Journal of Practical Ethics

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The Greatest Vice?

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ABSTRACT

History teems with instances of "man's inhumanity to man." Some wrongs are perpetrated by individuals; most ghastly evils were committed by groups or nations. Other horrific evils were established and sustained by legal systems and supported by cultural mores. This demands explanation. I describe and evaluate four common explanations of evil before discussing more mundane and psychologically informed explanations of wrong-doing. Examining these latter forms helps isolate an additional factor which, if acknowledged, empowers us to diagnose, cope with, and prevent many ordinary and serious moral wrongs. In so doing, I do not assert that the explanations of first call are never appropriate. I claim only that their role is smaller than many of us reflexively suppose, and that the role of the later feature I identify is more significant, in part, because it supports and amplifies the more mundane and psychologically informed factors prompting wrong-doing.

"Evil is unspectacular and always human, and shares our bed and eats at our own table."

W.H. Auden "Herman Melville" (1939)

History teems with instances of "man's inhumanity to man." Some acts are the work of isolated individuals, like serial killer Andrei Chikatilo or con man Bernie Madoff. Many especially ghastly evils were perpetrated by nations or groups: the Holocaust, the Stalinist's purges, and the slaughter of Tutsis in Rwanda. Other horrific acts like slavery were established and sustained by legal systems and supported for centuries by cultural mores. Then there's politics. I find comments by many can-

didates and policy advocates alternately maddening and depressing. I am aghast at claims people utter with a straight face—assertions I assume they *have* to know are false. Finally, there are the everyday actions towards and comments to strangers, colleagues, family, or friends—things that hurt them deeply. When we survey the history of humankind, we have to wonder: how can so many of us act so callously— and occasionally savagely—toward others? Is there some feature or trait of us that explains our misbehavior?

People occasionally attribute wrong-doing to agents' defective mental states; more commonly they cite the agents' morally tainted characters. Ethicists may intellectually embrace more sophisticated explanations. However, in my experience many of us resort to the same explanations proffered by the person on the street: we reflexively cite what I dub "the explanations of first call." I describe four variations on these. Although these are not devoid of explanatory merit, none adequately explains many moral wrongs. We need a different and more robust explanation.

The search for that explanation begins by isolating more mundane—and psychologically informed—explanations of prudentially and morally misguided behavior. I show how understanding these factors points to a more general trait which, if acknowledged, would equip us to better understand, diagnose, respond to, and prevent many ordinary and serious moral wrongs. The vice I identify is a common and partly controllable human tendency that causes or undergirds numerous wrongdoings, in part by amplifying the injurious effects of those mundane factors as well as behaviors explained by the explanations of first call.

UNDERSTANDING MY CLAIM

The trait I specify near the end of this essay does not fit standard ways of ranking vices. Let me explain why I deviate from common approaches. Someone might humorously propose that we identify the greatest vice Cartesian style: the greatest vice is the one greater than which none can be conceived. This proposal does no work. Others might rate vices by the degree to which they expose the "darkness" of their possessors' hearts (whatever precisely that means). This approach likely includes Milo's notion of "preferential wickedness" (Milo, R. D. 1984: Chapter 3): the desire to do what it is wrong because it is wrong. Others might follow Judith Shklar (who followed Hume) in asserting that cruelty is the most despicable vice. "Cruelty," as she defines it, is the "deliberate and persistent humiliation [of others] so that the victim

can eventually trust neither himself not anyone else" (Shklar, J. N. 1984: 37; Hume, D. 1978/1740: 459). As loathsome as these traits are, I argue that they are not as common as we suppose and that people having such traits are unlikely to shed or alter them. Finally, we could rank vices aesthetically, so that the greatest vice is the one we find morally the ugliest. I understand the appeal of this approach; however, it has peculiar consequences. Pervasive hypocrisy is profoundly ugly. However, I doubt that it is the source of significant swaths of wrong-doing.

The fact that there are so many diverse characterizations shows that there is no single metric for ranking vices. (That is why my title ends with a question mark.) I have no doubt that these familiar categorizations are serviceable. Each isolates distinctive reasons why people sometimes morally misbehave. However, all overlook or obscure a propensity I find more salient. We can see the vice's importance if we focus not on its bare character—its ugliness or darkness—but on the myriad ways in which it *functions* in our lives. The vice I identify is serious because it is one to which we are *all* susceptible; it is frequently overlooked in ethical debate; it produces, permits, or sustains mountains of moral wrongs, and it is amenable to some control. While we have little chance of purging ourselves of preferential wickedness or extreme cruelty, many of us can corral the excesses of the vice I identify.

However, I am getting ahead of myself. Before reaching the argument's climax, I must engage in some academic foreplay. I must explore the explanations of first call and show why they will not do much heavy moral lifting. Although they do explain some wrong-doing, they explain less than many people suppose. Perhaps more importantly, most afflicted with these commonly cited vices are either unable or unwilling to change.

Reflexive Explanations of Wrong-doing

Many people reflexively claim that an agent's wrong-doing springs from her flawed moral character. Even trained ethicists often proffer this explanation as individual moral agents, even if, when acting as professionals, they acknowledge its inadequacies.

Occasionally, people claim or imply that the misbehaving agent was insane. This explanation is most commonly deployed when someone commits an especially gruesome crime. "Could (the cannibal) Jeffrey Dahmer be sane?" someone might ask rhetorically. "Or (the spree murderer) Adam Lanza?" The answer, the questioner

assumes, is "No." In these cases our rhetorical interlocutor might be correct if she interprets insanity by some legal criterion or as a form of psychopathology. However, although insanity in either sense doubtlessly explains some serious wrong-doing, unless we interpret the term "insane" trivially, there is no reason to think that many, let alone most, Germans or Cambodians or Russians or Turks or Hutu supporters of their respective genocides were insane. Since this explanation is plausible in only a few cases, I won't say anything further about it. I turn to the three variants of the more common claim that agents' wrong-doing flows from their flawed characters, including both defective motivations and reprehensible moral values reflected in behavioral dispositions.

CHARACTER FLAWS

Amoralism

Some people claim that agents who act wrongly are frequently indifferent to morality. Amoralism takes two forms. The first stems from the agent's beliefs; the second, from her behavior.

On the first, the agent believes—or claims to believe—that morality is an illusion: there are no genuine moral requirements. On the second, the agent is dispositionally indifferent to morality (Milo, R. D. 1984: Chapter 3; Brink, D. O. 1989: 46). For purposes of this paper, I shall assume that amoralism in the first sense is false. Were it true this paper would be misguided. If there was no morality, then there would be no moral vices; if there are no vices, there could be no greater or lesser vice. However, I shall not here defend the claim that morality is not an illusion.

What about the second variation? Doubtless some people do not care if there are moral demands. It is intriguing, however, that most of those who claim not to care about morality act *as if* they do care, at least when they are harmed. If someone harms them, they rarely say (or think) "There's nothing wrong with what the person did; I just don't like it." Most will aver that the other's behavior *is wrong*. Moreover, when others morally object to her behavior—or she anticipates that someone might—she usually proffers a justification of or explanation for her actions. The accused individual usually (a) denies that the event occurred; more commonly, she (b) explains why the behavior is not what we think it is (it is loyalty or patriotism or self-defense

rather than genocide), or she (c) explains why we needn't respond in the ways most people think we should (with revulsion, anger, disappointment, guilty, etc.) (Cohen, S. 2001: 7—11). Doubtless some who offer these explanations are simply seeking to insulate themselves from criticism. However, since those who proffer these "justifications" frequently appear to be sincere, I charitably conclude that many of these people do not embrace behavioral amoralism. There are, of course, some who really *do not* care about morality. I am inclined to think that such people exemplify a trait better described as immoralism.

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

When Jo claims that Bill acted badly because he has a flawed character, she might simply mean that Bill regularly acts viciously or selfishly even if he does not see, acknowledge, or understand his behavior in those ways. I consider these options later. I focus here is on what Milo calls "preferential wickedness" (1984: esp. chapters 2 and 7). On Milo's view, Bill is preferentially wicked if he knows that his actions are wrong but does them without the slightest misgiving. This view is similar to what Stanley Benn simply calls "wickedness" (1985). I suspect this notion could also include what Shklar deems "cruelty" (1984: Chapter 1). Not all instances of preferential wickedness are cruel, but arguably all instances of cruelty would exhibit preferential wickedness.

The belief that many wrong-doers are immoralists is a staple of private judgment and public discourse. In the United States, most liberals and conservatives do not see each other as "essentially decent [men] . . . man who [are] either temporarily misguided by false doctrines, or forced to [do the things they do] . . . against [their] better will and desire" (Gray, J. G. 1998/1958: 159). Instead, many liberals think most conservatives are selfish and mean-spirited moral busy-bodies, while many conservatives consider most liberals morally empty, personally irresponsible, arrogant tyrants. Similar views permeate the international arena. Former President Bush identified four national regimes as "The Axis of Evil." His claim clearly resonated with a significant portion of the American people. This view also animates Goldhagen's assertions that most German perpetrators of the Holocaust were motivated by demonstrably insidious views (1996).

Despite our professional protestations to the contrary, most of us reflect an unconscious commitment to immoralism when criticizing those who we think mistreat us, our families, or our friends. If Katrina says something false to me or my family,

I am prone to claim or assume that she is dishonest or a manipulator. If Rowena is insufficiently sensitive to me or my family, I am prone to claim or assume that she is crass or hateful, etc. It is not merely that Katrina and Rowena regularly act callously; I assume each knows that what she did was immoral. The tendency to attribute other's morally deficient behavior to defective motives is well documented in experience and in the psychological literature (Watson, D. 1982: 682; Knobe, J. and Malle, B. 2002: 6).

However, historians have long noted that immoralism is an inadequate explanation even for many heinous evils. As Tony Judt crisply put it (Judt, T. and Snyder, T. 2012: 34):

> *By the 1980s it was a commonly held view among specialists in the field that the history of Nazism, and indeed of totalitarianism in all of its forms, could not be fully grasped if it was reduced to a tale of malevolent persons consciously and deliberately engaging in criminal acts with harm in mind.*

Judt is correct. Although immoralism is sometimes an appropriate attribution, it alone does not adequately explain much immoral behavior. Even those who commit genocide rarely consider their actions immoral. Even fewer do it *because* it is immoral. Hitler certainly didn't (Synder, T. 2015). Many Germans who actively participated in or passively supported the Holocaust thought that by imprisoning and killing Jews they were protecting their families and defending the Fatherland. We find these people's beliefs mysterious and their behavior objectionable, regardless of how they explain their actions to themselves. Moreover, we have reason to think that they *should have known* that they were acting immorally. Albert Speer admitted at the end of the war that *he* should have known (Van der Vat, D. 1997). However, to say that someone *should* have known is not to say that she *did* know, let alone that she *consciously* knew. The best explanation for such people's wrong-doing is not that they were preferentially wicked. As Christopher Browning and others have argued, many atrocities were perpetrated by seemingly ordinary, generally decent, people who lacked the cognitive and moral wherewithal to see that what they were doing was wrong . . . and to resist the societal pressures to act outrageously (1992). I have no doubt that we should deem their obliviousness a moral defect. However, it is not what most people commonly mean when they assail others' characters. This is the first indication of what I shall identify as the greatest vice.

The same is true of Pol Pot who was largely responsible for the death of one

million Cambodians in the "Killing Fields." When he was interviewed twenty years later, he said that although he had made mistakes, "Even now, you can look at me: am I a savage person? My conscience is clear" (Mydans, S. 1997). Pot's claim exemplifies his commitment to the belief that only a savage person could commit genocide. He assumed that since he was not *consciously* savage, then he *could not be* preferentially wicked. That is a mistake. His behavior was morally outrageous because of what he did, not because he consciously chose to act wickedly. This suggests why immoralism is incapable of explaining even many grotesque evils.

The failure of immoralism to explain wrong-doing is even more obvious when evaluating the Inquisitions' overseers. Over several hundred years, church officials tortured or killed thousands of alleged heretics. It is implausible to think most of those officials were consciously motivated by immorality. Indeed, is seems more likely that most thought they were acting virtuously. The church, and even some who were tortured, interpreted that torture as a form of spiritual purification (Glucklich, A. 2001: especially pp. 16—32). Finding it hard to understand how they held such views does not show that they did not hold them. We must try to understand how ordinary, generally decent, people could endorse morally odious beliefs and act in morally monstrous ways. Being able to explain *that* helps isolate what is arguably the greatest vice.

Finally, we saw the same phenomenon at work in the U.S.'s systematic mistreatment of African Americans. It began before American independence, continued throughout constitutionally sanctioned slavery, and was still a dominant feature of most African American's lives for at least a hundred years after slavery's official end. This treatment of African Americans was morally disgraceful. However, I see no reason to think that *most* perpetrators were driven by consciously malicious intent. A majority of these citizens thought the constitution, the laws, the U.S. Supreme Court decisions, and local practices were at least permissible and perhaps morally required. I sheepishly admit that that is what I thought growing up. We whites had a ready explanation for our discriminatory policies and practices. Admittedly, our purported justifications were ludicrous. Yet, embrace them we did.

This explains why I think the behavior of many Nazis, Inquisitors, and ordinary Southerners—no matter how morally objectionable—cannot be explained by immoralism. These all-too-familiar actions must be explained differently. Perhaps these people were simply selfish.

Selfishness

Many people claim other's bad behavior stems from their decision to promote their own interests over those of others, to make an unjustified exception of themselves. This is doubtless a common cause of wrong-doing. However, describing people's behavior this way masks a crucial moral difference between conscious and unconscious selfishness. Many people talk as if selfish people are consciously aware that they are being selfish. I seriously doubt that. When it *is* true, I think it is more accurate to say these people exhibit a form of immoralism.

More commonly, people who behave selfishly are not consciously selfish. If someone criticizes them, they quickly redescribe the circumstances or their behavior so that their actions appear to be unselfish or at least permissibly selfish. Of course, this may be just a rationalization to inoculate them from moral censure. Many times, though, it reflects people's sincere, even if misguided, belief that they are not selfish.

The justifications, explanations, and excuses people use to explain (away) their apparent selfishness—like explanations and excuses people use when accused of all forms of wrong-doing—are variations on morally plausible ones. If they weren't, agents would not use them and no one would deign to accept them. Seeming wrong-doers rarely cite either demonstrably irrelevant or morally repugnant justifications. When Jo is asked why she cheated Beth, she doesn't say, "because squares have four sides" or "because I wanted her money." When Pol Pot was asked why he sent millions of urbanites into rural areas incapable of sustaining them, he didn't say "for years paint contained lead" or "I didn't like the slant of their eyes." These are not explanations Jo or Pol Pot or Ratko Mladic would use because no reasonable or morally sensitive person would buy them. People offer rationales "learnt by ordinary cultural transmission," drawn from a "well-established, collectively available pool" (Cohen, S. 2001: 59; inspired by Mills, C. W. 1940: 905—7). For instance, those who commit genocide or discriminated against blacks claimed that they were removing threats, promoting public safety, or treating others as they deserved. Each purported justification is plausible in some contexts (Mills, C. W. 1940). We all use justifications like them; sometimes we find them plausible. The proffered justifications have no moral purchase *in these cases* not because they are of *the wrong type*, but because their factual elements are false *in those contexts*: Jews were not threatening Germany; Cambodian urbanites were not undermining an ideal Asian society; African Americans were not sub-human.

Unconscious forms of "selfishness" are powerful precisely because the agent does not acknowledge them even to herself (Pronin, E., Lin, D. Y. et al. 2002; Pronin, E. 2009). Were she vividly aware of what she was doing and why she was doing it, then she might act differently. Ultimately we should discern why people so often fail to accurately understand their actions and motivations.

The most fruitful place to search for an explanation is by exploring common sources of imprudent and inappropriate behavior. These are familiar to most thoughtful adults; many have also been extensively studied by social scientists.

FAMILIAR SOURCES OF MISGUIDED BEHAVIOR

Most people who act immorally are not preferentially wicked: they do not do what they consciously know to be evil; certainly they do not do it because it is evil. Many are not consciously selfish. Even if they were evil or selfish, they were not so in the ways most people suppose when they brandish these explanations of first call. These agents' behavior is better explained as springing from a multiplicity of interacting and mutually reinforcing cognitive defects which the agent does not see or acknowledge. These lead people to rely on dubious premises, to misdescribe the situations in which they act, to misunderstand their motives, and to be blind to the likely consequences of their actions. By carefully examining our own behavior and the behavior of others, we can identify and understand the nature and power of these defects. Understanding them opens a route for identifying, and subsequently limiting, controlling, or correcting these cognitive and moral defects.

