning strikes a tree, and the tree becomes splinted and engulfed in flames, that it was the lightning that *caused* the tree to be destroyed. Such inferences provide information beyond the actual evidence. How do we know that we really rose from bed this morning? How do we know that the lightening caused the tree to burst into flames, and not the other way around? Neither statement can be proved. But such inferences arise so naturally, so convincingly, that, in the absence of further evidence, they can rightly be regarded as corresponding to reality for all practicable purposes.

Physical laws of nature, or *inferences of necessity*, take the idea of causation to the next level. Whereas an inference of causation would be that a rock *did* fall to the ground when thrown into the air, an inference of necessity would be that the rock *must* have fallen to the ground and that any similar rock, thrown under similar circumstances, would have fallen to the ground as well. Thus, the law of gravity is one example of an inference of necessity. Other examples include the

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[194] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 199-200 (2003).

[195] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 199 (2003).

[196] In the words of Damasio, "the neural patterns and the corresponding mental images of the objects and events outside are creations of the brain related to the reality that prompts their creation rather than passive mirror images reflecting that reality… The images we have in our mind, then, are the result of interactions between each of us and objects that have engaged our organisms, as mapped in neural patterns constructed according to the organisms design. It should be noted that this does not deny the reality of objects. Nor does it deny the reality of the interaction between object and organism. And, of course, images are real too. And yet, the images we experience are constructions prompted by an object, rather than mirror reflections of the object. There is no picture of the object being transferred optically from the retina to the visual cortex. The optics stop at the retina. Beyond that there are physical transformations that occur in continuity from the retina to the cerebral cortex... The neural pattern attributed to a certain object is constructed according to the menu of correspondences by selecting and assembling the appropriate tokens." DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 200 (2003).

[197] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 142-143 (1981).

law of linear momentum, the law of the conservation of mass and energy, and the law that any action must have an opposite and equal reaction. The defining characteristic of inferences of necessity, then, is that they refer to the realty that certain events *m*ust happen under certain circumstances. Inferences of necessity thus allow future events to be predicted. In this way, inferences of necessity are even further removed from inferences of physical existence, and yet, they relate just as strongly to reality.

By way of comparison, moral inferences, too, relate to particular types of relationships. Just as we can infer that physical objects really *must* interact in particular ways, under particular circumstances, we can infer that people really *should* interact in particular ways, under particular circumstances. In both cases, inferences are drawn from perception – and all inferences, it will be remembered, necessarily involve a *mental leap* providing new information beyond the perceptions themselves.[198] What is unique about moral inferences, then, is not nature of the reasoning process; instead, what is unique about moral inferences is the nature of the subject matter. Nor should the uniqueness of the subject matter be regarded as inherently problematic – there are many different types of valid inferences regarding reality, all based upon the same mental processes, and yet each of these types of inferences regards a unique instance of reality.[199]

<div align="center">Thoughts, Ideas, Feelings and Desires Real</div>

Although our first examples involved inferences derived from information equally accessible to others, not everything that is real is objective in this sense. Far from being a lesser instance of reality, however, ideas based upon internal perceptions are capable of inspiring the very highest degrees of confidence. Thus, for example, the idea "I am thinking" is perhaps the clearest example of a true idea corresponding to reality; and yet, each of us has a unique level of access to information regarding our own thoughts and ideas. We can monitor another person's neural patterns, to be sure, but such procedures provide only a part of the evidence available to us as individuals. In the same way, we really do have emotional responses to particular events. Often, these emotions can be perceived even by others, through observation of facial expressions, body posture, etc. The special awareness of emotions known as feelings, however, is available only to the individual; and yet, we really do have feelings. Similarly, the particular content of our thoughts and desires is known directly only by ourselves; and yet, we really do have specific thoughts and desires. Truth and reality, then, is not limited to inferences derived from information equally accessible to others – even entirely private information, perceived by looking inward, can be used to draw inferences corresponding to reality.[200]

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[198] Sacha Bem and Huib Looren de Jong, Theoretical Issues in Psychology, 11 (1997).

[199] This, then, provides a possible answer to the seeming difficulty, first proposed by Hume, that a statement regarding how something "ought to be" cannot be derived from an explanation regarding the way the something really "is." In other words, referring to the types of inferences mentioned above, the exact same reasoning processes are involved in deriving "ought" from "is" as are involved in deriving "is" from "is," "causation" from "is," and "must" from "is."

[200] According to Sperry, studies of the brain make it "...increasingly impossible, among other things, to accept the idea of two separate realms of knowledge, existence, or truth: one for objective science and another for subjective experience and values. Old metaphysical dualisms and the seemingly irreconcilable paradoxes that have prevailed in psychology between the realities of inner experience on the one hand and those of experimental brain research on the other disappear into a singly, continuous hierarchy. Within the brain, we pass conceptually in a hierarchical

By way of comparison, moral inferences, too, are partially based upon private information. As we have seen, moral ideas are derived, in part, from an awareness of our own thoughts and desires. Granting, then, that we truly do have particular thoughts and desires, there is little reason to doubt that valid inferences can indeed be drawn from at least some our inner experiences. Not all possible inferences are valid, to be sure, but this is true even of inferences drawn from perceptions of the external world.

<div align="center">Dreams and Illusions</div>

Let us now consider an example of a class of ideas that are not real, namely, those images perceived while dreaming. According to studies conducted by Kohlberg, there are at least five stages in the developmental process of realizing that dreams are not real.[201] In the first stage, children realize that objects or actions in their dreams do not exist and are not really in the room.[202] In the second stage, children become aware that no one else can see their dreams.[203] In the third stage, children recognize that dreams come from inside them.[204] In the fourth stage, children realize that dreams are thought and not material substance.[205] And finally, in the fifth stage, it is realized that "dreams are not caused by God or other agencies but are caused by the self's thought processes."[206] [207]

What dreams teach us, then, is that perceptions can deceive us, due to the ability of the human mind to reorganize images stored in memory, which may or may not represent reality, into new images that are mere illusion. More particularly, dreams warn us of the dangers of drawing inferences from inward perceptions. Ironically enough, however, the message is not that there is reason to doubt the realities of our inner self, but rather, that there is reason to doubt the realities of the external world. What we come to doubt in our waking moments is the reality of objects, formed in dreams, of rocks, birds, fishes, people, etc. Similarly, upon waking, we come to doubt the reality of our imagined experiences in relation to those imagined objects. But even in our

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continuum from the brain's brain cells to the level of nerve-circuit systems without consciousness, and finally to cerebral processes with consciousness. Objective facts and subjective values become parts of the same universe of discourse. The hiatus between science and values is erased in part by expanding the scope of science to encompass inner experience and by altering the status of subjective values so that they are no longer set off in an epiphenomenal or other parallelistic domain outside the reach of science." ROGER SPERRY, SCIENCE AND MORAL PRIORITY, 68 (1983).

[201] KOHLBERG, THE PSYCHOLOGY OF MORAL DEVELOPMENT, 20 (1984).

[202] KOHLBERG, THE PSYCHOLOGY OF MORAL DEVELOPMENT, 20 (1984).

[203] KOHLBERG, THE PSYCHOLOGY OF MORAL DEVELOPMENT, 20 (1984).

[204] KOHLBERG, THE PSYCHOLOGY OF MORAL DEVELOPMENT, 20 (1984).

[205] KOHLBERG, THE PSYCHOLOGY OF MORAL DEVELOPMENT, 20 (1984).