Ignorance of relevant information

We sometimes make good choices when we are ignorant; but if we do, we are lucky. We can reliably make wise choices only if we have the *relevant* knowledge to hand and use it. However, we need not be walking encyclopedias. Most of us, most of the time, can successfully navigate life even if we are ignorant of many details. Except in rare circumstances, I do not need to know the how many miles it is from Los Angeles to Tokyo or the name of the 9th President of the United States. This information would only rarely be relevant to important decisions. But sometimes ignorance leads to abysmal decisions.

There are five broad types of ignorance that can derail prudential and moral

choices, often by enabling us to concoct (to ourselves and others) less than convincing explanations of why our actions are not what others deem them to be. One, I may lack information defining the context in which I act. If I buy 100 acres in the Arizona desert to plant an apple orchard, I will have wasted my money. If I mistakenly think that someone is threatening me or my family, I may inappropriately harm them "in self-defense."

Two, I may be ignorant of relevant history. If I unknowingly father a child with my biological sibling, our offspring has an increased chance of developing a mild to severe disability. If, as chair of an academic department, I do not understand that a female faculty member's low research output resulted from years of systematic discrimination by the previous chair, then I may inappropriately deny her research leave. If I do not know that the United States aided in the overthrow of the democratically elected Prime Minister of Iran, and then financially and militarily supported the Shah's strong-armed dictatorship for more than three decades, I will not comprehend why many Iranians distrust the U.S. I may subsequently support misguided decisions about the appropriate foreign policy toward Iran.

Three, if I am ignorant of human motivation and psychology, I may have difficulty understanding others' behavior; thus, I may be less likely to relate to them appropriately. If I think all people (save me) are always out to promote their selfish interests, then I will not trust them; hence, I will never have genuinely intimate relationships. If I assume all Muslims are terrorists and all atheists are immoral, then I am unlikely to befriend either and will likely be ineffective when teaching them; I will also likely support policies detrimental to them.

Four, if I do not understand the nature and significance of institutions in determining what people believe, what and who they like and dislike, and what they do, I will make ill-advised prudential decisions or harmful moral ones. If I do not understand the ways that my preferences and beliefs are shaped by my social class, economic order, or religious affiliation, then I cannot control or counter their pernicious influences (Mill, J. S. 1985/1885: 39). I may thus choose a career because of its high status only to discover I find that career unsatisfying. Or a 1950s man may have assumed that women were instinctively meek, oblivious to the ways in which the political, economic, social, and religious orders of the day discouraged them from openly expressing their views.

Five, if I am ignorant of the information or skills required to reasonably predict the likely consequences of my (and others') action, I will often act inappropriately. I

am more likely to make misguided predictions if cannot grasp basic concepts of probability theory, am ignorant of relevant background information, or lack critical reasoning skills to use the available information to make plausible predictions. If in 2010 I spent my life savings purchasing Greek bonds assuming I would reap massive long-term dividends, I will have squandered my retirement income. If I am ignorant of the dangers of radiation, I may make an unwise decision about living (or not living) near a nuclear power plant. I may likewise make bad choices about whether to support building two new ones near the Grand Canyon or the Forest of Dean.

There is one additional consideration we must not forget. In the cases mentioned heretofore, the agents were ignorant simpliciter. However, ignorant people are typically ignorant of their ignorance. Even worse, many people think that they know "what just ain't so" (Billings, J. 1876). Thus, it is often not bare ignorance that misleads us (Judt, T. and Snyder, T. 2012: 265); it is ignorance coupled with the false belief that we are knowledgeable.

IGNORANCE'S COGNITIVE COUSINS

Sometimes we have easy access to relevant information but fail to apprehend, attend to, or employ that information when making a decision. Put differently, information is available but is not motivationally potent. It is better to discuss these cognitive belches separately from bare ignorance.

Inattention

Inattention occurs when we do not attend to the relevant knowledge to hand. I know the dangers of walking on a rocky hillside or drying the dishes. However, when I am doing these activities, I sometimes do not attend to what I am doing. I subsequently tear the ligaments in my ankle or break a serving bowl. Or I may have a lingering sore in my mouth. Although I abstractly know that such sores are early cancer signs, I do not attend to them until my next physical checkup, at which point I realize they have been gracing my mouth for seven months. Like other cognitive hiccups, inattention can be morally loaded. A friend asks me if I will be attending a particular professional meeting; he wants to talk. Without asking myself why he would make this request, I decline: I tell him that I am too harried. I later discover that he has a fatal debilitating disease. He wanted to commiserate with an old friend. I felt like a

heel. Still do. He could, of course, have been more insistent. However, had I been more observant and sensitive, he wouldn't have needed to be.

If he had been insistent and I still refused, then we could conclude that I was selfish. However, had I known that he was ill, I would have almost certainly have attended that meeting. That suggests that my vice was not being consciously selfish, it was that I did not bother to think about why he made this request. Knowing that does not make me feel better about myself. It does, however, more clearly locate the problem and thereby gives me a way to avoid making similar mistakes in the future.

Short-sightedness

Another cognitive cousin of ignorance is short-sightedness. We may know what we should do to promote our long term interests, but focus instead on our immediate desires. We want a second serving of potatoes, an extra scoop of ice cream, or a fourth beer; we guide our actions by our immediate cravings rather than a pursuit for our long-term health. We are tired and skip our planned cardiovascular, strength, or stretching exercises one day without considering that in so doing we may be slightly less likely to do them tomorrow.

We can also make morally fraught short-sighted decisions. In our desire to be safe from criminals or terrorists, we may support imprudent and immoral long-term policies. Out of a fear of crime, the U.S. now has the highest incarceration rate of any country in the world, and our criminal justice system does little to rehabilitate criminals or to fully readmit them to society once they have served their time (LaFollette, H. 2005). We should not be surprised that the country's recidivism rate is embarrassingly and objectionably high.

Psychologists claim that short-sightedness springs from several cognitive biases, especially the availability and representativeness heuristics (Tversky, A. and Kahneman, D. 1974: 1125-28). These biases were originally identified as explanations for why humans often make flawed judgments of probability. For instance, most people are unduly optimistic in assuming that neither they, nor a member of their family, will become seriously ill (Dunning, D., Heath, C. et al. 2005: 72); yet many are unduly afraid that they will die in an airplane crash. Later psychologists deployed these mechanisms to explain why we often focus on short-term consequences and dramatic recent events when deciding what to do.

Selective Attention

Selective attention is another cousin of inattention in which the information is not only available; it is ready to hand. Nonetheless, we are oblivious to relevant factors and focus on insignificant ones. When one student criticizes us while another praises us, we often embrace the positive evaluation uncritically and then scour for ways to discount the other student's negative comments. In its more common guises, selective attention is a form of bias, oft described in the literature as either "confirmation bias" (Lord, C. G., Ross, L. et al. 1979) or "information avoidance" (Melnyk, D. and Shepperd, J. A. 2012).

Biases

We are biased not simply in the sense that we tend to make predictable judgments about others and ourselves. Since we are habitual agents, we all do that. Sometimes habitual action is innocent; occasionally, it is fortuitous (or even laudatory)—if, for instance, I reflexively tell the truth (LaFollette, H. 2007: Chapter 14). However, this is not what I—or most people—mean by being "biased." Most of us are biased in that we make some important moral judgments without the relevant evidence. In other cases, the evidence is easily available, but we are indifferent to or do not attend to it.

We are not just biased, we are biased about our biases (Ehrlinger, J., Gilovich, T. et al. 2005: 2). Even those of us aware of the human proclivity to be biased assume we have escaped this tendency to which others are vulnerable. We assume that we would know if we are biased. However, biases are potent because they are largely out of sight. They operate unconsciously by shaping how we see and interpret events and persons. Generally, they leave no directly accessible introspective cues (Nisbett, R. E. and Wilson, T. D. 1977; Pronin, E., Lin, D. Y. et al. 2002: 372-73; Ehrlinger, J., Gilovich, T. et al. 2005: 7). Biases are especially potent forms of the final common source of wrong-doing: ignorance of one's self.

IGNORANCE OF SELF

Some forms of ignorance and its cognitive cousins are instances of limited self-knowledge. Others arise from it. All are exacerbated by it. To the extent that we are ignorant of ourselves, we often: (a) don't know what we know and don't know,

(b) don't know what we do and why we do it, (c) don't understand how and why we judge others as we do, and (d) don't see or acknowledge our own biases. Of course few people are *completely* ignorant of themselves. However, our knowledge of self is selective. There are behaviors and traits we all occasionally miss; some of us do not see them at all. Most of us think our more negative traits are less serious and less numerous than they are. We then focus on our (perceived) positive traits, yet focus on the (perceived) negative traits of others, especially people we dislike.

Although most of us acknowledge that *some* people lack self-knowledge, we think that unlike the hoi polloi, we know who we are, what we do, and why we do it. We think that if someone does not know herself she must be intellectually lazy. The belief that self-knowledge is the norm clashes with Ben Franklin's famous quip: "There are three things extremely hard: steel, a diamond, and to know one's self." It is also at odds with volumes of empirical studies (Dunning, D., Heath, C. et al. 2005: 69—70):

> *In general, people self-view hold only a tenuous to modest relationship with their actual behavior and performance . . . . People's general evaluations of their skills and character . . . [are not] tethered very tightly to objective performances in tasks that should reflect those skills and character traits . . . . [Moreover], when people offer specific predictions about how they will behave in a particular future situation, they make predictions that differ systematically from their actual behavior when that situation arrives.*

Here are some specific examples of people's mistaken views of themselves:

- People's rating of their intelligence correlates between .2 and .3 with their scores on IQ tests and their performance on intellectual tasks . . . . (Dunning, D., Heath, C. et al. 2005; Hansford, B. C. and Hattie, J. A. 1982).

- 70% of high school students thought they were above average in leadership ability; only 2% rated themselves as below average. Virtually all thought they were at least average in their ability to get along with others. One-fourth thought they were in the top 1% (Dunning, D. 2005: 7).

- People on average rate themselves at the 64th percentile of those possessing a series of desirable traits (e.g., sophisticated, disciplined, sensible), while they rate themselves at the 38th percentile on a series of undesirable traits (e.g., neurotic, impractical, submissive) (Dunning, D. 2005: 103).

It is not difficult to see how these forms of ignorance may lead to morally odious action.

How Could This Be?

We are ignorant of ourselves because most of us acquire many beliefs about ourselves through introspection. Introspection can be valuable, but only when it has been trained by experience, candid feedback, and rigorous scrutiny. Bare introspection has limited epistemological value. Suppose that after "looking inside" I conclude that I am humble since I do not spend hours consciously thinking about how terrific I am. However, if others see that I regularly toot my own personal and professional horn and behave haughtily toward others, then I am not humble.

If I claim to be generous simply because I contemplate—and have pleasant thoughts about—helping others, but everyone else sees that I am stingy and inconsiderate, then my claim is undermined, the limits of my introspection are exposed. Our characters are defined not by an inner state to which each person has direct access, but by the ways that we regularly behave. There are, of course, exceptional circumstances in which one's deeper disposing traits are not exemplified in current behavior. However, these exceptions are not the stuff of which an adequate account of character is constructed.

This is uncontroversial when attributing non-moral traits to others. Everyone recognizes that Joan's sincerely believing that she is intelligent or athletic or hard working does not make her so. If she commonly makes ignorant and inane claims, she is not intelligent. If she cannot lift thirty pounds, walk half a mile, or swim one lap in a small pool, then she is not athletic. If most people who work with her consider her a dawdler, then she is not hard-working. These non-moral traits are determined by what she does, not by thoughts traipsing through her brain. Why would we think it is different with morally laden traits?

We all see this when evaluating *others'* moral traits. No one seriously considers that Pol Pot was saintly because he did not, upon introspection, discover a "savage person" inside. When we want to morally understand others, we observe their be-

havior and we ascribe traits based on our "background beliefs about motives, reason, abilities, and biases." Yet, somehow, when we think about ourselves, most of us ignore or downplay these common and indisputable sources of self-information. The tendency to rely unduly on introspection and the failure to actively protect ourselves from ignorance and its cognitive cousins are not limited to the dull and uneducated (Pronin, E. 2009: esp. pp. 5-9). Professors have this tendency in spades. Ninety-four percent of us claim to be "above average" professors (Dunning, D. 2005: 7).

How to we explain these errors? It is not merely that many of us are bad at introspecting—although that is true enough. The core problem is that we expect introspection to provide what it cannot reliably supply (Ballantyne, N. 2015: esp. 149—52). Much of what we want to know about ourselves is simply not accessible introspectively. Our behavior and motives are often shaped by implicit attitudes and preferences we cannot detect directly. We cannot "see the origins of our beliefs or the causes of our motives" (Pronin, E. 2009: 18). This leads many of us to think that while *others* are susceptible to manipulation, we are relatively immune to it. We also assume that we know others better than they know us (Pronin, E. 2009: 17). It is one of many biases to which we are all susceptible.

Some people have more sophisticated accounts of self-knowledge. They acknowledge the limits of introspection. They see that they must also observe their behavior. I would like to think that I am such a person. Nonetheless I (and many like me) am too often blind to what I do because I frequently privilege my own introspection and am insufficiently attentive to my behavior.

WHAT THIS REVEALS ABOUT THE
SOURCES OF WRONG-DOING

With these explorations to hand, we return to the question with which we began: how can so many people perpetrate, or be complicit in, ordinary and extreme wrongdoing? How did so many seeming decent Germans come to support the slaughter of Jews and other minorities? How could many southerners keep African Americas as slaves? How did they and their children support lynchings and other aspects of Jim Crow? How could devoted Church leaders kill and torture people because they failed to embrace the "correct" faith or had the audacity to suggest that the earth revolves around the sun? How and why did a veteran like Timothy McVeigh cavalierly deto-

nate a bomb in front of the federal building in Oklahoma City killing 168 people and wounding nearly 700 more?

None of these phenomena is primarily, let alone entirely, captured by the explanations of first call. It is doubtful that many of these perpetrators were insane, or that many thought that what they were doing was morally wrong; it is unlikely that most were consciously selfish. That does not mean the behaviors were not immoral or selfish. It is to say that many, and arguably most, thought that what they did was morally permissible; some thought it was morally required. From our vantage point, we find their beliefs incomprehensible. We want to know: how could anyone have believed *that*? The answer, drawn from the ordinary experience, history, and psychological studies, is that they were ignorant when they should have known; they did not see what was in front of them; they did not notice that they were focusing on their own interests; they were oblivious to their own biases.

Generally put, they did not think carefully about what they believed, what they did, and why they did it. Often they unquestioningly embraced the factual and moral claims of their culture, their parents, their teachers, their friends, their leaders, or their favorite political commentator. They were oblivious to the power of institutions to create and sustain preferences and beliefs. They made few—and perhaps no—efforts to protect themselves from these foreseeable sources of error.

We would like to think that *we* are different: that we could not have done what they did. But do we have any reason to think that we are unique? Most—and probably all—of us are inadequately self-reflective. The problem is that while most of us abstractly acknowledge our ignorance (Mill, J. S. 1985/1885: 17),

> *few [of us] think it necessary to take any precautions against their own fallibility, or admit the supposition that any opinion of which they feel very certain may be one of the examples of the error to which they acknowledge themselves to be liable.*

Mill's insight provides a way of framing an unnerving thought experiment. Most of us wonder how our parents or grandparents or teachers or business people or government officials could have believed and done the things they did. Doubtless, they almost certainly had similar thoughts about their parents and grandparents. What we should ask ourselves is: what will *our* children and grandchildren find equally incomprehensible about our actions and beliefs? This thought gives me the moral shivers.

PULLING TOGETHER THE STRANDS OF THE ARGUMENT

If I am right, we should not reflexively employ the explanations of first call: wrong-doing is infrequently the result of insanity, amoralism, preferential wickedness, or conscious selfishness. More commonly, wrong-doing results from ignorance (of history, background information, and the power of social, economic, and religious institutions), unconscious selfishness, ignorance of self, and (unconscious) biases. These cognitive failures blind us to the relevant moral dimensions of our actions. They lead relatively ordinary folks to engage in morally objectionable, or even horrendous, behavior. That is what Hannah Arendt meant by the "banality of evil" and what Aleksandr Solzhenitsyn meant in proclaiming that "the line dividing good and evil cuts through the heart of every human being" (Solzhenitsyn, A. I. 1973: 168).

If we have any hope of being on the morally proper side of this line, we must engage in frequent, honest, and rigorous self-reflection. If we understood our ignorance, we might correct it. If we acknowledged our selfishness, we might constrain it. If we recognized our biases, we have some chance of restricting their sway (Kahneman, D. 2011: 722—68).

Of course, self-knowledge does not come simply via introspection. I would have hoped that would have been clear by now. We can identify the means for obtaining self-knowledge by slightly rewording Mill's description of a wise man (1985/1885):

> *In the case of any person whose judgment [about herself] is really deserving of confidence, how has it become so? Because he has kept his mind open to criticism of his opinions and conduct. Because it has been his practice to listen to all that could be said against [his views about himself] . . . Because he has felt that the only way in which a human being can make some approach to knowing [himself] . . . is by hearing what can be said about [about his actions and motivations] . . . by persons of every variety of opinion, and studying [them all]. No man ever acquired [self-knowledge] . . . in any mode but this; nor is it in the nature of human intellect to . . . [gain self-knowledge] in any other manner . . .*

I am not the first to urge that we acknowledge this moral flaw. Bishop Butler did the same nearly two hundred years ago (1827: 127):

> *[M]any men seem perfect strangers to their own characters. They think, and reason,*

and judge quite differently upon any matter relating to them, from what they do in cases of others where they are not interested. Hence it is one hears people exposing follies, which they themselves are eminent for; and talking with great severity against particular vices, which, if all the world be not mistaken, they themselves are notoriously guilty of.

THE GREATEST VICE?

I propose that the greatest vice is our failure to engage in frequent, honest, and rigorous self-reflection. We insufficiently scrutinize our own behavior; we too quickly excuse our own callous behavior. Why would I suggest that this is such a serious vice? Recall my proposed criteria at the beginning of the paper. One, the "greatest" vice would be one to which we all succumb; two, it receives scant attention by philosophers and people in the public arena. Three, it directly and indirectly explains much wrong-doing. Four, it is a source of wrong-doing most within our control. If we are insane, we likely cannot cure it. If we are amoral or preferentially wicked, we are unlikely to change. However, if we recognize our ignorance, short-sightedness, inattention, and biases, we have some chance of corralling, controlling, and correcting these errors (Montmarquet, J. A. 1993).

The cognitive failings and biases of which I have spoken are part of who we are. Sometimes they even serve important evolutionary purposes (Kahneman, D. 2011: 45-46). To that extent, our bare susceptibility to these flaws is not the vice of which I speak. The vice is in making no, or only half-hearted, attempts to scrutinize our own motives and behavior. Not everyone is immoral or amoral or pervasively selfish. However, everyone is inclined to be insufficiently self-critical; that is why all of us occasionally act badly without acknowledging our misbehavior (Butler, J. 1827: 128):

There is plainly, in the generality of mankind, an absence of doubt or distrust, in a very great measure, as to their moral character and behavior . . . [this arises from] their not reflecting, not exercising their judgment upon themselves.

We cannot battle the vice of which Butler speaks simply by engaging in more introspection. We must carefully observe what we say and do. We must listen to others' criticisms of or comments about us, and then take active precautions against these

nasty propensities. Once we grasp our susceptibility to this vice, we should detect ways in which cognitive deficiencies distort our motives, choices, and actions. We then have some chance to counter these deficiencies: directly, by changing ourselves; indirectly, by altering the external circumstances (including the institutions) within which we think, choose, and act (Doris, J. M. 2002, 2015). The later route to change explains why my proposal is compatible with situationism: sometimes the most effective way of changing behavior is not by brute will but by changing our environments to reinforce more laudatory behavioral dispositions (LaFollette, H. 2007: Chapter 14).

If we do, we can change how we see, understand, and relate to others. We are more likely to be charitable in interpreting their behavior. We would be less likely to reflexively resort to immoralist assumptions about them; we would resort to these claims only if impelled by the preponderance of evidence. We would instead search for a more sophisticated understanding of other agents' behavior and motivations. That will inform our search for effective ways to change their behavior. If we assume that they are misinformed or careless or short-sighted, we can explain why we think they are mistaken. They will not want to hear our explanations, especially if they are not only ignorant, but convinced that they indisputably know the truth, as is many such people's wont (recall the earlier Billings quotation). We must vigorously search for ways to expose their ignorance and disabuse them of their faux knowledge. This will not be easy or simple. I hold no illusions that they will like hearing our analyses. Nonetheless, most people will prefer this to brutal assaults on their character.

Moreover, were we to concretely admit our own propensity to make these moral errors, we would be less morally uppity. That does not mean that we will be indifferent to morality. Nor does it mean than we need to be so skeptical or worried about mistakes that we are afraid to act. What it does mean is that we should admit our fallibility; we she should watch ourselves like moral hawks. We should acknowledge and genuinely consider other's moral criticisms of us. We should be willing to change ourselves accordingly.

I propose that each of us should scrutinize ourselves as much as—and preferably more than—we scrutinize others. Our control over others is always indirect. Our control over ourselves, albeit circumscribed, is more direct and more extensive. We have an opportunity to find ways to better relate with family, friends, colleagues, clients, students, and strangers, ways to create and sustain a more civil and civilized world.

CONCLUSION

None of this denies that some people are insane, preferentially wicked or consciously selfish. However, it would be better were these to be explanations of last resort rather than ascriptions of first call. Sure, there are the Bernie Madoffs who will bilk people out of their life savings without a hint of concern. However, I am not primarily concerned here about the character or actions of moral monsters. I am concerned far more with common sources of wrong-doing of which we are all guilty, more often than we dare admit to others or ourselves.

What I have suggested is both radical and ordinary. It is radical inasmuch as it reveals the limits of reflexive explanations for wrong-doing. It is ordinary inasmuch as we are all vividly aware of ways the unself-reflective actions of others cause significant harm. Indeed, it is so commonplace, the claim might seem to border on the trivial. Expect for one thing. Even when most of us recognize in the abstract just how dangerous a lack of serious self-reflection is, we tend to forget or ignore this fact in the concrete.

Although this may not be the most despicable vice, or the vice greater than which none can be conceived, given the kinds of creatures we are, this vice causes enormous harm, likely more harm than amoralism, immoralism, or conscious selfishness. Thus, although nothing earth-shattering hangs on its *really* being the *greatest* vice, acknowledging the importance of this vice is a corrective to common moral thinking, a corrective with significant effects on the practice of ethics.

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Ignorance, Humility and Vice

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ABSTRACT

LaFollette argues that the greatest vice is not cruelty, immorality, or selfishness. Rather, it is a failure on our part to 'engage in frequent, honest and rigorous self-reflection'. It is that failure which, on his view, explains the lion's share of the wrong-doings we commit towards one another. In this short reply, I raise (in a sympathetic spirit) some questions about the task of identifying the greatest vice, and draw out some of the implications of LaFollette's account of moral ignorance.

INTRODUCTION

Why do so many people commit so many and such serious wrongdoings as mass murder, rape, torture, lethal neglect? Indeed, why do so many people commit so many and comparatively less serious wrongdoings such as callously treating their friends and lovers by lying and cheating, exploiting their colleagues and neighbours' good-will, laughing at insulting jokes?

Well, because they are insane, we often say. Or because they are selfish. Or immoral. Or a combination of these. And yet, as Hugh LaFollette claims in his piece 'The Greatest Vice?', these first-call explanations cannot bear the full weight of ac-counting for 'man's humanity to man' on such a large-scale—both geographically and temporally. Instead, we need to look closer to home, or rather, closer within: 'the greatest vice is our failure to engage in frequent, honest and rigorous self-reflection', LaFollette argues.

Let me put my cards on the table: I am hugely sympathetic to his claim that, to the extent that failure to engage in self-reflection leads us to do wrong, it is a

moral failure—and one to which we are not sufficiently attentive. In this short reply, however, I raise some questions about the task itself of identifying the greatest vice (s. I), before drawing out some of the implications of LaFollette's account of moral ignorance. (s.II). I should say at the outset that my aim is to explore LaFollette's points in a friendly, not critical spirit.

I. IDENTIFYING THE GREATEST VICE

There is comparatively little discussion of vices in contemporary ethics—as opposed to discussions of criteria for wrongness and rightness or, for that matter, discussions of virtues. Judith Shklar's book *Ordinary Vices* is a notable exception (Shklar 1984). According to Shklar, cruelty is the greatest vice. Not so for LaFollette, who claims that neither cruelty nor, for that matter, the other obvious candidates mentioned in the introduction meet the desiderata for the greatest vice. The greatest vice, on his view, or at least (more cautiously) the most serious of vices, is one which:

1. we all have it in us to display;

2. 'is frequently overlooked in ethical debates'

3. 'produces, permits, or sustains mountains of moral wrongs';

4. 'is amenable to some control'.

At the risk of sounding pedantic, it is not clear to me that the fact that a vice is not discussed much in ethics makes it a good candidate for 'greatness'. Setting that aside, the set of cognitive defects which, taken together, constitute the vice of 'moral ignorance' (my label, not LaFollette's) does indeed meet conditions (1), (3) and (4). Condition (4) is particularly interesting: to the extent that I can do something about a vice, I act all the more wrongly for giving in to it.

One may wonder, however, what purchase there is to identifying one great vice as the best explanation for most of the wrongdoings which human beings commit—not just to one another, incidentally, but to all creatures which, irrespective of species, have claims against us that we treat them well. I have two concerns here. First, a great many wrongdoings—both trivial and not so trivial—are explained, not by moral ig-

norance but, rather, by weakness of the will. I know that I should honor my promise, yet I do not, knowing full well that I do not have a good justification for doing so. I know that I should speak up against abuse, yet I do not, for fear of incurring the relatively minor costs of my neighbour's disapproval. I know that I should not kill innocent civilians, yet I do not, for fear of incurring the somewhat higher cost of a court martial. And so on.

Second, seeking to explain 'mountains of moral wrongs' by pointing to one psychological trait, or a cluster thereof (be it moral ignorance, or weakness of the will, and their respective cousins) risks occluding stark differences between those wrongs, and/or between those who commit them. On the first count, failing to keep a promise to my sick friend, and persuading myself in willful ignorance of her emotional fragility that she will not mind, is wrong. So is a failure to stand up to military orders to torture prisoners of war, when one should know those orders are in breach of the Geneva Conventions and its underlying moral principles. But they are not the same wrongs, as LaFollette would of course agree. To rank them relative to each other, we need to do more than point at the agent's moral ignorance (or, for that matter, weakness of the will, or indeed at cruelty.) On the second count, you and I might both be in breach of our joint promise to our friend—I because I chose to ignore her frailty, you because you gave in to the greater allure of a long hoped-for trip. You and I might both be in breach of the Geneva Conventions —I because I am a sadist who refuses to recognise herself as such, you because you are worried about your career prospects.

Perhaps, then, it is best to explain why a given agent commits this or that wrong by appealing to a combination of moral and/or cognitive traits; and perhaps, too, this is the best way to explain why a given wrongdoing is committed by these or those moral agents.

II. MORAL IGNORANCE

There is no reason to believe that LaFollette would disagree with any of this. There is also every reason to believe that, with those qualifications in hand, he would nevertheless insist on the dangers of moral ignorance. He would be right. By 'moral ignorance', I mean, in agreement with him, the many ways in which we fail to think carefully about, indeed often willfully blind ourselves to, our beliefs, intentions and biases; the consequences of our actions; the institutional forces which shape us; and

so on. This kind of ignorance is moral, and not merely factual, precisely because it leads us to do wrong so often, and to so many people.

What, then, is the solution? It comes in the form of a set of epistemic duties to inform ourselves about all of those things, and to change our beliefs in the light of the evidence so gathered. More specifically, you will remember, it is a duty to 'engage in frequent, honest and rigorous self-reflection'. On the assumption that 'ought' implies 'can', this presupposes a commitment to doxastic voluntarism which some of us might not endorse.[1] I for one am not one of the sceptics. LaFollette is right, I believe, that we often ought to know better, and that in order to know better, we have to cultivate and nurture the right set of beliefs in the light of the right kind of evidence.

However, even if we were conscientiously to do that, we would not necessarily be off either the philosophical or the moral hook. Note first that, if moral ignorance is the greatest vice, it ought to provide the best explanation for itself. Hence the philosophical difficulty. For why are we derelict in our epistemic duties, one may ask? Well, because we mistakenly believe that we do not suffer from the aforementioned cognitive defects. So, what is the solution? To scrutinise ourselves. But what explains our failure to do precisely that? Well, our failure to do precisely that. And what explains that failure? Well, . . . and so on.

There is little choice but to accept the whiff of circularity here. Were we to do so, we would still need to accept that the kind of rigorous scrutiny which LaFollette invites us to engage in (be it of ourselves, or of the world around us) often leaves us far short of doing the right thing. We might have all the relevant evidence at hand, and have interpreted it to the very best of our abilities, and yet it might be factually incorrect—as in the following example, which I draw *verbatim* from Jonathan Quong's work on the ethics of defensive killing (Quong 2012, 61-62):

> Duped Soldiers: *A group of young soldiers are successfully fooled by a totalitarian regime into believing that the regime is good and just, and is under repeated attacks from their evil neighbors, the Gloops. The regime's misinformation campaign is subtle and absolutely convincing: the soldiers are justified in believing what they are told by the regime. Once the misinformation campaign is complete, these Duped Soldiers are given orders to attack and destroy a Gloop village on the border which, they are told, is really a Gloop terrorist camp plotting a major attack. In fact,*

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1.   For discussion, see, e.g., Alston 1989; Ginet 2001; Audi 2008; Hieronymi 2008.

everything the regime has said is a lie, and the Gloop village contains only innocent civilians.

On what Derek Parfit calls the evidence-relative account of wrongdoing, whereby an act is wrong only if the evidence is such that, were it true, the agent would not be justified in acting as he did, the soldiers would not act wrongly by attacking the village (Parfit 2011). If rightness and wrongness are evidence-relative, then by fulfilling our epistemic duties, we would stand a reasonably good chance of not doing wrong. Yet it is implausible to hold that the soldiers would not be acting wrongly: for the facts are such that, notwithstanding the evidence at the soldiers' disposal, the villagers are not a threat and ought not to be killed. Granted, the soldiers are not as blameworthy as they would be if the evidence had pointed to the villagers' innocence and if they had willfully refused to see this. But they do nevertheless act wrongly. Doing one's epistemic duty, thus, might protect us from blame. But we should be aware that it might not shield us from acting wrongly in as many cases as we might like to think.

For all that, I do agree that we can and ought to improve our epistemic situation. In particular, to the extent that we can be more transparent to ourselves than we normally are, and that greater self-knowledge would help steer us away from moral disasters, we ought to engage in introspection—and to listen to what others have to say about us. In so doing, not only would we gain greater knowledge of others, we would also better understand and empathizing with them, and stand a better chance of helping them see that, and where, they got it wrong. LaFollette's paper, thus, is a call for humility: our arrogance about who and what we are is morally costly, and we had better see this. And yet, the call is not without its dangers. Too much introspection—'watching ourselves like moral hawks'—can lead to a narcissistic preoccupation with our moral integrity, to an overly judgmental evaluation of our moral foibles, indeed to an arrogant unwillingness to forgive ourselves for what we easily forgive others. As LaFollette would (I think) agree, there really *can* be too much magic in the pronoun 'I'.