[206] KOHLBERG, THE PSYCHOLOGY OF MORAL DEVELOPMENT, 20 (1984).

[207] Based upon extensive and well documented research, Kohlberg argues that the five dream stages are passed through by virtually all children, regardless of the culture in which they are raised. In some cultures, however, such as in the traditional culture of aborigines in Australia, this development process is later reversed through the process of socialization. Kohlberg, *The Psychology of Moral Development*, p. 20-25 (1984).

dreams, we may truly believe ourselves to be alive, or to be experiencing a particular feeling, or to have a particular desire.

The lesson to be learned from dreams, then, is that any particular idea of the external world may be based upon an illusionary creation of the mind. This possibility, in turn, creates the need for verification and confirmation. In other words, once it is recognized that our own minds can be a source of error, there is a need to look outside ourselves in the search for truth. Accordingly, one method of assuring ourselves of the reliability of our perceptions is to repeat and test our observations. Another method is to regard the opinions of others. By confirming that others acknowledge and respond to the same perceptual stimulus as ourselves, we gain an added level of confidence in the reliability of our perceptions. Similarly, by confirming that others have drawn the same or similar inferences as ourselves, based upon the same or similar information, we can gain confidence in the reliability of our own inferences. The key to supporting our ideas of the external world, then, is to seek objective verification of our ideas and experiences.

That being said, science aims at the discovery of objective truths, which is to say, truths independent of the viewpoint of any particular investigator.[208] In other words, the scientific method is particularly appropriate as an approach for establishing the reality of external objects and events. Science can only be of partial use, however, in the verification of the reality of our own thoughts, ideas, feelings and desires – others simply cannot be directly aware of the inner experiences of our mind. And yet, the subjective nature of our inner experiences is of little significance: no confirmation is needed. Unlike our thoughts and ideas of the external world, it would seem entirely senseless to say that the perceived reality of any particular thought, idea, feeling or desire is merely an illusion. The reality of such experiences cannot, indeed, be equally confirmed by others, but there is no need for them to be confirmed in the first place. Nevertheless, our inner experiences are still objective in the sense that observation by others cannot alter the nature or reality of our inner experiences. Thus, for example, I either do, or do not, have a particular thought, idea, feeling or desire, despite what anyone else might think.

By way of comparison, moral values are inferences based, in part, upon our inner experiences, and in part, upon our observations of others. In relation to our inner experiences, there cannot be a more sound foundation from which to draw an inference. Thus, the inference that we ourselves are valuable, based upon a conscious examination of our own thoughts, ideas, feelings and desires, is simply not a matter to be disputed by others. And insofar as moral values are based upon observation of the actions and shared thoughts of other people, verification and confirmation is possible according to the methods of science.

Estimations of Beauty

Estimations of beauty, unlike the images of dreams, arise directly from various perceptions of the external world.[209] Moreover, in reaction to visual images, subtle changes take place in our body state and mode of thinking; and the awareness of these changes, along with the associated ideas

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[208] SEARLE R., JOHN, CONSCIOUSNESS AND LANGUAGE, 11 (2002).

[209] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 91-92 (2003).

and images, generates certain feelings responsible for estimations of beauty.[210] The most striking feature of estimations of beauty, then, is the involvement of *feelings*. Let us, then, examine more carefully the true nature of feelings.

According to Damasio, "contrary to traditional scientific opinion, feelings are just as cognitive as other percepts."[211] Indeed, the connection between feelings and thought is so great that, without feelings, there would be no consciousness, and without consciousness, there would be no thought or knowledge.[212] The reason for this, in the words of Damasio, is that "the process of feeling is multitiered and branched. Some of the steps necessary to produce a feeling are the very same necessary to produce the protoself, on which self and eventually consciousness depend."[213] In other words, the mental equipment responsible for both thought are feelings are hopelessly intertwined.[214]

Thus, it should come as no surprise that feelings, for all appearances, are involved in all types thought.[215] Indeed, even the belief that a mathematical theorem is true comes accompanied with certain emotions, resulting in feelings of certainty.[216] [217] We not only know that something is true; we feeling it in the pit of our stomachs. In this way, then, estimations of beauty are no different than any other type of thought based upon perception.

Let us, then, compare estimations of beauty to estimations of moral value. In both cases, the process begins with the observance of an emotionally competent object.[218] These perceptions are then *appraised*, resulting in certain bodily changes, the awareness of which can be called feelings.[219] What it is important to notice that feelings are not a direct reaction to stimulus, but

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[210] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 89, 91-92 (2003).

[211] ANTONIO DAMASIO, DESCARTES ERROR: EMOTION, REASON, AND THE HUMAN BRAIN, xv (1994).

[212] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 110 (2003).

[213] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 110 (2003).

[214] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 110 (2003).

[215] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 93 (2003).

[216] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 93 (2003).

[217] In the words of Damasio, "Even when we somewhat misuse the notion of feeling - as in "I feel I am right about this" or "I feel I cannot agree with you" - we are referring, at least vaguely, to the feeling that accompanies the idea of believing a certain fact or endorsing a certain view. This is because believing and endorsing cause a certain emotion to happen. As far as I can fathom, few if any perceptions of any object or event, actually present or recalled in memory, are ever neutral in emotional terms. Through either innate design or by learning, we react to most, perhaps all, objects with emotions, however weak, and subsequent feelings, however feeble." DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 93 (2003).

[218] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, RANDOM HOUSE, 91-92 (2003).

[219] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, RANDOM HOUSE, 86 (2003).

instead, proceed from the cognitive processing of ideas, which is to say, feelings proceed from thought.[220] At the same time, however, feelings influence thought.[221] Thus, for example, we feel certain about a particular idea because we have assessed that idea to be true; and our assessments of truth are strengthened by our feelings of certainty.[222] In the same way, our assessments of beauty and of moral value, like all other assessments, proceed from thought and are strengthened by feelings.[223] Consequently, the fact that feelings are somehow involved in the process of making moral inferences should in no way undermine confidence in the reality of right and wrong; for feelings are somehow involved in the creation of all inferences.[224]

That having been said, it should be clearly recognized that there are two entirely different types of inferences at issue. If I were to say, for example, that you ought to regard a particular painting as beautiful, what I would really be saying is that you ought to *feel* the same way in relation to that picture. Let us assume that this inference is false; that it is inappropriate for me to say that you ought to feel any differently than you do. But if I were to say that you ought regard murder as wrong, I would be saying something different: I would be saying that you ought to agree that it is wrong to *act* in a particular way. This type of inference, I suggest, can be entirely valid. The difference is that inferences of *ought* and *should* are only truly meaningful in relation to physical or mental acts involving volition. Thus, it would be ridiculous for me to say that a rock *should* fall when thrown into the air, although I can truly say that it *must* fall.

By way of qualification, however, feelings are often influenced by our conscious thoughts, and to that extent at least, are the product of volition. Thus, it may not be entirely inappropriate to say that one ought to feel certainty when contemplating the truth or that one ought to feel guilty after having committed an outrageous act. Moreover, in a sense, a person who has suffered brain trauma or a chemical imbalance ought, in a sense at least, to feel differently than he or she does. Still, under normal circumstances, it would seem improper to infer that one ought to feel that this or that is beautiful. Similarly, it would seem improper to say that one ought to have, or not have, any particular desire (unless that desire is significantly contrary to one's other desires, or to the desires of others). The solution is to realize that inferences regarding *ought* and *should* are only proper insofar as *meaningful choice* and *conflicts between desires* are involved.