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Humanity's Collective Ownership of the Earth and Immigration

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ABSTRACT

In my 2012 book *On Global Justice*, I argued that humanity's collective ownership of the earth should be central to reflection on the permissibility of immigration. Other philosophers have recently offered accounts of immigration that do without the kind of global standpoint provided by collective ownership. I argue here that all these attempts fail. But once we see how humanity's collective ownership of the earth can deliver a genuinely global standpoint on immigration, we must also consider two alternative ways of offering such a standpoint. First, some have argued that any given generation should be regarded as inheriting both the natural and the societal wealth of humanity. The second alternative invokes ethno-geographic communities characterized by particular land-use patterns. This approach would deliver a global standpoint on immigration by determining which community gets to select the land-use pattern for a given location. I argue that thinking about immigration from the standpoint of collective ownership of the earth is superior to both of those alternatives. While advancing a standpoint from which to think about questions of immigration/migration, this article also offers explanations to situate its themes in the current philosophical debate and cover quite a range of topics in the debate about immigration. No prior acquaintance with *On Global Justice* is presupposed here.

SECTION I

The European migrant crisis began in 2015, when an increasing number of migrants traversed the Mediterranean or Western Asia to reach countries in the EU. Hundreds and probably thousands have died in the attempt, many when their boats sank in the unruly waters of the Mediterranean. The US and Australia too have long been prominent destinations of migrants, of course. As the 21st century progresses, climate change will generate new population movements. Generally, migration and immigration will be among the defining topics of this century. Does political philosophy have anything to say about such population movements?

My 2012 book *On Global Justice* (hereafter *OGJ*) devotes much room to an idea that was the pivotal thought in the political philosophy of the 17th century but has since attracted less attention: that humanity collectively owns the earth. That idea helps with the question I just posed. By *ownership*, I hasten to add, I do not mean here the concrete provisions of ownership in the civil law. Practical speaking we can think of ownership as *intergenerational trusteeship*. With that idea developed in a secular and (hopefully) plausible manner, the book explores several contemporary issues in its light, among them climate change (if humanity owns the planet in common, this must have implications for what we should do about cleaning up the atmosphere, and who should bear the costs), obligations to future generations (ownership of the planet stretches over generations, making the present one caretakers for future generations), and finally *immigration.*

As far as immigration is concerned, *OGJ* formulates an account of *proportionate use of collectively owned resources and spaces* and argues that a country that underuses its share ought to admit more immigrants. If we think of immigration in terms of population movements across a collectively owned planet, we recognize that immigration policies are not entirely discretionary. That is, it is not exclusively up to a state to decide what kind of immigration it wishes to have. Instead, contrary to current political practice, immigration policies must be assessed from a global standpoint, the stan-

dard of assessment being whether policies accommodate a proportionate number of people.[1]

A common reaction has been that *OGJ* overstates the significance of collective ownership for immigration. My approach ignores what motivates migrants: people move to live in a safer environment or a stronger economy, not to enjoy shares of resources or spaces. But what *motivates* people and *what is permissible or obligatory* are different topics that we must explore on their own terms. Here I aim to develop my approach further by defending it against the charge of overstating the importance of collective ownership of the earth for immigration. I hope to be able to show that reflection on collective ownership is essential for sound theorizing about immigration, and thus also for sound theorizing about the population movements with which we began. I also hope to demonstrate that reflection on collective ownership generally is an important and currently neglected idea in political philosophy.

Since this essay is for a general readership, section 2 introduces my approach to global justice. In an introductory spirit, section 3 then reflects on how to integrate questions about immigration into a theory of global justice, developing the distinction between ideal and non-ideal theory. Section 4 explains what role there is in debates about immigration for collective ownership of the earth. Sections 5 and 6 engage with some contemporary authors who offer an account of immigration "one state at a time." All identify good reasons that entitle states to restrict immigration. These approaches turn out to be incomplete or misguided for failing to consider immigration from a genuinely global standpoint. Theorists who accept states and their right to exclude must wonder about the costs imposed on non-members by maintaining such a system, "costs," that is, consisting of the denial of entry to some who would like to move to the respective country. Reflection on collective ownership fills that lacuna.[2]

However, my response to those authors generates an objection that cuts to the core of my approach. Suppose I am right that we need a view of the fair distribution

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1.   Oberman (2011) states that there is a consensus in the literature that wealthy countries can choose between allowing people from poor countries to immigrate and helping them where they are. My view is not part of that consensus. Under-using countries should permit immigration.

2.   For most of the social science and legal literature on immigration the question of whether states are allowed to constrain immigration at all does not arise. Readers who approach the philosophical literature before this background may therefore be surprised about the extent to which the sheer acceptability of immigration constraints has become a philosophical problem. A symptomatic recent statement by a social scientist working on immigration is this: "Only from the wilder shores of libertarianism and utilitarianism can it be argued that immigration controls are ethically illegitimate" (Collier (2013), p 246). Much of the philosophical interest in immigration has been fueled by the fact that that same view can also be supported from less "wild" shores.

of people across the earth to articulate a globally acceptable stance on immigration. Agreement this far does not by itself imply that we should develop such an account entirely in terms of proportionate use *of resources and spaces*. First of all, one may argue the proportionate distribution should involve proportionality vis-à-vis *overall wealth*, including both natural and societal wealth. Sure enough, the argument goes, any new generation has done nothing to create natural resources. But nor have they done anything to create any societal wealth. So, much like natural resources, inherited societal wealth should be seen as collectively owned by humanity as a whole. This is a powerful objection that would radically alter how my approach bears on immigration. In response, sections 8 and 9 discuss the differences between societal and natural resources. Contrary to those who agree that proportionate use matters to immigration but insist the common pool includes societal resources, I argue that pool does in fact exclude such resources.

Yet another account does agree that it is indeed natural resources and spaces with regard to which we should assess the distribution of people. But instead of proportionality, another manner of assessing that distribution is employed. Political theorist Avery Kolers (2009) uses the term "ethno-geographic community" to emphasize that communities adopt land-use patterns to control and shape spaces, patterns that in turn shape their culture. Their conception ("ontology") of land materializes through acts of bounding, controlling and shaping space. Kolers's view permits a global standpoint, one that prescribes whose ontology of land matters in any given region and thereby determines fairness in the distribution of people without drawing on considerations of proportionality in any way. I discuss Kolers's account in section 10, but I argue that his account of ethno-geographic communities fails to undermine the significance of collective ownership for immigration. Of the three different ways of developing a global standpoint, then, I hope to persuade the reader that the concept of collective ownership of the earth is most plausible and worthy of more attention in the globalized world of the 21st century.

Before we reach the discussion of these two alternative ways of devising a global standpoint, section 7 responds to some substantial objections to my account of collective ownership of the earth raised by Malcolm Bull's 2013 review of *OGJ* in the *London Review of Books*. Responding to his concerns here serves the purpose of clarifying important aspects of my approach. My discussion of Bull's objections benefits from the discussion of competing proposals on immigration in sections 5 and 6. Section 11 concludes.

SECTION II

Let me locate *OGJ* in the global-justice literature. Justice has been a major subject in Western philosophy since Plato and Aristotle. Generically, justice is impartiality in the assessment of what is deserved. One kind of justice is distributive justice. The meaning of "distributive" justice has varied enormously throughout history, but in recent times its guiding question has come to be about the ways political and economic institutions are arranged and thus about how benefits of social cooperation accrue to individuals. According to a common view, demands of justice are the most stringent ingredients of morality: what justice requires has priority and permits fewest compromises.

Many philosophers think we must stand in a rather dense relationship for such demanding consideration to apply. For instance, they do not think that being loosely connected at the global level through trade relations even implies the need for considerations of justice. As opposed to that, a situation of shared citizenship has struck many as the kind of relationship, and in fact as the only one, where considerations of justice do apply. That is, questions about just distribution arise among citizens, but not among people who do not share the same state. Mexicans among each other, Americans among each other, or Japanese among each other stand in what we might call a justice-relationship; they can debate with each other how to distribute what they create together. But a group consisting of Mexicans, Americans and Japanese is not jointly subject to the same principles of distributive justice, whatever those may be.

In a politically and economically highly interconnected world, we must ask what justice requires globally. As an alternative to the traditional view just sketched *cosmopolitan* views have arisen which apply distributive justice to all human beings —either because the right political and economic structures within which justice applies is not the state, but the global order or world society, or else because justice applies to all human beings as such, regardless of any structures. But neither the traditional nor the cosmopolitan approach is satisfactory. The traditional view overemphasizes the importance of states; the cosmopolitan view is too dismissive of their importance. *OGJ* rejects both approaches and instead recognizes different considerations or conditions based on which individuals are in the scope of then different principles of justice. Finding a convincing alternative to those two aforementioned approaches to

my mind is the most important challenge contemporary political philosophy faces, one that reflects the significance of the political issues at stake.

My view in *OGJ*, and thus my own attempt at meeting the aforementioned challenge, recognizes the existence of multiple *grounds* of justice. Grounds are the properties of individuals that make it the case that particular principles of justice apply to them. *OGJ* seeks to present a foundational theory that makes it plausible that there could be multiple grounds and defends a specific view of the grounds I call *pluralist internationalism*. Pluralist internationalism grants particular normative relevance to states but qualifies their relevance by embedding the state into other grounds associated with their own principles of justice and by imposing additional obligations on those who share membership in a state. The grounds I discuss are shared membership in a state, common humanity, shared membership in the global order, shared involvement with the global trading system and humanity's collective ownership of the earth. There may well be other grounds, but our political realities make these five especially relevant. *OGJ* explores these grounds, proposes particular principles applicable to them, and demonstrates the fruitfulness of this approach to justice by thinking through what it implies for a range of challenges that come up for moral evaluation.

What may seem an unexpected item on my list of grounds is humanity's collective ownership of the earth. The idea that humanity collectively owned the earth was the pivotal thought of 17th century political philosophy. Authors such as Hugo Grotius, Samuel Pufendorf, John Selden, Robert Filmer, Thomas Hobbes and John Locke all had views on the matter. It is unsurprising that collective ownership became so important then. The 17th century was when European colonialism came into its own. Genuinely global questions arose for European thinkers for the first time then, if only regarding their interaction with each other in far-away lands. The central source for humanity's collective ownership of the earth was the divine gift of the earth recorded in *Genesis*. In those religiously troubled times the Old Testament was as credible a foundational text as was available in that debate.

The concept of humanity's collective ownership of the earth is worth revitalizing even though we must now do so in a secular manner so as not to preclude its general acceptability from the outset. Such a revitalization is both feasible and tremendously important. At this stage in history, humanity confronts problems of planetary proportions. The destruction of our habitat is possible. In response political philosophy must make the planet as such central to reflection. The collective ownership involved

is more abstract than ownership in the civil law. The point is to articulate the idea that the earth's resources and spaces are needed by all humans for everything we do whereas their existence is nobody's accomplishment. Of any two humans, no matter when and where they live, neither has done more to create the planet. To the extent that we are entitled to resources and spaces, any two humans have equal entitlements.

I say "to the extent" since my secular revitalization does not indulge human chauvinism: the most plausible view on the value of animals and ecosystems (whatever that may most plausibly turn out to be) is consistent with humanity as such collectively owning the planet in the sense sketched. After all, collective ownership of the earth as I understand it only applies among human beings, and thus assigns entitlements to resources and spaces of the earth that are in the domain of what humans are entitled to (that is, after concerns about animals and the environment for its own sake have been factored in).

So far these ideas have been intuitive, but there is substantive philosophical work to be done, the details of which, however, do not concern us now. To summarize briefly, *OGJ* explores various conceptions of humanity's collective ownership, that is, several ways of developing what is meant by "collective ownership." I argue that one of them (what I call Common Ownership) is philosophically preferred. Common Ownership of the earth, roughly speaking, is parallel to ownership of village commons in the old days: an entitlement to an equal opportunity to use certain resources to satisfy one's needs. To illustrate what it means to offer a principle of justice for a ground of justice, I offer the following principle pertaining to humanity's collective ownership of the earth: The distribution of original resources and spaces of the earth among the global population is just only if everyone has the opportunity to use them to satisfy their basic needs, or otherwise lives under a property arrangement that provides the opportunity to satisfy basic needs. In the course of several chapters *OGJ* argues that this principle has important implications for immigration, climate change and obligations to future generations.

OGJ seeks to exemplify the work philosophy can do to help solve the world's political and economic problems, especially those raised by globalization. Attempts at solving such problems generate questions about what kind of world we desire. Philosophical inquiry rarely generates policy advice unless much of what people believe and how our institutions work is taken as constraining such advice. Nonetheless, we need visions for the world's future. If such visions dispense with philosophy, they forfeit conceptual tools needed to defend them. At the same time,

political thought that proceeds with too little connection to problems that preoccupy those who seek to change the world is complacent and boring, as is philosophical inquiry that mostly investigates its own nature.

SECTION III

Let us turn to immigration, starting with some thoughts on why immigration is a vexing subject for political philosophers. Much confusion exists in the litera- ture because it is often not clearly distinguished how discussion of immigration in so-called "ideal theory" differs from "non-ideal theory" (terms I define below) and there is frequently little clarity of what is required of an ideal-theory treatment of immigration.

Reflection on immigration is challenging partly because proposed policy changes are often plausible only if other policies also change. Suppose somebody advises against more immigration because what immigration a country could expect decreas- es low-income wages. This argument assumes no additional social policies are avail- able. Or one might argue wealthier countries had better not admit more immigrants because their inhabitants pollute too much. But that argument takes environmen- tally unacceptable behavior as given instead of insisting that wealthy countries must pay more heed to the environment anyway. Generally, using philosophy for practical recommendations, we can rarely make proposals on only one subject. We must make a set of interconnected proposals. If the whole set cannot be implemented, we must see what guidance (if any) is available. Political philosophy constrained by what is po- litically possible in the short run is of little interest. Still, for political thought to bear on reality it must be *realistically utopian*. It must be constrained by what is politically doable in the long run, or at least by what is economically, biologically or physically possible. It is crucial to be clear on how such possibilities constrain one's views, and to be consistent in one's choice of what kind of possibility constrains theorizing.

So it matters greatly whether we think about immigration in *ideal* or *non-ideal theory*. We assess immigration under conditions of ideal theory if we assume that in all other regards the world is as it should be as far as justice is concerned. We do so under conditions of non-ideal theory if we assume that in some other regards, the world is not as it should be. For some approaches to global justice, questions about immigration arise only non-ideally. Immigration occurs only if borders exist. If ideal theory abolishes borders no question about acceptable immigration arises. What

such theories entail for non-ideal cases depends on the nature of the constraints separating real-life conditions from ideal theory. Here I am not interested in theories that hold that ideal theory excludes states but in theories that hold the opposite. Anybody who accepts that there are states *in ideal theory* owes a justification of states, one aspect of which is to show how particular principles of justice apply only within states. However, no such account by itself has strong implications for immigration. What one can show in this way is at most that immigration does not have to be *entirely unconstrained*. An account of how immigration can be legitimately constrained must be added.

Is it possible that *in ideal theory* states may regulate immigration as they see fit? This will be so if one regards immigration as purely *remedial*. A remedial measure is one that must be offered because substantive claims have been violated. Thus immigration is remedial if offered in response to violations that are not by themselves matters of population distribution across countries. Immigration is *purely remedial* if only offered in such a way. Sometimes immigration is considered a remedy to inadequate living conditions in countries of origin (either because then the immigrants themselves would be aided, or because third parties benefit from the fact that they immigrate, e.g., because they send remittances). By definition, remedial immigration is absent in ideal theory (since the violations that trigger such immigration are absent). So if immigration is *purely* remedial, ideal theory need not concern itself with it. However, in section 5, when discussing the work of Michael Blake, we encounter an example of severe underuse of resources under conditions of ideal theory. That kind of example shows that we should not think of immigration as purely remedial. For now let us assume that point has already been established.

We should take note in passing of one approach that, like mine, also does not treat immigration as purely remedial, to wit, Martha Nussbaum's version of the capability approach to human flourishing. Nussbaum offers a list of capabilities central to a dignified life. "Bodily integrity" appears, and "being able to move freely from place to place" is one instantiation of bodily integrity (2006, p 76). Views of global justice that regard immigration as purely remedial, one might insist, miss this kind of moral significance of immigration.[3]

However, an appeal to the relevance of bodily integrity, or other appeals to the importance of freedom, do not compel us to accept a freedom-based approach to immigration according to which there would be a primary right to immigration that is

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3.   For the significance of open borders for human freedom, see also Carens (2013), chapter 11.

in no way (and thus certainly not purely) remedial. One might say, alongside Miller (2005), that the right to free movement is not inexhaustible but best captured as a threshold. A legitimate concern with freedom of movement (or bodily integrity) is fully met if everybody has some space to move around. Concerns with the moral significance of physical movement as such would therefore not undermine the claim that a right to immigration is purely remedial. Moreover, it is also true that many ordinary laws—including private property laws, traffic regulations, no-loitering ordinances, park closing hours—already limit free movement. It is therefore hard to be overly impressed with an appeal to freedom in the immigration debate. Freedom can play a part on all sides of the immigration debate.

SECTION IV

Let me now explain my own take on immigration in terms of collective ownership of the earth. We have seen so far that *if indeed* immigration is not purely remedial, a theory of global justice must address immigration under *both* ideal *and* non-ideal conditions (and, again, be careful about when it addresses which kind of condition). What such a theory has to say under non-ideal conditions depends on the nature of the deviation from ideal circumstances. Nothing much can be said at the abstract level. But without such complications *ideal theory* can and must address immigration. Specifically, the ideal theory we are after here is one that tell us under what conditions states, for moral reasons, ought to allow immigration, and how much. Unlike Nussbaum's approach in terms of freedom, *OGJ* does so by resorting to *humanity's collective ownership of the earth.* Part 1 of *OGJ* offers an account of what I call the "normative peculiarity of the state," that is, the conditions that make it the case that particular principles of justice only hold among those who share membership in a state. The answer is that those who share such membership are subject to particular forms of coercion and expected to participate in a certain form of cooperation. Far-reaching principles of justice govern the distribution of goods produced under those conditions.

But since indeed this kind of answer leaves open what counts as an appropriate response to immigration demands, Part 2 turns to collective ownership to fill precisely that lacuna: states may not exclude people from entering if and as long as they *underuse their share of collectively owned resources and spaces*. A population *underuses* its share of three-dimensional space if the per-capita value of what they occupy is higher than

the world average across states. The average person in such a state can access more resources than people can on a per-country average. They overuse if the per-capita value of what they occupy is lower than the world average among states. Underusers can be reasonably expected to permit immigration. Overusers may decline further requests for immigration. They do enough in permitting a share of humanity to make a living.

For a state to offer a home to "sufficiently many" people means their number is proportionate to the value for human purposes of the resources and spaces thus removed from general use. A host of biophysical factors shape the value of a territory for human purposes, as do technological constraints. Territories of the same size might differ vastly in terms of soil quality, resource endowment, climatic conditions and other variables. No good measure assessing the value for human purposes of three-dimensional spaces of the earth is currently available. Sustained scientific effort would be needed to obtain one. But the basic idea should be clear: proportionate distribution of humans across the planet must be spelled out in terms of a measure that evaluates what humans can actually do with a region of the earth.

It should not be up to the discretion of extraterritorial entities what kind of immigration a state should permit. Such regulation would undermine any prospects of the state's building an enduring collective spirit needed to maintain trust in everyday life. At least that is so for non-trivial numbers of immigrants.[4] So if we grant that states exist in ideal theory, leaving control over immigration to an extraterritorial entity is not an option; the question is only whether states should have complete discretion, or whether immigration policies should be subject to moral constraints justifiable to both people in the country and outsiders. That second case I develop in terms of collective ownership of the earth. We could then debate separately whether immigration should be administered from within the country or partly from outside.[5]

So *OGJ* proposes a response to the problem that an account of the normative peculiarity of states does not have an account of immigration "built in." This approach in terms of proportionate use integrates the concerns of those whom immigration policies would exclude. They cannot be reasonably expected to accept a state's im-

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4. Collier (2013) argues that moderate amounts of immigration are beneficial for host countries, but that a rapid influx of many immigrants may well undermine social trust. This will be so especially the more immigration increases diversity. For the link between diversity and trust, see Putnam (2007).

5. "Perhaps partly:" in cases of conflict in how to interpret policies the state should have a major say, for the same reason that excluded discretionary immigration policies decided by external entities.

migration policies if that state underuses its resources and spaces and thus fails to provide a location for a proportionate share of the world's population. But this response requires further elaboration. Specifically, I must defend it against accounts that build on the normative peculiarity of the state without integrating a global standpoint, as well as against views that agree an account of immigration must include a global standpoint but develop that standpoint differently.

The remainder of this study, beginning in section 5, takes up those tasks. But before proceeding, let me note that refugees come up for special treatment in *OGJ*. In international law (specifically according to the 1951 Convention on Refugees), a refugee is a person with "a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion."[6] But for the needed contrast with immigrants we should use a broader and more commonsensical notion of refugee not filtered through international politics. More broadly, refugees are people who, on account of adverse conditions at home, either permanently or temporarily cannot maintain a minimally decent life. Often relocation under such conditions is outright flight in the face of war or persecution. International law grants refugee status under such conditions (which is not a claim to membership elsewhere but a claim not to be sent back to the home country, and thus is consistent with being sent elsewhere). But it might also be for economic reasons that people cannot make a decent living. This could be because of natural disasters, mismanagement or a callous regime. As opposed to refugees, immigrants wish to relocate although their lives are not in as dire straits. There is a continuum between clear cases of refuge and immigration. What the cases have in common is that obligations towards both groups apply at the level of the global order as such.

OGJ offers a particular take on refugees. Human beings are co-owners of the earth. States may exclude others only if they (states) do their share to make sure they can make a living where they reside. Otherwise people cannot be prevented from exercising their liberty rights and moving elsewhere. A case in point is the refugee crisis in in the Mediterranean. First of all, qua humans, people have a claim to aid against the rest of the world. A duty of assistance in building institutions applies (*OGJ*, chapter 4). But this duty comes up against the limits of what is feasible to do from the outside. Secondly, these people are independently entitled to move to underusing countries. Thirdly, if it is not feasible to offer aid in building institutions, or

6.   See, e.g., http://www.unhcr.org/pages/49c3646c125.html

if it simply does not happen, then those who leave, qua co-owners of the earth, have a claim against the rest of the world to be permitted to move.[7]

SECTION V

Let us turn to accounts of immigration that were recently offered by philosophers who agree with me on the normative peculiarity of states but deny that an account of immigration needs to include a global standpoint. As we will see, attempts to delineate the state's right to exclude fail if they do not properly consider from a global standpoint the burdens imposed on those excluded by immigration policies.

Among authors who think states should be allowed to constrain immigration Michael Blake (2013) is unusual in severely limiting a state's possibilities for doing so. A state's right to exclude people from poor and oppressive countries is generally weak. Let us see why he thinks that and why there would be a problem with his approach because of the omission of a global standpoint.

Blake argues that what is crucial in the right to exclude is that the state is a territorial and legal community. The state's territory delineates a jurisdiction within which its laws are effective. Whoever migrates into a jurisdiction obligates its inhabitants to protect her human rights, which constrains the freedom of current inhabitants. The question becomes under what circumstances—and vis-a-vis which would-be immigrants—states may refuse to accept such obligations. For Blake states may do so only if the country of origin adequately protects human rights. Otherwise, migrants acquire rights-protections upon entry. Force used to prevent entry is illegitimate. After all, Blake thinks that human beings have not only basic human rights, but also rights to the circumstances under which these rights are protected. So if their human rights are not protected in their country of origin, they are entitled to move to a different location where their rights will be protected. It is for this reason that a state's right to turn away would-be immigrants from poor and oppressive states is generally weak. Whereas Christopher Wellman (2008) allows states to purchase the right to exclude by supporting development in poor countries, Blake insists we cannot justify

7. Oberman (2011) argues for a "right to stay." His opponents are those who argue that wealthy states can choose between permitting immigration or helping the poor where they are. Oberman insists there is no such choice: if the poor prefer to stay, they should be supported where they live. My view does not endorse such a choice at the level of ideal theory, such a choice may arise in non-ideal theory. Also, as we just saw, *OGJ* is consistent with a right to stay because I argue for a duty of assistance for poor countries (associated with common humanity as a ground of justice).

force against one person (which we would exercise by denying them entry) by providing benefits to others.

I agree that people are entitled to an environment where they can exercise basic rights (Risse (2012), chapter 4). But I disagree about the conditions when states may *reject* migrants. Note that Blake's account falls silent once poverty and oppression are eradicated. Suppose we live under conditions of ideal theory: all duties of justice are met, domestically and internationally, but questions of immigration remain unsettled. Are people still entitled to move? People may enter if their right to appropriate conditions to realize their rights is not met where they live. Blake does not say they are entitled to enter *only* if that is so. But the spirit of his discussion makes immigration remedial. So his answer to the question posed must be negative.

A purely remedial theory of immigration like Blake's—one that thinks of immigration only as a solution to existing problems—is problematic. Let me elaborate on that point in the context of Blake's theory (thereby finally completing the discussion from section 3). Suppose a mysterious disease shrinks the population of the US to a few people without affecting other regions. With technological aids the survivors can exclude migrants. Suppose oppression and poverty have been eradicated globally. Nobody lives under circumstances that entitle her to move. Blake cannot find anything morally problematic with these few Americans refusing to share. But this case to my mind shows that immigration is not purely remedial. It also shows that there is a distributional component to any plausible account of immigration. People may move into the depopulated US because the remaining Americans occupy a *disproportionate* share of resources and spaces.

But if in *ideal* theory we should think about immigration in a way that includes a distributional component then *non-ideal* theory cannot entirely lack such a component. Often migrants desire to move to a location with special ties to their homeland and that therefore may have a special obligation to take them. Cases in point would be obligations of former colonial powers. But more commonly people determined to leave a poor or dysfunctional country simply wish to join any country with better prospects. To the extent that there are duties to provide such prospects, *all countries* that could do so have them, and must divide them up.

Suppose some such people arrive in country C. For Blake, C is obligated to create conditions where they can realize their rights. C is not entitled to try to keep them out to avoid a situation where it becomes responsible in that way. But that seems wrong. C's duty towards the migrants is no different from that of any country that

can provide the circumstances under which migrants could realize their rights. C has an obligation to all people in this kind of situation, and all such people have a claim against countries like C. C has obligations only qua member of the global order. Would-be immigrants have claims against the global order, not specifically against C.[8] C is a duty-bearer only as part of the global order. This again leads to distributional considerations. Countries must divide up would-be immigrants. All of this applies especially to the European refugee crisis. These refugees have a claim against the global order as such rather than against the countries they reach first (say, Greece or Italy) or that happen to be positively disposed (say, Germany or Sweden). Responding to their needs is a global responsibility. Blake's theory is wanting for not considering immigration *from a global standpoint* that captures an idea of proportionate distribution but instead sees immigration as purely remedial, on a country-by-country basis.[9]

What is a country supposed to do if others fail to do their share? There are two major views on the general question of what an agent (individual, country, etc.) ought to do if others refuse to do their share. One view (e.g., Cullity (2004)) holds that an agent then must do more, as much as she can. The competing view (e.g., Murphy (2000)) holds that she should still do as much as she should if everybody did comply. My inclinations lie with the latter view. But it matters what, and how much, one would sacrifice doing more than required under full compliance, and how morally significant it would be if these supererogatory actions (actions beyond the call of duty) were performed. If one is called upon to do more than required if everybody else does their share, one should make the more of that kind of effort the less of a sacrifice it would be, and the more significant the matter is.

These issues are complex. Suppose I see somebody drown at the beach and many others see it too. Surely I have a duty of rescue even if nobody else moves. If another person drowns and again nobody else moves, I have the same duty. If the same continues to happen, my duty continues to apply, as long as I can manage to do so. There is too much at stake for the person whose life might be lost. If there were less at stake

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8.   Chapter 11 of *OGJ* explains what it means to have obligations to the global order, but the basic idea should be clear enough: these are obligations that all human beings share.

9.   (1) A similar point can be made against Huemer (2010), who argues that immigration constraints are prima facie harmful and coercive in a way that cannot be outweighed by a range of standard considerations (negative effect on job markets, state's obligation to its poorest, etc.) (2) Carens (2013) draws attention to difficulties that could arise if the country where claims to entry are accepted were different from the country where people get to live. It may not always be a good idea literally to divide up immigrants or asylum seekers. But a country that would accept many new people should get credit when it comes to other obligations.

for the persons whom everybody else ignores, I could cease my efforts earlier: enough will be enough even before I have exhausted myself.

In this spirit there is a strong obligation for wealthy countries to support refugees who seek to leave war or drought zones even if others fail to do so and one has done one's share under ideal circumstances (one's share under conditions where everybody does theirs). Let me offer an illustration in terms of a scenario where a claim to overcrowding was actually made explicitly. In August 1942, Swiss politician Eduard von Steiger notoriously argued that Switzerland was like a small lifeboat that was over-crowded, and therefore should not accept more Jewish refugees (Schütt and Pollmann (1987), pp 540f). But Switzerland should have done more than it was doing at the time, given how much was at stake for the Jews, and regardless of what support was offered by others. That same point applies to other scenarios where people flee from actual destruction. If we are talking about immigrants who clearly do not count as refugees there would be no reason to do more than one's share. And then there will be many intermediate cases.

SECTION VI

A need for distributional considerations emerged from Blake's own manner of deriving obligations to would-be immigrants. His view is incomplete *without a global standpoint*. Again, among philosophers who agree on the normative peculiarity of the state Blake acknowledges unusually far-reaching obligations towards would-be immigrants. My purpose currently is to show that attempts to delineate the state's right to exclude fail if they do not properly consider *from a global standpoint* burdens imposed on those excluded by immigration policies. Some approaches are problematic because they do not consider the burdens imposed on others convincingly, and Blake's is among them. Others are problematic because they do not consider these burdens at all. One such account appears in Christopher Wellman (2008), who advocates for a state's right to restrict immigration in terms of *freedom of association*. For Wellman, a state is not even required to accept refugees, let alone immigrants. All such choices are discretionary. Let me introduce the three arguments Wellman offers, and then explain how they are problematic.

First of all, a right to self-determination entitles countries to associate with others as they see fit. If one denies that legitimate states have such a right, one could not explain why they should not be forced into mergers. It would presumably be un-

acceptable then for the US to annex Canada. Canadians have the right of freedom of association. But then they should be allowed to regulate immigration as they see fit. The second argument turns on the significance of freedom of association for people's lives. People care deeply about their country. Therefore they also care about policies that shape how their countries evolve. Wellman considers freedom of association an integral part of self-determination. As an individual's freedom of association entitles one to remain single, a state's freedom of association entitles it to exclude foreigners. The third argument turns on the weight of responsibility entailed by shared membership in a state. There are special responsibilities of distributive justice among fellow citizens. That generates a reason to limit the number of people with whom one shares that relationship. Wellman recognizes the arbitrariness of one's place of birth, but denies that this point outweighs concerns of self-determination. Even help for refugees takes the disjunctive form of either sheltering them, or else of intervening to create a safe place where they originate.

However, as soon as we have in sight ideas about fairly sharing the earth we also see the limitations of freedom of association as an idea that allows states to regulate immigration entirely as they please. People do not associate on an infinite plain. They occupy parts of a planet with limited spaces and resources that must be shared. My example of the dwindled US population makes that point. The survivors have freedom of association. However, their association must occur *somewhere*. Since for now humanity is limited to this planet, the amount of space that can be claimed by any group claiming its freedom of association is limited. Humanity's collective ownership of the earth captures that point.

Notice how the considerations from the last paragraph engage Wellman's arguments. We can ignore the third since it is much like Blake's argument. And indeed, the US should refrain from annexing Canada. That is so, in part, because Canadians have freedom of association. But that does not imply Canadians may claim as much space as they wish. Both of these claims are true: (a) the US may not annex Canada, partly because Canadians have freedom of association; (b) Canadians must adopt

immigration policies to make sure they exercise their freedom in an appropriate territory.[10]

What if Canada refused to adopt an appropriate immigration policy? Would the US then be allowed to annex Canada punitively, at least a chunk of territory up to a point where Canadians occupy a proportionate area? They would not, even if they themselves are in full compliance otherwise. A country does not forfeit its right to existence if it does not adopt a morally appropriate immigration policy. However, if the world as a whole was getting serious about implementing an immigration regime along the lines sketched here, substantial international pressure on countries that refuse to do their part would be appropriate. As always we must remember that any kind of intervention must be weighed against prudential concerns, and that moral reasons of any sort should not be used as pretext to pursue goals motivated very differently.