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[220] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, 130-136 (1994).

[221] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, Random House, 91-92 (2003).

[222] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, xv (1994).; Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, Random House, 86, 91-92 (2003).

[223] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, xv, 130-136 (1994).; Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, Random House, 86, 91-92, (2003).

[224] Antonio Damasio, Descartes Error: Emotion, Reason, and the Human Brain, xv (1994).

Agreement and disagreement

Disagreement regarding ethical issues, as well in many other matters, is common and widespread. People simply do disagree. The question, for our purposes, is to what extent disagreement ought to undermine our confidence in the reality of right and wrong.

Disagreement Regarding Specific Conduct

The most common form of disagreement relates to particular courses of conduct. Plutarch, for example, tells us that the ancient Spartans actually encouraged and approved of stealing.[225] Those caught in the act were, of course, whipped without mercy, but it was for "thieving so ill and awkwardly," and not for having stole in the first place, that they were punished.[226] Even more bizarre, the inhabitants of island of Dobu, who were once cannibals, traditionally looked upon ill-will and treachery as the highest virtues of their society.[227] To cheat a trader through sharp practices, for example, was given a special name, wabuwabu, and was regarded as one of the highest achievements of a successful Dobuan.[228] Similarly, if a Dobuan wished to kill another man, he would first approach his victim as a brother, eating, drinking, working and resting with him, possibly for several months, before delivering a fatal dose of poison.[229] But we need not look to exotic and distant cultures to realize that people often disagree regarding which particular courses of conduct are right, and which are wrong; in this matter, as in many others, the ordinary experiences of life are sufficiently instructive. The point is clear: there is little hope of ever reaching a universal consensus regarding the moral worth of specific actions.[230]

What, then, is the significance of disagreement regarding particular courses of conduct? To answer this question, it will help to consider the following illustration: Imagine a person standing by and watching as thousands of innocent children are being led to certain death in a concentration camp. Imagine next that this person could save the lives of all of these children, at no cost to himself, simply by telling a lie. Lastly, imagine that this person is a philosopher – a philosopher who believes that the experience of knowing the truth is a fundamental moral value. I am sure that you are hoping this story has a happy ending. If you are like me, you want to see the children entirely unharmed and walking away to safety in one direction, and the philosopher walking away in the other direction with his pride and dignity intact. Is this possible? Can we say that it is wrong to lie, cheat, steal, kill, etc. under some circumstances, while saying exactly the opposite under other circumstances, without entangling ourselves in a web of inconsistencies? We do not want merely to say that the philosopher *could* lie to save the children, we want to say that he *should* lie to save the children.

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[225] PLUTARCH, PLUTARCH'S LIVES, *Life of Lycurgus* (ed. A.H. Clough (1996)).

[226] PLUTARCH, PLUTARCH'S LIVES, *Life of Lycurgus* (ed. A.H. Clough (1996)).

[227] RUTH BENEDICT, PATTERNS OF CULTURE, 131 (1934).

[228] RUTH BENEDICT, PATTERNS OF CULTURE, 158-159 (1934).

[229] RUTH BENEDICT, PATTERNS OF CULTURE, 170-171 (1934).

[230] By way of qualification, it should be noted that incest, to one degree or another, is taboo in all known cultures. RUTH BENEDICT, PATTERNS OF CULTURE, 32 (1934).

The first part of the solution to the above dilemma is to realize that the moral status of any particular course of conduct is determined by the extent to which that conduct promotes, or is intended to promote, life and happiness. The second part of the solution is to recognize that whether or not any particular course of conduct does, or will, promote life and happiness depends upon the circumstances. Furthermore, it will be remembered that individual happiness can be defined as that combination of experiences that a particular individual would desire, and should determine to pursue, all things considered. And since there are many experiences which are regarded as valuable, happiness necessarily consists of proper degree of balance. Moreover, in order to avoid inconsistency, it is necessary to recognize that all people are equally valuable. Thus, the competing interests of all individuals likely to be effected must be taken into account.

That being said, it is fully possible, I suggest, for the philosopher to tell a lie under the circumstances, while telling the truth under most other circumstances, without involving himself in any inconsistency. Although knowing the truth is generally a desired, and therefore valuable, experience, knowledge of the truth is not the only valuable experience. Nor is the desire of the philosopher to tell the truth, or the desire of the soldier to hear the truth, the only interest involved. The life and happiness of the children must also be taken into account; and under the particular circumstances of this case, there can be little doubt that any harm to the pride of our philosopher, or the aims of the soldier, must clearly be outweighed by the desires of the children to remain alive, happy and free from suffering.

Our original question, it will be remembered, was whether disagreement regarding the moral status of particular courses of conduct is cause for doubt. What I would like to suggest, then, is that disagreement is not significant insofar as there is a common standard by which to resolve disputes. Accordingly, in relation to particular actions, one can always judge the merit of specific conduct by examining the extent to which that conduct promotes life, happiness and equality. Disagreement regarding particular courses of action, therefore, should in no way undermine confidence in the reality of right and wrong. Disagreement regarding fundamental moral values themselves, however, is a much more serious matter.

Disagreement Regarding Fundamental Moral Values

We have already seen, above, that people do actually agree, in a meaningful way, regarding the value of life, happiness and equality. Admittedly, people do not always agree about the reasons for regarding life, happiness and equality as valuable; nor do they always agree regarding who is valuable. Nevertheless people tend to develop in their moral reasoning by progressing through a series of stages, each of which is better than the former, in that it is more comprehensive, universal and consistent.[231] There is, therefore, a standard by which disputes can be resolved. Disagreement regarding the nature of life, happiness and equality can judged from the position of someone in the highest stage of moral reasoning.

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[231]LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19 (1981).

Disagreement Regarding Concepts

At the highest stage of moral reasoning, let it be remembered, individuals engage in a high degree of abstract thinking.[232] Accordingly, reasoners at stage five rely, among other things, upon the idea that there are fundamental moral values. [233] But what is a moral value, really? To answer this question, let us consider the idea of life. There is no single entity to which the idea of life refers; rather, the idea of life is derived by a consideration of various forms of life, from which the general idea of life is formed. In other words, by reflecting upon the similarities and differences of myself, my friend Steve, his wife Jane, and my uncle Jack, or any other group of people, I can form the general idea of a human being as a form of valuable life. What this example illustrates is that moral values are general ideas derived from specific instances, which is to say, moral values are concepts. More particularly, moral values are general ideas referring to the valuableness life, happiness and equality. Moreover, as concepts are often imbedded within concepts, it should be clearly recognized that valuableness, too, is a concept, just as life, happiness, and equality are also concepts.

The difficulty is that it is possible for different people to have different conceptions of the same concept. At what point does life begin? Is a fetus a life? Does an organism have to be conscious to be a life in the meaningful sense of the term? Is a plant a life? A bacterium? A worm? A dolphin? A human? While people may agree that life, happiness, and equality are valuable, even individuals at the highest stage of moral reasoning do not always agree upon what they are talking about. The question, then, is whether it is possible for two people having different conceptions to meaningfully refer to the same concept. To answer this question, we need to reexamine the process of concept formation.

While the process of concept formation is not entirely understood,[234] experts in the field do maintain that one important component is the process of categorization. Consequently, in order to determine whether there is a meaningful consensus regarding moral values, we must understand how concepts are formed; and to understand how concepts are formed, we must understand how specific instances of information are grouped into categories.

But are people really referring to the same thing when they speak of concepts? If they are not, then there would still be no meaningful consensus regarding moral values. Clearly, two individuals who derived a concept in the same way from exactly the same set of specific instances would be referring to the same concept. But what about two people who disagree upon the inclusion of one or more gray instance? Such individuals would agree upon the clear instances, and possibly a number of the gray instances as well; and to this extent, at the very least, they would be referring to the same thing. But does disagreement regarding certain gray instances undermine an otherwise meaningful meeting of the minds?

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[232] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[233] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[234] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 198 (2003).

Rather than attempt to answer the question, I will tell you a story. Back when I was too young to know any better, I told my mother I was going to catch her a fish. This was my first time at a campground, and I was eager to explore. I therefore went to the lake behind our cabin and began walking along the shore. Fish, I had been told, live in the water. Eventually, I did find a fish: it was slimy, green and had two enormously long hind legs. And it could jump farther than any fish I had ever seen. However, I was uncommonly quick for my age and soon had the creature squiggling between my hands. Just as quickly as I could, I ran to the cabin and proudly told my mother that I had caught a fish. But when she looked into my hands, what do you think she did? She laughed! She said that I had not captured a fish at all; it was only a frog. Frogs, she explained, are able to crawl on land and breathe, while fish are only able to live in the water. (She had never heard of a mudskipper.) In any event, you can easily guess my response. My own mother had called me a liar – and she was laughing about it. I vowed never to lie again.

As a reminder of my resolve, I named my new pet "froggy." The next day I took another walk to the lake, hoping to have better luck finding a fish. But there was froggy resting on the shore just as pretty as before; apparently, he had escaped. After a wet and muddy struggle, I caught froggy once again and rushed home, only to discover that he had been patiently awaiting my return all along. It was then that I discovered that there is more than one frog in the world. (Remember, I was very young.) Beaming with pride, I told my mother that I now knew exactly what a frog is, and she was proud of me. And I made a guess that turned out to be exactly right. My guess was that if froggy enjoyed eating worms, so too would the new frog; and when I offered him a worm, he gobbled it up. This was a valuable discovery: concepts and categories can be powerful tools.

However, later that same day, I found a frog that appeared to be very different from the other two. This one was mostly yellow, and what was even stranger, it had stripes. Once again, I was devastated. Despite my greatest efforts, I had, I thought, told another lie. When I said that I knew what a frog was, I had never heard of a yellow frog with stripes. This disturbed me so greatly that I pondered my honesty and integrity all the way home. I was going to apologize to my mother; but before I could, she handed me a present. I had seemed so excited about my new pet that she had secretly went to the store and bought me a book all about frogs. This book was to change my life. Inside were pictures of every kind of frog you could imagine. There are even frogs, I discovered, that can live entirely under water, breathing through their skin as a fish does through its gills. Furthermore, this book had a diagram of the insides of a frog that looked exactly like my pet froggy. Well of course, I jumped to the obvious conclusion: I had lied even before I had found the yellow, stripped frog. There were things about froggy that I had not known.

The question then is: did I lie, or did I not, when I said that I knew what a frog was? Perhaps I am only rationalizing, but I prefer to think that I was referring to something meaningful all along when using the word "frog." To reach this conclusion, I suggest that it is possible to improve one's conception of the same concept over time. One can, for example, become aware of more members of the same group, thereby increasing one's understanding of that group. One can even reexamine the similarities and differences of already included members, either by discovering new characteristics, or by reassessing the importance of known characteristics. Such reflection might even lead to the conclusion that a particular member of a group does not really belong.

The result, in any event, will be an improved understanding of the derived concept. And it seems to me that my reference to the concept of "frog" was equally meaningful before and after any improvements in my understanding. Just as I could meaningfully refer to my pet froggy before I knew that he had a liver, I could, I suggest, meaningfully refer to the general concept of a frog before becoming aware of the existence of Poison Arrow Frogs living in South America.

If you are prepared to agree that I told the truth, then I would like to suggest something more: that you and I can both meaningfully refer to the same general concept of a frog, even while disagreeing, just as I can meaningfully refer to the same concept of a frog at different period in my life, even while improving my understanding. Even if you are aware of a species of frog that I have never heard of, we are still referring to the same general group of creatures. We may even disagree upon whether a particularly strange creature living in Africa should be classified as a frog, but the principle is the same: a perfect understanding and awareness of all members of a group is not necessary in order for reference to be made that group (just as a perfect understanding of objects in the real world is not necessary to meaningfully refer to those objects). It follows, therefore, that meaningful reference can be made to a concept, even if that concept is not perfectly understood.

Moreover, as we have seen, agreement can be reached through comparison. The tools for argument include providing examples of as many potential group members as possible, examining carefully the attributes of all potential members, and emphasizing the relative importance or insignificance of various attributes. By reflecting upon the similarities and differences of all potential members, clear instances of membership can then be separated from the gray instances. Regarding clear instances, there is, by definition, little room for debate. Once the clear instance and their attributes have been identified, they can then be used as references in determining the membership of gray instances. The existence of clear instances thus allows for a degree of order in the process of making comparisons and determining the importance of attributes.

Lastly, given that people's brains are structured in very similar ways, resulting in the construction of very similar neural patters, it is reasonable to assume that we process information in substantially similar ways.[235] Thus, even though different weights may be assigned to the importance of particular instances, and some instances might escape the consideration of some people, it remains very likely that the same mental processes of categorization are applied.[236] Consequently, it appears that there is indeed a meaningful consensus regarding the valuableness of life, happiness and equality; and that this consensus provides justification for a heightened degree of confidence in the reality of right and wrong.

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[235] Damasio, Antonio, Looking for Spinoza: Joy, Sorrow and the Feeling Brain, 200 (2003).

[236] Eleanor Rosch and Barbara B. Lloyd, Cognition and Categorization, 2-3 (1978).

Part III
Building a Theory of Right and Wrong

I
The Common Good

It is commonly recognized that the promotion of the common good is, or should be, the aim of all governments. Often referred to as the general weal, or general welfare, the common good can be understood as the good of all, which is to say, the welfare of all. Accordingly, to promote the good of any individual is to promote the life and happiness of that individual (life being the prerequisite of all experience); and to promote the life and happiness of all individuals is to recognize the principle of equality. Thus, to promote the common good is to promote life, happiness and equality. The difficulty is that the values of life, happiness and equality can, and often do, conflict. This leaves two options. The first option, which many have chosen, is to single-mindedly favor one value over the all other values. One could, for example, choose to recognize personal happiness as the only good, or even more narrowly, to recognize as valuable only a part of happiness, perhaps physical pleasure, or even the experience discovering the truth. Such choices, however, have only the appearance of consistency; for they must necessarily be made upon an arbitrary basis. Why, for example, should knowledge, and not friendship, be regarded as the only valuable experience, or vice-versa? Both are valuable for the very same reason: because they are desired. The second choice is to apply the principle of balance. This solution allows one to take into account the greatest amount of relevant information, while recognizing the greatest number of true relationships, and to organize this information into a structure of thought that is both consistent and free from arbitrary choice.

That being said, the proper balance between life, happiness and equality can only be discovered by a careful and inexact process of weighing alternatives. Accordingly, I will now propose a series of questions designed to illuminate the principle of balance. In answering these questions, let us assume that, although wealth and happiness are not the same thing, there is a rough correlation between happiness and the possession of worldly goods.