But what if the US lost much of its territory to devastation related to climate change, to the point that Americans could no longer meet basic needs but Canadians refused to share territory? In the 2004 blockbuster *The Day After Tomorrow* climate change suddenly triggers a new ice age in the US. In response, massive evacuations (not to Canada but) to Mexico occur. In such a scenario there would be a duty of the neighboring country to host people, and what counts as proportionate use would change. At the same time, unless the evacuation affects largely unpopulated areas, the host's jurisdiction must be accepted (assuming that state accepts its obligation to share its space). This is not an academic point. In all likelihood, the US will not lose the habitability of much territory to climate change any time (very) soon. But other countries will, especially small-island and low-lying coastal states. Such countries have similar entitlements.

Wellman's last argument is about the significance of self-determination. It is proper that people care about how their country evolves. But this evolution again occurs in shared space. Within limits people may choose immigrants. So the sheer fact that the evolution of a country occurs in shared space does not mean people en-

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10.   Lister (2010) uses freedom of association to argue all states must allow a degree of family-based immigration, and that this is a duty owed to its citizens. See White (1997) for general discussion of the connection between freedom of association and the right to exclude. There is a right to immigrate, says Miller (2005), but it is like a right to marriage: one needs to find a willing partner. But the marriage analogy is misleading. Nothing about marriage is analogous to the spatial distributional component in immigration because nothing about marriage is analogous to natural ownership rights to the locations where the association would occur.

tirely lose control over the policies that shape their country. It does mean, however, that they must share their spaces with an appropriate number of people.

What about the point that aid can be provided in different ways? For many obligations it will not matter how the duty bearers make good on them. This is especially so if we are talking about *remedial* duties. After all, the point of such duties is to provide relief from hardship. Perhaps a monetary transfer brings relief. Perhaps relocation does. But again, immigration is not merely about aid. There is an irreducibly spatial and distributional aspect to immigration. It could be part of an overall agreement on immigration that a country would shoulder its share of global obligations in ways other than by admitting more immigrants, and designated would-be immigrants could agree to renounce their right to entry. But this could not permissibly be a unilateral decision by the destination country.

This discussion of Blake and Wellman makes the basic point about the importance of the distributional component of immigration. Let me sketch how the same point arises for other authors. David Miller (2005) presents two reasons for limiting immigration. First, he insists on the importance of a shared public culture that partly constitutes political identity, something people have an interest in controlling as it changes. Moreover, and this is similar to Wellman, Miller thinks the population is rightly concerned with size because worries about quality of life and the environment relate to population density. Miller's points are valid. But in light of the need to share this planet they cannot be used to infer that the state may limit immigration as it sees fit. Finally, Ryan Pevnick (2011) argues that those who have created a political community have property rights over institutions that maintain that community. For this reason they can exclude others. Pevenick thinks these rights sometimes get overruled. What he has in mind is remedial use of immigration. In what now is a familiar pattern, Pevnick too ignores that ownership of institutions is superimposed on collective ownership of spaces where they are established.

SECTION VII

Next I address some objections to my account raised by Malcolm Bull (2013) in a review of *OGJ* in the *London Review of Books*. Addressing these objections allows me to elaborate on the contents of my proposal. But this section can also be skipped without loss: the remaining sections will address two different ways of developing a

global standpoint on immigration that compete with mine. This section is intended for readers who want to engage more with the details of my proposal.

Let me elaborate a bit more on the notion of proportionate use. For any state S the desired measure of such use would deliver a measure VS of the value of the collectively owned resources on S's territory, including the biophysical conditions determining the usefulness of this region for human purposes (such as climate, location on the globe, vegetation, topography, etc). To assess the extent to which S's territory is used one would divide VS by the number PS of people in S. VS/PS is *the per-capita use rate* of commonly-owned resources on S's territory. VS/PS includes non-circulating resources (which are not literally used), such as unmined minerals and unextracted oil (suitably discounted). The point is to have a measure of what is at a society's disposal, broadly speaking, actually and potentially, a measure of a stock that takes into account how readily that stock could be transformed into a flow of resources, rather than a measure only of the current flow. The territory of S is *relatively underused* if VS/PS is bigger than the average of these values across states (so the average person uses a resource bundle of higher value than the average person in the average country). It is relatively overused if this value is under average. If VS/PS is above average, co-owners elsewhere have a pro tanto claim to immigration, in the sense that underusing countries cannot reasonably expect others to comply with immigration policies until such claims are satisfied. It is then a demand of reasonable conduct that the state permit immigration. If a country is not underusing, others can be reasonably expected to accept its immigration policies (if nothing is independently problematic about them).

Bull thinks my account of immigration in terms of proportionality is "half-baked." To begin with, Bull asserts that densely populated small island states "skew" the average per-capita use rate of resources and spaces. Let us see what that would mean. That description fits Bahrain, Singapore, Malta, Barbados, Taiwan, Mauritius, the Maldives, Tuvalu and Nauru. Suppose each is absorbed by a bigger country with higher per-capita use-rate. (Each person in those countries has on average more resources and spaces at her disposal.) Suppose afterwards the per-capita use rate of the absorbing country is lower than before but higher than the earlier average across that country (prior to absorption) and the absorbed country.

As a result, the average per capita use rate across all countries increases: the average person in the average country now commands a higher share of resources and spaces. The existence of a densely populated small country where the average

person has a small share of resources and spaces at her proposal slightly decreases the world average across countries. So if densely populated small island states disappear, the benchmark average value with regard to which permissibility of immigration is assessed, rises. So it is then harder to qualify as under-using, and underusing countries have to permit less immigration than in the status quo.

Just to put the existence of small island states in perspective, suppose instead the number of densely populated island states increases. Suppose Santa Cruz del Islote became independent from Colombia, Hong Kong island from China, and Migingo island in Lake Victoria from Kenya. Suppose also Malé seceded from the rest of the Maldives and Ebeye from the Marshall Islands. These are some of the most densely populated islands. We would see new states with high overuse of resources and spaces, much above world average. The average person in the average country then has less at her disposal. It would be easier for a country to be classified as underusing. Meeting immigration demands would be harder. Underusers must permit more immigration to reach proportionality.

But presumably what Bull has in mind by worrying about how the existence of island states "skews" the average per-capita use rate of resources and spaces is the former case: that is, the nature of the problematic "skewing" is that the existence of densely populated small island countries "artificially" (as in "by way of comparison with a world that does not include them as independent states") decreases the global use average across countries. Thus the existence of such countries "artificially" increases the demand for immigration elsewhere (compared to a situation without such states).

Why would this be problematic? One possibility is that small island states attract populations and generate economic success disproportionate to their size. It would be unfair if their existence drove up demand for immigration elsewhere since immigrants are not after shares of resources and spaces. But small island states would not be as intuitively troublesome as Bull thinks. The relevant measure is decidedly not population density but the value for human purposes of three-dimensional spaces. Being an island is a disadvantage for remote places in the path of storms and shunned by fish. But it is often distinctly advantageous for proximity to fisheries or seabed resources, opportunities to groom tourism, proximity and access to shipping routes, and because of people's fondness for living by the water. That an area is an island often increases its value for human purposes, other things being equal. Such places do not increase immigration pressure elsewhere.

I am unsure what else could be problematic about small island states, but if it is that sort of issue, we must postpone a verdict on the seriousness of the problem (if any) until a relatively concrete way of assessing proportionate use becomes available. If ultimately small island states do trigger counterintuitive results, one might either remove them from the calculations to increase overall plausibility of the results, or decide not to worry too much about such distortions. In light of the general difficulties in seeing through secessions it is unlikely that we will observe a significant increase in the number of small island states in the foreseeable future.

But why, to turn to Bull's next point, should averages be more significant than "relative use-rates between countries"? I take it the competing proposal Bull refers to under "relative use-rate" is this. Suppose country A has a lower per-capita use rate than B. So since on average people in A have less access to resources and spaces, they should be allowed to move to B. However, there is nothing morally relevant about this bilateral comparison. For now humanity's habitat is the earth. That is the space through which we can readily disseminate using our technology. People in A have a grievance only vis-à-vis their share of the whole. This was my point against Blake. Aside from special ties between regions, we must think about immigration in terms of movement across the planet, rather than bilaterally.

If eventually there were only one country above the average (and so under-using), to proceed to Bull's next objection, that would be the only place to which immigrants have a claim. If that country were governed badly, it might well be unwise to relocate there. But that country could not reject people because it is "full." Perhaps it would be unfair to residents if more people were to immigrate if it is because of governmental failures that things are bad. Suppose a group that handles its own security (and thus does not depend on its destination country's government for protection) migrates to a badly run country to exploit resources, or to find a new home. They might make arrangements with the government, but ultimately this change is bound to harm the locals. There are duties of justice that may trump considerations of reasonable acceptability of the sort that would permit more immigration. In particular, if immigration undermines a duty of assistance in institution-building, it should be suspended.[11]

Bull is right that migrants nowadays usually seek to share the benefits of recent

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11.   Or perhaps what Bull has in mind is that scoring high on the scale of value for human purposes is inherently connected to bad governance. But we have no reason to think so. Much more would enter into the calculations to assess that kind of value than resources. Any connotations with the resource curse would be misguided given our current state of knowledge.

technological or cultural innovations, human-made resources I exclude from what should be commonly shared. It is correct that my proposal would likely change immigration policies in North America (and Australia) but permit more restrictive ones in Europe. But that seems fair to me. For demographic and thus self-interested reasons, Europe should encourage immigration, but at an appropriate speed to avoid complex and prolonged social problems intense immigration into densely populated countries could entail (Collier (2013), chapter 5). Still, it is a sensible guess that any plausible measure of proportionate use would find Europe much less wanting than the US or Australia. (With refugees it is a different story: their concerns have an urgency that concerns the global order as a whole.) But perhaps Bull's concern is that societal wealth also generates claims to shared ownership. That point I discuss in sections 8 and 9.

Finally, Bull worries that immigrants may not be able to enter since on my account it is a *demand of reasonable conduct* rather than a *demand of justice* that hosts let them in. This is a distinction I have not developed systematically here. Recall that in section 2, I emphasized that demands of justice are the most stringent moral demands, and that I have also stated the principle of justice that in *OGJ* I argue applies to humanity's collective ownership of the earth. Policies that do not violate a principle of justice would (obviously) not be unjust but could still be wrong in other ways, and thereby not command reasonable acceptance from others. In my dwindled-population example in section 5, would-be immigrants would not be doing anything unjust by dismantling surveillance systems that keep them out. But nor would the remaining Americans by redoubling their efforts. And such an immigration policy could not command reasonable acceptance from others. Principles capturing reasonable expectations allow for more compromises and have less priority than principles of justice. As far as the conduct of states is concerned, such principles should only be integrated at a later stage of development than principles of justice concerned with non-domestic matters, at a stage when countries can be expected to contribute to the creation of a mutually acceptable global order. But once such a stage is in fact reached, reasonable conduct concerned with immigration, among other things, should get priority over principles of justice concerned with the relative standing of citizens vis-à-vis each other.

Bull may think principles of mere reasonable acceptability short of justice are wanting because people would not take them seriously. But even for matters of justice there is a guarantee that they will be done only to the extent that those who can make

it happen care about it. If people are motivated to take justice seriously they will also take demands of reasonable acceptability seriously. If they are not motivated to take demands of reasonable acceptability seriously, all will not be well with justice either.

Finally, consider Bull's insistence that if there were famines in the rest of the world, and everyone sought entry, the US would be entitled as a matter *of justice* to use robotic guards to detain them and feed them their share of resources at the border. But that would be so only as long as their presence is not the outcome of a failure to provide assistance in institution-building. I made this point in section 3 when discussing refugees. It is a matter of justice that people must not be permanently kept in refugee camps. If there is no way of helping with the establishment of proper institutions or if that simply does not happen, such people must be admitted.

SECTION VIII

Somebody who finds my proposal defensible this far may still be unconvinced. Distribution in terms of proportionality is all well and good, objectors may say, but the resources with regard to which to do the calculations must include human creations. For any new generation, natural and societal resources are fundamentally alike: to them, all resources are manna from heaven. One response is to return to the very starting points for my development of humanity's collective ownership of the earth in *OGJ* (chapter 6): the satisfaction of basic human needs matters morally; the resources and spaces of the earth are needed by all for survival and for all human activities to unfold; and these resources and spaces are nobody's accomplishment. It is based on these points that, in *OGJ*, I argue that, in an abstract sense, humanity collectively owns the earth, to articulate the view that of any two humans, neither has more entitlements than the other to these resources and spaces.[12]

Societal resources differ from natural resources in three ways. To begin with, they are *somebody's* accomplishment. Secondly, social contexts enabled their creation by permitting the accumulation of knowledge and the emergence and nurturing of skills. These contexts disappear if societies collapse and vanish. But even when societies are conquered or otherwise absorbed there often remains much continuity.

12.   Based on those starting points I have argued for Common Ownership as the most sensible conception of collective ownership, drawing on its minimalist credentials and the weaknesses of competing conceptions. The core idea of Common Ownership is that all co-owners ought to have an equal opportunity to satisfy basic needs to the extent that this turns on obtaining collectively owned resources. According to Common Ownership, excluding people from territory would only be unjust if it undermined their ability to satisfy basic needs.

Contexts that enable the creation of artifacts involve living people differentially. Some are involved in maintaining a culture that permits for certain kinds of production. Others are not. Thirdly, the sense in which natural resources and spaces are *needed* differs from how societal resources are needed. Newborns perish without access to resources and spaces, but also if they do not receive care and thus become beneficiaries of societal resources. But for natural resources we can, and must, naturally describe the sense in which they are needed as including the earth as such. At this stage of geological history, the earth is hospitable to human life. Some regions are more hospitable than others. But even for those parts that create the conditions that let human life flourish it would be inappropriate not to think of the favorable conditions as part of an *earth system*.

The earth *as such* is humankind's natural habitat. It is the habitable conditions of the earth as such, including its climate conditions, the atmosphere, and the presence of flora and fauna that that we need for survival, much as our species needed them to rise at all. As opposed to that, families, nations or other cultural niches provide the context where somebody needs societal resources. We do not have to think of the cultural sphere generated by humanity as such to say humans need societal resources as much as they need natural resources. For much of history most communities would have readily survived if 97% of humanity (those not closely connected to their cultural niche) had vanished.

One may object that the ability of a person, say, in New Jersey to use the earth will not be diminished if some Pacific islands sink or if volcanic eruptions level parts of Japan. Many natural resources and whole territories can be lost before the entire ecosystem is compromised. But what is crucial is that an account of the way in which natural resources are needed for human survival must talk about the entire ecosystem of the earth. For it is only because the spaces and resources of the earth exist under certain climate conditions that they allow for human life to begin with. A parallel point about global human culture does not hold.

Objectors may nonetheless insist that, after all, *for any new generation* societal resources are like natural ones in what matters most: *they did not create those resources.* This is a central moral equivalence between natural and societal resources that does not disappear because of the dissimilarities. Suppose Nazaire and Nicholas are born the same day, Nazaire in Haiti, Nicholas in the US. Both are on a par as far as natural resources are concerned but also regarding the societal resources of both countries: neither has done anything to create any of those. Nazaire and Nicholas have the same

claims to the heap of (natural resources/spaces + societal resources of US + societal resources of Haiti). But according to my view Nicholas would be raised with entitlements to the societal resources of the US, and Nazaire with entitlements to those of Haiti. *How could this be just?*

SECTION IX

Let us look more closely at Nazaire and Nicholas. At birth they have certain claims. Grounded in common humanity they can make demands against the rest of the world. The boys also acquire the same claims to resources and spaces all other humans have. If *per impossibile* Nazaire and Nicholas entered a world without human imprint, they would still have the same claims the day after their birth, and on all subsequent days, though only against each other. But ours is a world with human imprint, and normally babies receive attention from somebody.