Imagine a world that is extremely overpopulated, so overpopulated that there are not enough resources for everyone to be fed and sheltered, even were everything to be distributed equally and were every person to be a paradigm of efficiency and industriousness. In this world, the vast majority of people are continually on the verge of starvation, and it is a common occurrence for people to die for lack of sustenance, that is, those who do not die of disease or exposure to the harsh and unforgiving elements. If that were not enough, countless numbers of people die in brutal battle, fighting for much too scarce resources. Now imagine a second world in which, while there are significantly fewer people, those that are alive are adequately provided with the necessities of life. The vast majority of people are well fed, clothed, and sheltered; death by starvation, plagues, and warfare are unheard of; however, most people, though comfortable, are not actually wealthy. Lastly, imagine a third world in which there are fewer people yet, much less than in the second world. However, in this world, not only are the inhabitants free from the evils of the first, but the great majority of people are extremely wealthy. Which, if any, of these worlds contains the best balance between life and happiness?

Imagine, next, for the sake or argument, with regard to the overpopulated world mentioned above, killing a third of the people of that world would bring about a greater total amount of happiness in the long run. Assuming more happiness really could be brought about by such a brutal method under the circumstances, would the ends justify the means? Would the value of happiness outweigh the value of life in this situation, or is the contrary the case?

Imagine, once again, the scenario in which a greater total amount of happiness can be achieved by reducing the world's population. In this example, however, let us consider an alternative method, capable of producing the same long term results. Instead of killing a third of the population, imagine that it is possible to equally reduce the population by simpler and kindlier methods. Imagine, for example, that population could be reduced simply by limiting the number of births. Imagine, moreover, that this can be brought about by a simple public policy providing information with regard to family planning, thus encouraging people to have fewer children. Should such a policy be supported under the circumstances? Or does the value of life always outweigh the value of happiness?

If the reader, like me, has answered that population reduction by massacre is unethical, while the prevention of future overpopulation by non-coercive means is a desirable method of preventing poverty, sickness, famine, and warfare, then we have come to some level of agreement regarding the proper balance between life and happiness. If the promotion of happiness were the *only* ultimate principle of morality, then we would be ethically obligated to summarily execute excess population whenever doing so would maximize total happiness in the long run. On the other hand, if the mere existence of sentient beings were the *only* value, then our obligation would be the promotion of massive population growth, without any considerations of the scarcity of resources or the inevitability of widespread anguish and suffering; for fields of starving humanity would always be preferable to fewer individuals, however happy or well-nourished. Justice, then, requires us to know when the intrinsic value of life ought to be preferred, and when instead the intrinsic value of happiness ought to be preferred. And where our obligations lie, depends upon the circumstances.

Now to consider a hypothetical in which the principle of promoting the greatest amount of happiness conflicts with the principle of promoting equality. Imagine, first, a planet with a single government in which everyone divides equally the fruits of production. Imagine, next, a planet with a single government in which the fruits of production are not divided equally; instead, a small percentage of the population enjoy vastly superior incomes; most other people have moderate incomes substantially greater than the income of any person living on the first planet; and a small percentage of the population are utterly destitute, starving and miserable. Both of these worlds have the same number of people, let us say seven billion each; however, the second planet is vastly more productive than the first. The result is that most people on the second planet are much better off, and consequently much happier, than any given person living on the first planet. However, an unlucky few living on the second planet, let us say a mere one million, experience a quality of life substantially inferior to that experienced by any single individual living on the first planet. Which, if either, of these planets is preferable?[237]

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[237] There is, however, an even more fundamental tension between happiness and equality. One of the greatest benefits of society is that by combining our efforts we are able to accomplish many wondrous feats that no

We have now, I think, considered enough examples to highlight the importance of the principle of balance. It should be noted, however, that the fundamental values can even compete with themselves. Thus, for example, both rest and activity are a part of happiness; and yet, neither can be favored entirely over the other; for both sleep and activity are essential for survival. Similarly, the value of life, too, can often conflict with itself. Thus, for example, soldiers, in times of war, must sometimes kill in order to save lives. Be that as it may, the point should now be clear: an understanding of balance is essential to any proper understanding of right and wrong. The common good, then, can be defined as *a proper balance of the values of life, happiness, and equality.*

That being said, it is the duty of all individuals, as well as all governments and international organizations, to promote the common good. Nevertheless, it should be fully recognized that to promote the good of the individual is, generally, to contribute to the promotion of the common good. In other words, the promotion of self-interest is, under most circumstances, in accordance with a proper balance of life, happiness and equality; for who else is always and everywhere present, or better aware of one's own needs and desires, than one's own self? Moreover, this view accords with the findings of modern economic theory regarding the benefits of enlightened self-interest in a free market economy. Similarly, the common good is promoted by the formation of close relationships, bound together by mutual aid and support. Accordingly, it may be said that we owe a heightened duty to assist family members, friends, contractual partners, and others with whom we have a special relationship. Thus, while everyone is equally valuable, our duties and obligations are not the same toward all individuals at all times, but depend upon the circumstances.

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II

Laws of Nature
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To say that we ought to promote a proper balance of life, happiness and equality is not the end of the matter, but rather, only the beginning. Imagine, for example, a government ruled by but a single law: promote the common good. However noble in aspiration, such a law would, as a practical matter, be almost entirely useless, being so exceedingly vague as to provide little or no guidance. What we need, then, are rules of conduct. Fortunately, as it so happens, in the world as it actually is, particular courses of conduct tend to promote the common good most of the time. Thus, a natural law, or law of nature, can be understood as *a general rule regarding what should and should not be thought and done, given the tendency of particular courses of conduct to promote or harm the best possible balance of life, happiness and equality under most circumstances.*

Notice that it has just been said that following any given law of nature *generally* promotes the common good. This is to recognize the qualification made by Aristotle that "law is universal but

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individual on his own could bring to fruition. But to strive for a common goal in harmonious accord requires direction; and as a practical matter, such combined efforts are impossible without leadership. Hence, for a society to function properly, its members must be formed into a hierarchy.

about some things it is not possible to make a universal statement which shall be correct."[238] In other words, laws give us guidance as to what types of conduct promote the common good *under most circumstances*; but as no unqualified course of conduct can always promotes the common good, the general instructions of any particular natural law must sometimes fail us. And in such circumstances, it often happens that one cannot follow the general dictates of one natural law without acting contrary to the general dictates of another natural law. In situations of conflict, therefore, we ought always to carefully bear in mind the aim of all natural laws, namely, the promotion of the common good. Thus, when the general dictates of natural laws do conflict, we ought always to follow that law of nature which, under the circumstances, most promotes the common good; which is to say, all natural laws are subject to the qualification that we ought not to follow them when so doing would be contrary to a proper balance of life, happiness and equality.

Moreover, if Aristotle and Cicero are correct, nature can be seen as providing us with guidance as to what courses of action are, generally, right and proper. And indeed, this view is supported by a scientific understanding of human nature; for each of our emotions "offers a distinctive readiness to act; each points us in a direction that has worked well to handle the recurring challenges of human life."[239] Even anger has the very useful function of preparing us to promptly and effectively eliminate threats.[240]

But even granting that no human tendency is without its evolutionary function, it may be argued that we are often driven by the most violent and extreme passions to commit the most unseemly and abhorrent acts. Goleman states that despite "social constraints, passions overwhelm reason time and again. This given of human nature arises from the basic architecture of mental life."[241] Thus, for example, the degree of anger felt in response to any given threat is often entirely disproportionate to the danger.[242] And indeed, much of philosophy has been an attempt to control our natural tendencies.

That having been said, we will now consider whether any sufficiently general type of conduct always, under all circumstances, promotes the common good. It is easily recognized that traditional "sins," such as lying, stealing and cheating are often destructive to the common good. Likewise, such emotions as anger, spite and vindictiveness are susceptible to overindulgence. But what about traditional virtues? Should we always be kind, generous and merciful? Or are there circumstances under which such generally laudable conduct is contrary to the common good. Consider the following questions: If one's possessions are wrongfully being plundered by another, should one smile kindly at the thief, offering to provide assistance? Should one watch

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[238] ARISTOTLE, NICOMACHEAN ETHICS (Ed. RICHARD MCKEON, INTRODUCTION TO ARISTOTLE, 420-421 (1947)).

[239] DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE, 4 (1997).

[240] DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE, 6 (1997).

[241] DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE, 5 (1997).

[242] DANIEL GOLEMAN, EMOTIONAL INTELLIGENCE, 59 (1997).

mildly as one's children are being raped or abducted? Should one give everything one has to others, allowing oneself and one's children to anguish and perish from want? Should judges choose always to free criminals, strictly adhering to a principle of unwavering mercy? The solution, once again, is to be sought in balance.

A particular danger should be observed. Although evolution has adapted us with tendencies toward kindness and altruism, such instinct do not generally extend beyond family, tribe, city, and nation. Indeed, like wolves and apes, we come equipped with a certain innate suspicion of strangers outside the group.[243] In the words of Damasio, "...reactions that lead to racial and cultural prejudices are based in part on the automatic deployment of social emotions evolutionarily meant to detect differences in others because difference may signal risk or danger, and promote withdrawal or aggression."[244] Indeed, one of the earliest human classifications is the distinction between "us" and "them."[245] In the words of anthropologist Ruth Benedict, "all primitive tribes agree in recognizing this category of the outsiders, those who are not only outside provisions of the moral code which holds within the limits of one's own people, but who are summarily denied a place anywhere in the human scheme." [246] It should come as no surprise, then, that most people do not pass beyond the fourth stage of moral reasoning, at which stage, "the notion of society is expanded to include the impersonal collectivity of citizens who share general social institutions."[247] Reason, therefore, must guard against instinct. As we have seen, the true path of human reason leads to the fifth stage of moral reasoning, at which stage all people are recognized as equally valuable.[248]

Lastly, natural law must be distinguished from social laws. Numerous studies show that even children make a "conceptual distinctions between morality and social convention."[249] In a study conducted by Nucci and Turiel, for example, "most students and teachers denied that hitting would be permissible if there were no rule to prohibit it, whereas conventional transgressions (e.g., playing while one is supposed to be working) could be permitted in the absence of a rule. What is more, the responses of both teachers and pupils to moral transgressions focused on the intrinsic consequences of the act for the victim (e.g., harm, personal loss, violation of rights)."[250] Responses to conventional rules, on the other hand, tend to focus on the propensity of those rules

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[243] DAMASIO, ANTONIO, LOOKING FOR SPINOZA: JOY, SORROW AND THE FEELING BRAIN, 163 (2003).

[244] ANTONIO DAMASIO, DESCARTES ERROR: EMOTION, REASON, AND THE HUMAN BRAIN, 40 (1994).

[245] RUTH BENEDICT, PATTERNS OF CULTURE, 7 (1934).

[246] RUTH BENEDICT, PATTERNS OF CULTURE, 7 (1934).

[247] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 68-74 (1996).

[248] LAWRENCE KOHLBERG, THE PHILOSOPHY OF MORAL DEVELOPMENT: MORAL STAGES AND THE IDEA OF JUSTICE, 19-20 (1981).

[249] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 120 (1996).

[250] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 118 (1996).

to achieve organizational goals.[251] In other words, social order and structure are recognized as necessary for individuals to effectively promote the common good through combined effort.[252]

What is important about social laws, then, is that they provide the "rules of the game." Consequently, social laws are subject to variation in a way that that natural laws are not. Regarding traffic law, for example, there is no one intrinsically correct side of the rode on which to drive; what is important is that there be a collective understanding on matter, such that everyone will tend to drive on the same side of the road. And indeed, bad laws are often better than no laws at all. Thus, for purely social laws to promote the common good, there must be a certain social awareness, leading to a general cooperation. The tendency of natural laws to promote the common good, on the other hand, does not depend upon the existence of a common understanding. Consequently, the obligation to obey purely social laws depends entirely upon there being a collective meeting of the minds, while the obligation to obey natural laws does not depend upon agreement (although, as we will see, the obligation to obey natural laws can, to some extent at least, be *altered* by agreement).

In sum, enough has now been said to suggest the test for determining a useful list of natural laws. Accordingly, in order for there to be a natural law, it must be shown, first, that acting in accordance with a particular general rule of conduct has a substantial tendency, under most circumstances, to promote the common good; and secondly, that the tendency of that general rule to promote the common good is not dependant upon there being a general awareness and acceptance of that rule. Natural laws, therefore, might include such rules as that it is generally harmful to the common good to lie, steal, cheat, kill, etc., just as it is general beneficial to the common good to honor contracts, provide assistance, and return favors.

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III

Fundamental Human Rights
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The concept of a "right" is a general idea derived from various specific instances, each having various attributes. Accordingly, a precise definition of rights in general, and fundamental human rights in particular, cannot be provided. Nevertheless, what rights do tend to have in common is that they often correspond to obligations or duties. If one person has an obligation to refrain from hitting another, then the other person has a right not to be hit. Moreover, rights can often be seen as providing *justification* for taking appropriate measures to enforce. Where rights have been

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[251] DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 120 (1996).

[252] In the words of Lapsley, "…children do indeed make conceptual distinctions between morality and social convention. Moral rules are directed to aspects of social interactions that involve intrinsic harm (injury, loss, violation of rights, etc.). They are prescriptive and universalizable. They cannot be altered by consensus. It is always wrong to hit or cause injury, always wrong to steal, and no school authority can make these actions permissible. No one is entitled to weaken or eliminate moral rules. We just can't decide among ourselves that on Tuesday it will be permissible to hit our neighbors, break their pencils, or take things from them. Conventional rules, in contrast, are directed to features of social organization. They are binding because they make organizations work better. But they are relative to social context. Other social organizations can have different rules or no rules at all regarding some class of behavior. And social-conventional rules can be changed by the relevant authority or by consensus. If there were no rules to the contrary, students could address teachers by their first names, boys could use the girl's bathroom, one could speak without first raising one's hand, one could go up and down staircases, or eat with one's fingers, and the like." DANIEL K. LAPSLEY, MORAL PSYCHOLOGY, 120 (1996).

violated or otherwise hindered, such interference may justify retaliatory conduct – conduct that would be contrary to the common good under other circumstances. Thus, for example, we have a right to defend ourselves by proportionate means. Be that as it may, the concept of right can also be *explained*; the enforcement of any right can only ever be justified insofar as enforcing that right is calculated to promote the common good.

Another common attribute of rights is that they often involve a corresponding obligation not to interfere. As happiness involves the satisfaction of desires, it necessarily follows that it is often harmful to inter with the desires of other people. Consequently, where there is an obligation not to interfere, there is a corresponding right not to be hindered, which can be expressed in terms of freedoms. There are also rights, however, corresponding to positive obligations to perform particular actions. For example, obligations to help or assist others can arise from contract formation, special relationships, substantial need, etc. These types of rights can be expressed in terms of claims.