Nazaire and Nicholas also have claims against their parents. This is where they begin to differ. Qua humans they have the same claims against the same people (everybody). Qua children they have claims against their *respective* parents. Nazaire and Nicholas have claims to care against the people who elected to bring them into the world, or anyway, who made choices that immediately caused them to exist. Moreover, generally for children to get on in life means for them to be raised to function at least reasonably well in their cultural niche. Therefore Nazaire and Nicholas have claims against their parents specifically to raise them in such a way that they can do okay in the cultural niche they will likely inhabit. [13]

So from birth onwards, Nazaire and Nicholas *should* be treated as growing members of different communities. Communities include members of different ages. Some are in their prime. They maintain and decide on the fate of the community. Others fade away from it. Yet others grow into it. Since it is their communities that shape their life prospects, humans not only have claims against their parents for bringing them into this world in general, and into this particular social world; they also have claims against their communities to be supportive throughout this socialization. Often young humans grow into different communities simultaneous-

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13.   For the importance of the fact that, at birth, children enter a social world, see also Carens (2013), chapter 2. One might object that the decision to bring children into the world is often far from voluntary, and happens as a response to communal pressure. But this would only strengthen my argument since it is part of my point to show that the community is required to assist in the upbringing of the child. The case for that is the stronger the more the community is implicated in the child's existence.

ly, perhaps a religious group, a linguistic group (or two) and a political group. All of them have collective obligations to be appropriately supportive. Much as Nazaire and Nicholas have claims to parental care to *different* parents, they also have claims to communal care to *different* communities. Nazaire is a growing member of the political community of Haiti, Nicholas of the political community of the US. This situation has not arisen through their choices. Nonetheless, there is great moral relevance in their relationships with parents and communities.

Let us return to the three differences between societal and natural resources identified earlier. First of all, societal resources are somebody's accomplishment, whereas natural resources and spaces exist independently of human accomplishment. But since human creations are somebody's accomplishment, members of a new generation have differential entitlements to them although they do not have such entitlements to natural resources. This happens via differential claims against those who already have claims to societal resources (parents and communities).

The second difference is that societal resources are generated in particular contexts that often persist in some way and thus involve people differentially. This claim is not true of excavated relics of earlier civilizations, of antiques that continue to circulate but are no longer produced, or of artistic creations from bygone eras. However, this claim is true of many things we use in our lives. This matters as we reflect on the differential entitlements of Nazaire and Nicholas. At birth they acquire differential entitlements via claims against parents. Those do not hold different shares of manna from heaven but of human-made products that require cultural context to be made. Anything humans make requires some skill, some understanding and often some infrastructure. Frequently it takes considerable skill, much understanding and a sophisticated infrastructure. To a large extent it is the cultural context that encourages or discourages the development of human capacities. This is why trade is often productive on all sides: each side gets to take advantage of what it can do best to acquire goods and services others are best at providing. Many goods these days require a global context to be produced. But my point is not to deny that there could be such global contexts, but that the more local context also matters greatly.

Cultural contexts require maintenance and development. As Nazaire's and Nicholas's communities fulfill their obligations to raise children to be functioning members, they socialize them into becoming capable of playing some role in maintaining and developing their cultural practices. As time passes they are expected to assume responsibilities. Sometimes this process fails altogether. But in most cases

these efforts meet with some success. Eventually Nazaire and Nicholas will likely start participating in shared stewardship of the cultural resources of their respective society and hold a claim to those resources that members of the community share with each other, but not with those who are not part of that culture. Of course, would-be immigrants too are normally quite willing to acquire the relevant skills to help with the maintenance of societal culture on which certain goods might depend. Therefore, one might object, this kind of consideration does not generate a reason to exclude would-be immigrants. But the point I am developing is a different one, namely, that children enter this world with the same claims to natural resources but with differential claims to societal resources. That is consistent with the point just made about would-be immigrants.

The third difference is that it makes sense to say individuals require for their survival and for all their activities the earth as a whole, but not that they require the sum total of human accomplishments. People require the culture-specific resources provided by their cultural niche. In addition to the two points already made, this means Nazaire and Nicholas acquire a formative relationship with their cultural niche: that niche gradually make them into the people they ultimately become. But neither stands in that relationship with the cultural context of the other.

Before this background, and given the features that are constitutive of a political community generally (a kind of cooperativeness and coerciveness), eventually Nazaire and Nicholas may raise complaints. They can protest if their environment favors some who have been raised in it much more than it favors others. They can complain about inequality of opportunity in education or excessive inequalities in the distribution of goods. But these are complaints against their respective communities, not against the community of the other. So appearances notwithstanding, at birth Nazaire and Nicholas acquire very different claims. That is because they acquire claims against their parents and against their communities, who are generally situated very differently. Any two children do not differ at birth when it comes to entitlements to natural resources. But they do when it comes to entitlements to societal resources. I have selected my two characters from Haiti and the US to make my reasoning maximally problematic. The US is one of the richest places on earth. Haiti is the poorest country in the Western hemisphere. So does my argument not merely glorify the status quo?

Of course, the status quo must change substantially. Both Haiti and the US must reform internally quite a bit to be just societies. In addition, there are obligations

deriving from other grounds of justice, including common humanity, collective ownership of the earth, shared subjection to the trading regime and membership in the global order. A reform of the world's political and economic system should proceed along those lines. As a result of such reforms in particular Haiti would be a very different place. Once all that has been done, there will no longer be anything problematic about acquiring differential entitlements at birth. In our world, being born in locations as dramatically different in terms of average life prospects as the US and Haiti means being born in locations that vary in terms of how much average people suffer from the world's injustices. But a proper response to that is not to argue that at birth any two children acquire the same entitlement to all societal resources on earth. A proper response is to make the world more just, for which *OGJ* makes a suggestion that I just sketched very roughly.[14]

SECTION X

So societal resources differ from natural resources in morally significant ways. Since two humans readily have differential claims to societal resources, those must be excluded from the collectively owned pool. However, there is another objection we must explore. That objection agrees that we should determine fairness in the distribution of people across the earth only with regard to natural resources and spaces. But instead of proportionality a different manner of assessing that distribution is recommended, one focused on the multifarious ways spaces and resources are integrated into cultures. Political theorist Avery Kolers (2009) uses the term "ethnogeographic community" to emphasize that over time communities adopt certain land-use patterns through which they control and shape space, which in turn affects their cultural patterns. Their conception, or "ontology," of land materializes through acts of bounding, controlling and shaping space. An ethnogeographic community is a group of people who share densely and pervasively interacting land-use patterns as well as an ontology of land. One distinctive ethnogeographic community is the Bedouins. What is distinctive about them is not religion, ethnicity or language, but the way they interact with land.

An ethnogeographic community can lay claim to a region to the exclusion of

14.   A note for philosophically trained readers: this response, and the train of thought in sections 8 and 9, will not satisfy those who approach this debate with non-relationist or globalist commitments (see *OGJ*, chapter 1). But with them the debate will be about those commitments to begin with. There is no prospect of convincing them otherwise at this stage of the extended argument.

others if it has demonstrably achieved what Kolers calls "plenitude" in that region and if there is no competing right of that sort to the territory. A community achieves plenitude if by their standards their land-use patterns push the use of the land to its limits. Plenitude may be empirical or intentional. Empirical plenitude captures the internal diversity and complexity of land-use patterns, and how they differ from such patterns elsewhere. Intentional plenitude captures the projects agents have with regard to enhancing or maintaining empirical plenitude. Ethnogeographic communities can legitimize claims "by demonstrating that the fullness of the territory has been formative in their own identity, and their projects have been formative of the place itself" (p 137).

Kolers (2009) does not discuss immigration.[15] Still, his view generates a global standpoint to think about immigration. That standpoint prescribes whose land ontology matters in a region, and thereby determines when the global distribution of people is fair. If a community achieves plenitude by its own standards, then presumably it does not have to permit immigration. Kolers explores how to assess competing claims to a region. Crucially, this way of approaching immigration differs from what is presupposed in the kind of proportionality my account makes central. Kolers denies that we need a universal criterion of use. Instead, we need a *universally fair way of testing criteria of use*. The idea of plenitude is meant to do this work.

Kolers's account is sensible in many ways. He demonstrates how natural it is to make room for attachment to one's native region in an account of immigration. Individuals are not merely deeply attached to the land on which they make their lives, but people and regions stand in interactive relationships. To the extent that communities have a mentality, it has been shaped by what their region permits or forces them to do to get on. It matters whether people live in the mountains, by the sea or in the desert, and whether the climate is harsh or moderate. It matters whether people reside in wide-open spaces or in tough terrain that limits unimpeded movement. It also matters if life is shaped by persisting struggle to bring water to the house, by efforts to shelter from storms, by challenges to fend off water-related diseases, the hardship caused by infertile soils or by the fortunate absence of all of these. Just how

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15.   Kolers (2012) addresses immigration. Suppose group A wants to settle in region M, home to group B. If A already has territory L that is not full by A's standards, this project would be illegitimate. If M is full by A's standards, the project would still be illegitimate (except if all territories are full, in which case there would be pressure to revise ethnogeographies and conceptions of plenitude). However, if L but not M is full by A's standards, and if A has an actionable plan ("intentional plenitude") for filling it in perpetuity, then A does have a claim to move into M. The space must be divided up.

all this matters depends on many factors—18th-century philosophers Montesquieu and Rousseau famously thought governance is one topic for which it matters—but all this is too large a topic for us to explore. But through such challenges, people also shape the land in their image, and over generations develop an intense interactive relationship with it.

Location in relation to other places matters as well. Certain regions were staging areas for armies over millennia because geographical factors limit where armies can pass. Some regions could produce goods that proved so irresistible that strangers would make hazardous journeys to acquire them. Other areas are inhospitable to all but a few hardened natives, strategically remote, or without potential to produce desirable goods. These factors too matter deeply for shaping a people's trajectory, and in turn create highly differential opportunities or necessities for them to interact with their natural environment. Attachments to land run deep. Much poetry and countless novels make the land central. Much art celebrates it. Even to the extent that people voluntarily leave the region to which they are accustomed, they often do so with a heavy heart. If they are forced off land that has been formative to their character, this frequently is a reason for ongoing hostility. History is replete with episodes of violent displacements, not least the 20th century.

In many ways, Kolers' account and mine are complementary. My account has nothing to say about why people would have entitlements to living *here* rather than *there*. It does not characterize the ways in which people are shaped by the region they occupy and vice versa, or explore the importance of that process. But nor does it offer resistance to such thoughts. There is nothing inherently problematic from the standpoint of justice for people to settle down somewhere and preclude others from taking up the same territory. Nonetheless, such takings occur on a shared planet. It is that point that my theory articulates.[16]

Kolers targets the "Anglo-American ethnogeography" he claims has been adopted by most mainstream Anglo-American philosophers. This ethnogeography (p64):

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16.   Kolers and I diverge when it comes to the claims of people on land lost to climate change. Risse (2009) argues that people on disappearing island nations have a right to relocation. As individuals they have such a claim as a matter of justice. But my account does not deliver a collective right of a whole people to relocate to the same place. This is possible only if considerations of proportionate use permit it. The rest of the world owes these people a new home, as well as efforts to try to make it possible that the disruption does not become worse through relocation to an area that does not support their life patterns. But this will not always mean they can all relocate together. Kolers (2012) argues (also against Meisels (2009)) that this kind of approach, in virtue of its individualistic outlook, mischaracterizes the nature of the wrong inflicted on those who lose their lands.

treats land as the passive object of human activity and ignores all forms of value that are not easily priced on the market. These assumptions ignore the dynamic, bi-directional relationship between people and land—the mutually formative interactions between people and their habitat—and therefore hide the fact that it is impossible fairly to compare the holdings of persons across economies or ethnogeographies.

My account does not advocate for an Anglo-American ethnogeography as characterized. My guiding idea is that we need to assess the value for human purposes of three-dimensional regions. That can sensibly be done only if we integrate forms of value not commonly priced on markets. At the same time, my account proposes non-standard evaluations that bring more components of our natural world under the purview of market-based pricing. However, the motivation for doing so is (only) that we share a planet and therefore *require* some way of making sense of competing claims to space and resources. Among other things, and *pace* Kolers, we need comparability across groups to regulate immigration. My measure of proportionate use is pragmatic, a rough guide to obtain an assessment of when would-be immigrants can be fairly rejected.

Why use this measure at all then? The reply is a repetition of the insistence that we simply need such a measure to assess when claims to spaces and resources unacceptably infringe upon claims of others. To be sure, Kolers does address cases where different ethnogeographies claim the same territory. But he also allows for some to occupy disproportionately large regions if this fits their ontology. On Kolers's account groups using disproportionately large regions could not always legitimately turn away newcomers. But their claims always must be equally considered even vis-à-vis claims of people who escape from over-crowding.

To be sure, the claims of such ethnogeographies often are those of indigenous people, and they must be integrated somehow. Given the importance of having a universal criterion, I propose to think of cultural patterns that cannot be captured by a pragmatic measure generating cross-cultural comparability as non-standard scenarios to be *accommodated*. We should treat such patterns parallel to how liberal states should accommodate certain minority rights. Where Kolers stresses local interconnectedness between land and people, I emphasize that we share a planet and need a criterion for a sensible division of space. For the problems we face in this century, this is a key perspective.

Land ontologies have often arisen when many fewer humans existed and thus

when demands on shared spaces and resources were more limited. "In the nineteenth and twentieth century," writes H.G. Wells at the beginning of *The Shape of Things to Come* (1933, 17),

> *the story of mankind upon this planet undergoes a change of phase. It broadens out. It unifies. It ceases to be a tangle of more and more interrelated histories and it becomes plainly and consciously one history. There is a complete confluence of racial, social and political destinies.*

Indeed, and for this reason ontologies acquired antecedently are of restricted validity in our era of high-density populations, a tendency exacerbated by the threats of climate change to human living spaces. To be sure, my account is much less hospitable than Kolers's to claims specifically of indigenous populations. But these normally are among the ontologies that have developed at times when many fewer people had claims to spaces and resources.

But is it not misguided to single out indigenous ontologies as the ones that likely have to shift due to higher populations? The earth may be over*populated*, objectors may say, not because it is over*crowded* but because of excess consumption. Overpopulation is generated by multiplying population with consumption. It is the industrialized countries that overconsume. We should single out the Anglo-American ethnogeography as one developed when there were many fewer people and that now has to change. But these two perspectives are consistent. Just about all ethnogeographies must be reconsidered in the present, some because they make claims to inordinate amounts of space and resources, and some, including the Anglo-American ethnogeography, in virtue of misguided attitudes towards environmental protection.

SECTION XI

It is time to conclude. My goal has been to argue for, and elaborate on, the significance of humanity's collective ownership of the earth for immigration. In the process I have also explored some central issues in the global-justice literature and elaborated on some pertinent difficulties in the discussion of immigration in that literature. My major points are the following:

1. Contrary to philosophers who supplement an account of the state's normative peculiarity with an account of immigration that does not take a global standpoint, we do need such a standpoint, and it should be one that articulates an idea of proportionate use of the earth.

2. Contrary to those who agree that proportionate use of the earth matters to immigration but insist the common pool includes societal resources, I argue that pool should exclude societal resources. Societal resources differ importantly from natural ones.

3. Contrary to Avery Kolers, who thinks the fair distribution of people should be articulated in ways different from proportionate occupation, I argue that his account of ethnogeographic communities does not undermine the significance of humanity's collective ownership for immigration.

The debate about immigration will be among the central topics of more applied political philosophy in the 21st century. The standpoint of humanity's collective ownership of the earth is indispensable to that debate.

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Twenty Questions

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In the first of this new series for the journal, Peter Singer responds to questions from the editors and Theron Pummer.

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HISTORY AND OTHERS

Compared to most other moral theories, utilitarianism is a fairly simple view that doesn't rely on any particularly complex or elaborate argument. Yet despite being around for a couple of centuries, utilitarianism is only endorsed by a tiny minority, and even this minority arguably fails to fully live up to what utilitarianism requires. At the same time, utilitarianism is rejected by many highly intelligent and sophisticated people who appear to have carefully reflected on its core claims and the arguments in its favour, including various attempts to debunk or discount opposing intuitions. Do these points affect how confident you are about your commitment to utilitarianism? Do you think you will be happy if your version of utilitarianism persuades everyone and no one is left to defend an alternative ethical theory, say in 100 years? Or does the prospect somehow frighten you?

When you say "utilitarianism is only endorsed by a tiny minority" do you mean a tiny minority of the population as a whole, or a tiny minority of philosophers? If you mean the former, then that is true of any theory—Kantianism, Contractualism, Natural Law Ethics, you name it... most people don't think about ethical theories very much, let alone endorse them. If you mean the latter, then I don't think it's true—utilitarianism may be endorsed only by a minority of philosophers, but it's a sizable minority, and larger in some countries than others. And I don't think any ethical theory commands the support of a majority of philosophers.