That being said, just as laws can be social or natural, so too can rights be social or natural. Accordingly, social rights can be understood as corresponding to obligations arising from conventional laws, whereas natural laws can be understood as arising from natural obligations. Fundamental rights, then, can be understood as a special class of natural rights. In particular, fundamental human rights can be understood as natural rights that are *inalienable*.[253] The central idea behind fundamental human rights, therefore, is that certain natural rights cannot be altered by consent or agreement. It can assumed that no person, fully informed, and fully aware of their own nature, would willingly relinquish life, happiness, equality, unless it were necessary to promote a proper balance of the very same.

Certain freedoms, in particular, are essential to the promotion of the common good. People cannot meaningfully form and fulfill their desires without liberty to act and think. The freedom of belief, in particular, goes to the very heart of what it means to be happy. Desires are founded, in part, upon beliefs. Without the ability to seek the truth, to form beliefs rationally, people are unable to reasonably choose what they desire; their importance and equality as individuals has been violated. Likewise, without the ability to pursue our desires, free from interference, our value as individuals is meaningless – we have been denied participation in the common good. Only considerations of the common good itself can justify restrictions upon such fundamental liberties. Such liberties cannot be sold or exchanged; any more than one's importance as a sentient, living being can be discarded. A certain degree of liberty is absolutely essential to happiness.

That being said, I will offer a three-part, test for the discovery of fundamental human rights based on the theory above. First, there must a claim or freedom, possibly involving justification to enforce, corresponding to an obligation, or rule, created by the general tendency of a particular course of action to promote the common good under most circumstances. (This distinguishes fundamental human rights from the recognition of arbitrary rules and rights.) Secondly, the

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[253] Haines, Charles, The Revival of Natural Law Concepts, 49-52 (1930); also see the Universal Declaration of Human Rights, Preamble.

tendency for a particular instance of compliance to promote the common good must not be dependent upon there being a general awareness and observance of that rule. (This distinguishes fundamental human rights from social rights.) And thirdly, it must be reasonably assumed that no fully informed and rational person would provide consent for the rule to be discarded. (This distinguishes fundamental human rights as a special class of natural rights.)

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IV

Moral Objectivity

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The promotion of the common good, as we have seen, is the standard by which all conduct, private and public, is to be judged. The common good, in turn, has been defined as a proper balance of the values of life, happiness and equality. Not only are these values capable of being discovered, but they actually are discovered, to one degree or another, by all individuals; and at the highest stage of moral development, the true nature of these values, as well as their relations to each other, is finally recognized.[254] Accordingly, there are several levels at which the principles of right and wrong may be regarded as objective.

For one thing, right and wrong is objectively discoverable in the sense that anyone is capable of arriving at the same basic conclusions regarding right and wrong, based upon the common experiences of life. And the fact that part of this experience is the awareness of personal thoughts and desires, in no way undermines the objective nature of right and wrong: by recognizing that we ourselves are valuable, regardless of what anyone else might happen to think, we are able to infer that others, too, really are valuable, regardless of what of we ourselves (or anyone else) might happen to think. Moreover, whether or not any particular action tends to promote the values of life and equality is objectively determinable. Analysis regarding the value of happiness, however, is bit more tricky. Even happiness, however, is objectively discoverable in the sense that one's happiness can be objectively determined according to the extent to which those desires one would have, all things considered, are in fact satisfied. Moreover, whether any particular state of affairs promotes the greatest overall combination of those desires is a matter to be objectively determined. Thus, all else being equal, it really is wrong to interfere with the satisfaction of the best overall combination of those desires another person would have, all things considered, regardless of the specific nature of those desires.

By saying that happiness is the best overall satisfaction of those desires one *would* have, all things considered, a second level of partial objectivity is added. The range of our desires is determined, in part, by our various natural appetites and motivations. To that extent, at least, value is determined. Moreover, most people really do prefer pleasurable to painful experiences, and as a practical matter, certain states of affairs really do tend to promote not only pleasure, but also life and certain experiences of life commonly regarded as valuable. In other words, due the basic realities of human nature, there are certain regularities regarding what is, and is not, regarded as valuable. As a consequence, there are certain types of actions that almost inevitably harm the happiness of persons.

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[254] Lawrence Kohlberg, The Philosophy of Moral Development: Moral Stages and the Idea of Justice, 143, 175 (1981); Daniel K. Lapsley, Moral Psychology, 68-74 (1996).

It can be assumed, therefore, that all people would desire to engage in certain activities free from the interference of others. These include, among other things, the freedom to pursue personal goals, the freedom to form opinions, the freedom to express one's opinions to others, and the freedom to associate. Moreover, all people would, I think, desire to be free from bondage and slavery, torture and cruelty, and invasions of privacy and family life. These are only a few examples.

The situation is complicated, however, by the fact that our desires and interests can, and often do, conflict, both within ourselves, and in relation to others. The freedom of expression, for example, can, under exceptional circumstances, be contrary to a proper balance of life, happiness and equality. Thus, to incite others to violent and riotous behavior is clearly an example of an abuse of freedom. In other words, fundamental human rights are only to be recognized insofar as recognition is favorable to the promotion of the common good. Be that as it may, fundamental rights represent examples of particular courses of conduct that, under most circumstances, tend to promote the best balance of life, happiness and equality. Accordingly, it is only with great circumspection and a careful weighing of alternatives that fundamental values, or freedoms, should ever be undermined, and then, only for the purpose of promoting the best possible balance of life, happiness and equality.

V
The Relativity of Right and Wrong

There are several levels at which right and wrong can be viewed as being subject to variation. For one thing, as we have seen, the correct course of conduct in any situation depends upon the extent to which that conduct promotes the common good, which in turn, depends upon the factual circumstances involved. Secondly, due to the nature of the reasoning process and certain limitations of the human mind, a degree of deference is appropriate in discussing various issues of right and wrong. Thirdly, the merit of any action is determined, in part, by what people actually would desire, all things considered.

Situational Ethics

There can be little doubt that the correctness of our actions depends upon the surrounding circumstances. Thus, for example, force can be justified in self-denseness that, under most other circumstances, would be contrary to the common good. The more difficult question, however, is whether a particular response can be regarded as right or wrong depending upon the cultural context of the situation. In other words, can a response that would wrong within one cultural setting be justified within another cultural setting? Now certainly the same basic action, under the same basic circumstances, may be allowed by the laws of one nation, while being prohibited by the laws of another – and to that extent at least, the moral status of a particular action may vary from place to place (assuming, of course, that action in conformance with the law would have a tendency to promote, rather than harm, the common good). But there is an even deeper sense in which the appropriateness of our actions may depend upon the historical and cultural background of the individuals involved.

The findings of anthropology reveal a startling uniformity of conduct and behavior within cultures, along with an equally startling diversity of conduct and behavior across cultures.[255] One reason for this, according to Benedict is that "any society selects some segment of the arc of possible human behavior, and in so far as it achieves integration its institutions tend to further the expression of its selected segment and to inhibit the opposite expression."[256] The result, for our purposes, is that within any given cultural setting, it is possible to form *reasonable expectations* regarding the desires and future conduct of others. Such expectations, however, might not be equally valid within a different cultural setting.

Imagine, for example, two similar events, both involving the same person, namely, Jack. Jack is a world traveler who prides himself on "fitting in." Accordingly, whenever Jack goes to a new country, he dresses himself in the style of the native population. Imagine, then, that Jack first travels to a country in which people are generally polite and gentile. As soon as Jack arrives, according to his habit, he clothes himself in the native attire so successfully that no one would ever guess him to be a foreigner. Jack then goes a walk. While looking upward toward a beautiful church spire, however, Jack happens to bump into a local resident. Given his background, the resident instantly and correctly assumes that Jack has merely bumped into him by accident. However, this person has just had a tooth pulled out and, contrary to what anyone there would expect, punches Jack in the face, knocking him unconscious to the ground. Such a reaction, I suggest, is clearly contrary to the promotion of the common good.

By way of contrast, imagine that Jack encounters a similar experience on his next adventure to foreign lands. This time, however, Jack travels to an exotic country infamous for the violent behavior of its inhabitants. In this cultural setting, the threat of bodily harm is an unavoidable fact of daily life. Jack disguises himself as a native and once again heads out to explore. This time, like before, Jack accidentally bumps into a local resident. This person too, strikes Jack in the face, knocking him unconscious – but for an entirely different reason. Robbery in this particular area is exceedingly common, often beginning with a simple bump on the shoulder, and often ending in serious bodily harm, or even death. In other words, let us assume that the resident believed that his very life was in danger, and that this expectation was made reasonable by the social context of the situation, as determined by the particular cultural environment. Thus, it may argued that by striking Jack, the resident was justifiably acting in self-defense.

What I am suggesting, then, is that it is possible for basically the same action to be justified in one cultural setting that, within another cultural setting, would be entirely wrong. It should be fully noted, however, that this result has nothing to do, at least not directly, with people's opinions regarding right and wrong. The distinction turns, instead, upon differences regarding what may be reasonably expected.

<div align="center">Discretion and Deference</div>

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[255] Ruth Benedict, Patterns of Culture, 234 (1934).

[256] Ruth Benedict, Patterns of Culture, 234 (1934).

There are indefinable limits within which people may reasonable disagree. In relation to concepts, for example, it will be remembered that there are both clear and gray instances of category membership. This allows for the possibility that people may reasonable disagree upon some issues involving gray instances, without in any way undermining confidence in relation to clear instances. Thus, it is entirely possible to show respect and deference for the opinions of others in some areas involving uncertainty (gambling for instance), while at the same time endorsing the general inviolability of fundamental human rights, without entangling oneself in inconsistency.

Similarly, there are clear and gray instances regarding what particular course of conduct will, under the circumstances, best promote the common good. Even the nature of the surrounding circumstances can be more or less probable. Furthermore, in many circumstances, alternative methods are equally capable of promoting the same fundamental goals, or values; which is to say, there are many situations in which more than one course of conduct can be regarded as having an equal tendency to promote the common good. Accordingly, one combination of laws and customs may be just as good as another combination of laws and customs, in the sense that each has equal tendency to promote the common good under the circumstances of the societies involved. This does not mean, however, that all laws and customs are equally valid: the promotion of the common good remains the standard by which all actions, private or collective, are to be judged.

Another important consideration is that future outcomes can often be regarded as uncertain to one degree or another. Thus, in seeking to obtain our goals, we must take into account the likelihood that any particular course of conduct will actually bring about the results we desire. Consequently, a degree of discretion is involved in relation to risk preference. Nevertheless, it is just as clearly foolhardy to take great risk to achieve small rewards, as it is cowardly to shrink from the necessary risks inherent to living well.

Lastly, observance of the common good often involves application of the principle of balance.[257] Balance, in turn, implies the existence of extremes, which may be understood as clear instances of improper conduct. Within the vague boundaries surrounding the golden mean, therefore, there is room for reasonable disagreement. But on the edges where extremes are found, instances of right and wrong are both clear and obvious.

<center>Desire and Consent</center>
Consent is a cure for many evils. The reason is that the very nature of right and wrong is based upon our desires. If two individuals reasonably agree to engage in conduct that would otherwise be harmful, as contrary to the desires people typically have, their conduct is no longer wrong – assuming no one else is hurt or injured. It is acceptable, for example, for individuals to engage boxing matches. Striking others is typically wrong and harmful; but consent transformed even brutality into a sport.

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[257] CICERO, ON DUTY (Trans. MILLER, LOEB CLASSICAL LIBRARY, 95-97 (1997)).

There is, accordingly, a great deal of variation regarding what people actually would desire, all things considered. The question, then, is to what extend desire and consent are capable of justifying conduct that, under most circumstances, would be contrary to the common good. To answer this question more fully, let us return to the example of the Spartans. The Spartans were a fierce and warlike nation. Surrounded by enemies, their survival depended upon their ability to slay and kill others. To this end, all male citizens were born with the single proud purpose of serving in the military, all drudgery and manual labor being done primarily by slaves. Despite their elevated position, however, these masters of slaves were purposely served embarrassingly small meals, leaving only one reasonable solution: to borrow other people's food. What is incomprehensible is that there was plenty of food to go around. Why, then, be so stingy? Strange as it might seem, the Spartans starved their aristocracy and encouraged them to steal for the single purpose of promoting the common good (of Spartan citizens). The Spartans believed, for better or worse, that the practice of thievery develops such desirable traits as energy, stealth, courage, alertness and resourcefulness, traits essential for warfare. In their opinion, the harm this enabled them to inflict upon their enemies, including their slaves, outweighed any harm brought about by the domestic redistribution of food and property. In other words, the goal was to promote the life and happiness of Spartan citizens, while the method of promoting this goal was to condone the art of stealing without getting caught.[258]

The first question, then, is whether the general practice of thievery actually promoted the common good under the circumstances. Let us assume that most Spartan citizens actually approved of the general policy of encouraging theft. Let us assume, further, however fictitiously, that this policy actually did promote the best overall satisfaction of what most Spartans would have desired, all things considered. This leaves us with the interesting question of whether, under the circumstances, it was morally acceptable for Spartans to steal from their peers. In other words, can the general will regarding the "rules of the game" make it acceptable even to steal? Although this is undoubtedly a gray area regarding what is right and wrong, the answer, I suggest, is both yes and no. Accordingly, a distinction should be made between those who played the game, by themselves attempting to steal, and those who chose to remain outside the game, by refusing to steal. Indeed, the conduct of the first class of individuals might well be understood as a true instance of implied consent. Consent cannot be implied, however, in relation to those individuals choosing to remain outside the game. Thus, while there is a possibility that individuals may engage in extreme forms of competition according to their own desires and preferences for risk, such conduct, being generally contrary to the common good, should not be extended beyond the scope of willing participants.[259]

Be that as it may, all of the above types of variation go to the form, rather than the substance, of right and wrong. In other words, although the correct course of conduct may vary from situation to situation, the true nature of right and wrong can never be changed or altered: the appropriateness of any action may depend upon the surrounding circumstances; there may be room for reasonable disagreement within limits; different actions may be equally capable of

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[258] Plutarch, Plutarch's Lives, *Life of Lycurgus* (ed. A.H. Clough (1996)).
[259] The principle of consent as justification, however, should never be applied to situations in which participants are clearly acting contrary to the overall satisfaction of what they would desire, all things considered. Thus, for example, to kill someone in a duel is, I think, clearly contrary to the common good, even .

promoting the common good; and our desires may be determined in part by choice – but none of this is capable of changing the fact that it is wrong to act in such a way as to bring about more overall harm than good. Thus, while agreement may be able to justify some actions, under some circumstances, agreement can never justify actions contrary to a proper balance of life, happiness and equality – each person's life and happiness really is valuable, regardless of the opinions of others.

Bibliography