Why do many intelligent and sophisticated people reject utilitarianism? Some people give more weight to their intuitions than I do—and less weight to arguments for debunking intuitions. Does that reduce my confidence in utilitarianism? Yes, to some extent, but I still remain reasonably confident that it is the most defensible view of ethics. I don't know if everyone will accept utilitarianism in 100 years, but I don't find the prospect frightening. It would only be frightening if people misapplied it, and I do not assume that they will.

Who do you think has been the most serious critic of your work? Is there any particular line of criticism to which you think you have been unable to respond?

There is no single critic to whom I would give that label. Different critics have focused on different aspects of my work. The most devastating criticism I ever received came from Derek Parfit. It was directed at my attempt to defend a solution to Parfit's population problem that did not lead to his famous Repugnant Conclusion. He convinced me that my proposal was indefensible. (See Michael Bayles (ed.), *Ethics and Population* (Schenkman, Cambridge, 1976). On the other hand, I'm still not sure what the right answer to Parfit's population problem is, although I lean towards the Total View, which means I have to swallow the Repugnant Conclusion.

Parfit has also influenced my views on metaethics. For many years I was Humean about practical reason, holding that reason must start from a desire; and I was a non-cognitivist about ethical judgments, holding a view similar to that of R.M.Hare's universal prescriptivism. But I had long felt that Hare's reliance on the meanings of the moral terms was too thin a basis for the views I wanted to defend. Parfit's arguments in *On What Matters* against Hume's view of practical reason helped to persuade me that there are objective normative reasons.

On animals, I've yet to see a plausible defense of speciesism, despite the efforts of Bernard Williams and, more recently, Shelly Kagan. So I regard the case against speciesism as settled. On the other hand, I take seriously critics like Tatjana Visak, who argues, in *Killing Happy Animals*, that I am too permissive regarding the killing of animals who live happy lives and will, if killed, be replaced by other animals who will live equally happy lives.

There have been many critics of my views about euthanasia for severely disabled infants. I had some good discussions with the late Harriet McBryde Johnson, who was not a philosopher but a lawyer who had a rich and full life despite being born

with a very disabling condition. As long as she was alive, when I wrote anything on that topic, I wrote with her potentially critical response in mind.

As far as normative ethical theory is concerned, I don't find criticisms of utilitarianism persuasive, but there remains the question of the kind of utilitarianism that is most defensible. When Katarzyna de Lazari-Radek and I began work on *The Point of View of the Universe* I still considered myself a preference utilitarian, although I already had doubts about it. But de Lazari-Radek's criticism of preference utilitarianism (which drew on her understanding of Sidgwick on this question) and her response to Nozick's experience machine example, was the final push that led me to abandon preference utilitarianism in favour of hedonistic utilitarianism.

Who do you think was the greatest moral philosopher of the twentieth century, and why?

Can I rephrase that to "the greatest moral philosopher of the past 100 years"? Then I think the answer is Derek Parfit. I might give the same answer to the question as you originally formulated it, but *On What Matters*, which I think removes any doubt about him being the greatest moral philosopher since Sidgwick, appeared in the 21st century. I should add that I have had the benefit of reading, not only Volumes One and Two of that work, but the forthcoming Volume Three (on metaethics) and several draft chapters, on consequentialism, which I expect will be part of a future Volume Four, and these works reinforce my opinion.

THEORY

Do you still think that the best argument for utilitarianism is based on the principle of equality understood as equal consideration of interests?

There's more to the argument than that. In *The Point of View of the Universe* we start with Sidgwick's argument for utilitarianism. His principle of universal benevolence is equivalent to the principle of equal consideration of interests, so defending that principle is an important step in the argument, but it is not enough. Sidgwick himself remained deeply troubled by his inability to demonstrate that egoism is irrational. That led him to speak of a "dualism of practical reason"—two opposing viewpoints, utilitarianism and egoism, seemed both to be rational. We use an evolutionary debunking argument to reject egoism, leaving utilitarianism as the sole survivor.

Do you think it matters, for any practical decision I might face, whether moral judgements can be 'objectively' true?

I do. You could just say "these are my normative views, and I'm going to treat them as if they were true, without thinking about whether moral judgments really can be objectively true." If you do that, then in practice your decisions will be the same whether or not moral judgments can be objectively true. But given that I think morality is highly demanding, it becomes easier to say that, since morality is so highly demanding, and there is nothing irrational about not doing what morality demands, I'm not going to bother doing what I know to be right. If there are objective reasons for doing what morality demands, it's more troubling to go against them.

Many people object to you by noting utilitarianism implies that sometimes one should perform a morally repugnant act (e.g. torture a child) in order to promote the good. But this same trap (more or less) would "work" on pretty much all contemporary moral philosophers, as there are very few absolutists nowadays. What's your take on this?

There are still absolutists. Some are proponents of the "new natural law" tradition, which has its roots in Catholic moral theology, even though it is presented as a secular position. Others are Kantians, many of them outside English-speaking philosophy. In Germany, for example, you would find wide support for the idea that we should not torture a child, even if (as in Dostoevsky's example in *The Brothers Karamazov*) that would produce peace on earth forever. To me it seems obvious that if by torturing one child you could prevent a vast number of children (and adults) suffering as much or more than the child you have to torture, it would be wrong *not* to torture that child. Our intuitions tell us that to torture a child is always wrong, and because cases in which torturing a child would be right are so extraordinarily improbable, it is good that we have such intuitions. Hare's two-level view of moral thinking explains this point well.

Have your views about the role of moral intuitions in ethics changed over the years? You were once famous for rejecting any such role, but in more recent work you defend utilitarianism itself by appeal to (a kind of) intuition, and many arguments supporting utilitarianism appeal to intuitions about the moral irrelevance of e.g. mere

distance. And it seems that if we want to fully flesh out a utilitarian theory, there is no way of avoiding appeal to intuitions, including to intuitions about particular cases. For how else could we settle on a specific theory of well-being or address questions about, for example, population ethics or the non-identity problem?

I haven't changed my views about our everyday moral intuitions. In fact my readiness to reject them has, if anything, increased. It is a mistake to judge normative theories by the extent to which they match our everyday moral judgments. I used to argue against many of our intuitions (for example, the intuition that the killing of a newborn infant is just as wrong as the killing of an older person who wants to go on living) on the grounds that they were based on religious beliefs and specific to Western culture. That's still my view, but during the past twenty years we have learned a lot more from work in moral psychology by Josh Greene and others. We now know that many of our moral intuitions have an evolved biological basis. So even when moral intuitions are universally held, that doesn't show them to be a reliable guide to what we ought to do—a point that Sharon Street has made convincingly.

On the other hand, in *The Point of View of the Universe*, de Lazari-Radek and I follow Sidgwick in arguing that there are some moral truths, or axioms, that we can see, on reflection, to be self-evident. Sidgwick calls these intuitions, and we follow him in that terminology. Perhaps we would have been wiser to use a different term. We are talking about careful, reflective judgments that, we argue, are based on reason, whereas our everyday moral intuitions tend to have an emotional basis. This fits with the fact that it is hard to see how Sidgwick's principle of universal benevolence could be selected for by evolution, except in so far as it came as part of a larger, advantageous package. We suggest that that package is the capacity to reason.

WELL-BEING, VALUE OF LIFE AND MORAL STATUS

It appears that you now accept a hedonistic rather than preference-based account of human well-being. What implications does this have for your views on the wrongness of killing persons? Do you think all pleasures are equal? Bentham said the pleasure of playing pushpin (pinball) was the same value as the pleasure of reading poetry, but Mill explicitly divided pleasures into higher and lower pleasures. What is your view? For example, is the pleasure some derive from watching pornogra-

phy (assuming no actors are harmed, such as cartoon pornography) the same as the
pleasure of watching a beautiful sunset or having achieved one's life work?

I am currently inclined to accept happiness or pleasure as the ultimate good, rather than preference satisfaction. This eliminates the direct significance of the distinction between persons—defined as self-conscious beings who are aware of their existence over time—and sentient beings who are not persons, but a related distinction may still have indirect weight, because beings who can know that others like them are being killed will then fear that they too may be killed, whereas beings not capable of such knowledge will not.

If your question about whether I think that all pleasures are equal is asking whether I accept something like Mill's distinction between higher and lower pleasures, then the answer is that I do not. In that sense I think that all pleasures are equal. But your account of Bentham's view on the pushpin versus poetry issue needs to be more precisely stated. Pleasures differ, as Bentham pointed out, in intensity, duration, certainty or uncertainty, propinquity or remoteness, fecundity, and purity. What Bentham said is that "quantity of pleasure being equal, pushpin is as good as poetry." Bentham could have defended a taste for poetry on the grounds that, whereas one tires of mere games, the pleasures of a true appreciation of poetry have no limit; thus the quantities of pleasure obtained by poetry are likely to be greater than those obtained by pushpin, and we are right to encourage people to acquire a taste for poetry. The same seems likely to be true for many other examples. Pornography, for instance, is likely to pall and so bring decreasing amounts of pleasure over time, whereas setting oneself the goal of achieving something truly worthwhile seems likely to be increasingly rewarding over time.

PRACTICE

Frances Kamm once said (in an interview with Alex Voorhoeve) that utilitarians who believe in very demanding duties to aid and that not aiding is the same as harming, but nevertheless don't live up to these demands, don't really believe their own arguments. She points out that justifying this by claiming that one is weak willed doesn't make sense: it would be very odd to say that one is weak if one saw a drowning child and did nothing. She concludes that 'either something is wrong with that theory, or there is something wrong with its proponents'. What do you

think about this argument? Why haven't you given a kidney to someone who needs it now? You have two and you only need one. They have none that are working - it would make a huge difference to their life at very little cost to you.

The view that I take in *Practical Ethics* and some other writings is not that not aiding is the same as harming in all respects. Especially from the perspective of our attitude to the agent, there are some differences, but the differences are nowhere near as significant as our ordinary moral judgments.

I'm not sure that the cost to me of donating a kidney would be "very little" but I agree that it would harm me much less than it would benefit someone who is on dialysis. I also agree that for that reason my failure to donate a kidney is not ethically defensible. But I don't agree with Frances that this case is parallel to the drowning child case—that is, the case I described in which the rescuer runs no risk at all of serious harm. Donating a kidney does involve a small risk of serious complications. Zell Kravinsky suggests that the risk is 1 in 4000. I don't think I'm weak-willed, but I do give greater weight to my own interests, and to those of my family and others close to me, than I should. Most people do that, in fact they do it to a greater extent than I do (because they do not give as much money to good causes as I do). That fact makes me feel less bad about my failure to give a kidney than I otherwise would. But I know that I am not doing what I ought to do.

You said in an interview with Andrew Denton that if you and your wife had a child with Down syndrome, you would adopt the baby out. Could you explain the ethics of this and isn't it a selfish decision? Could you elaborate on your views about disability, in particular why you think a life with disability is of less value and what you think the implications of that are?

I was assuming that there are other couples who are unable to have their own child, and who would be happy to adopt a child with Down syndrome. If that is the situation, I don't see why it is selfish to enable a couple to have a child they want to have, and for my wife and myself to conceive another child, who would be very un-likely to have Down syndrome, and so would give us the child we want to have. For me, the knowledge that my child would not be likely to develop into a person whom I could treat as an equal, in every sense of the word, who would never be able to have children of his or her own, who I could not expect to grow up to be a fully indepen-

dent adult, and with whom I could expect to have conversations about only a limited range of topics would greatly reduce my joy in raising my child and watching him or her develop.

"Disability" is a very broad term, and I would not say that, in general, "a life with disability" is of less value than one without disability. Much will depend on the nature of the disability. But let's turn the question around, and ask why someone would deny that the life of a profoundly intellectually disabled human being is of less value than the life of a normal human being. Most people think that the life of a dog or a pig is of less value than the life of a normal human being. On what basis, then, could they hold that the life of a profoundly intellectually disabled human being with intellectual capacities inferior to those of a dog or a pig is of equal value to the life of a normal human being? This sounds like speciesism to me, and as I said earlier, I have yet to see a plausible defence of speciesism. After looking for more than forty years, I doubt that there is one.

CONTROVERSY

You have written and commented on topics that have attracted considerable negative attention (eg bestiality, infanticide), and potentially distract from other things that you are focused on. Do you regret commenting on those topics? Are there topics that philosophers should not tackle?

With the benefit of hindsight, perhaps it would have been wiser for me not to agree to review *Dearest Pet*. Many people have attacked me because of what I wrote in reviewing it; but it was only a book review, for goodness sake! Anyway, I stand by what I wrote there (which basically just raises the question why it should be a criminal offense to have sexual contact with animals in a way that does not harm them). A psychotherapist who works with people troubled by their sexual feelings for animals told me that he gives my book review to his patients, and some of them find it helpful to see that the topic can be discussed in a calm and rational way. So I'm not even sure that, with hindsight, I regret having written it.

As for the issue of infanticide, anyone thinking hard about what makes killing wrong will need to consider that issue. I'm certainly not the only philosopher to suggest that killing an infant is different, ethically, from killing an older human being who wants to go on living. So I don't regret discussing that topic either.

I don't put forward provocative views for the sake of doing so. I put them forward where I think they have a basis in sound argument, and where it serves a purpose to have them discussed. I hope that other philosophers will do the same.

CONTEMPORARY ISSUES

Do you think drugs should be legalised?

Yes. Prohibition has not been a success, and the costs of criminalization are huge. We see that cost in the lost lives of people who die from overdoses; we see it in the crimes committed by drug addicts to pay for their drugs; and we see it in the vast amounts of money funneled into organized crime, and in the resulting corruption of police and higher government officials, in some cases going to the very top, in many different countries.

What is your view on the war on terror? Do you think that Islamic fundamentalism is a grave threat to our society and what do you think we should do about it?

Any form of religious fundamentalism is a threat to the values I hold, but recently Islamic fundamentalism has posed the greatest danger. I have no expertise on how to combat it, though, so I am not going to comment on that part of the question.

Do you think it is wrong for individuals in the developed world to have children, when they know that this will make them more partial and contribute less to the overall good?

No, I don't. I worry that if people who think a lot about others and act altruistically decide not to have children, while those who do not care about others continue to have children, the future isn't going to be good.

Do you think people who can't bring up their children properly, like drug addicts, should be encouraged not to have children? Should we pay them to take long term contraceptives?

Some forms of encouragement would be justifiable.

Do you agree with Richard Dawkins that we would be better off without religion?

That's such a big counterfactual that it's really hard to answer. Would the violence and cruelty perpetrated in the name of religion continue, but in a different guise? Would Christian concern for the poor (shown by at least some Christians, although of course far from all of them) remain, to be expressed as part of a secular humanitarian ethic? Would there be less superstition and more appreciation of scientific method as the most reliable way of discovering the truth? On balance, I'm inclined to agree with Dawkins on this question, but the nature of the question means that I don't have a great deal of confidence in my answer.

You have written extensively on our duties to help distant people in extreme poverty, but it seems quite clear to many that, if total utilitarianism (or arguably any view that takes seriously the interests of possible future people) is true, our top priority should be reducing existential risks. Do you agree? If not, why not?

I certainly think that we should give equal consideration to present and future lives, discounting for uncertainty. But there is a huge amount of uncertainty involved in some of the strategies that have been proposed for reducing the risk of extinction. It's good that some very bright people are working on this issue, trying to reduce that risk as best they can. That's an important thing to do. But if you are suggesting that it should be the top priority of everyone concerned about effective altruism, I think that would counterproductive. Human helping behaviour tends to be triggered by the needs of specific, identifiable individuals. That makes it hard enough to get most people motivated to give to the most effective charities that are helping people in extreme poverty today, because when you distribute bednets, you can't identify the children who would have contracted malaria and died if you had not done so. If it is hard to motivate people to help others who exist now, it would be much harder still to motivate people to give so that there will be humans living good lives many millennia into the future.

How should we regulate migration?

I presume you are referring to the problems posed by large numbers of refugees trying to travel to another country in order to seek asylum. This has become a global

problem and it needs a global solution. On the one hand, the definition of "refugee" in international law is too narrow, because it applies only to someone who has "a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion." Why do not people who have to leave their country because of drought or famine count equally when it comes to granting asylum? Especially in the light of what we know about climate change, such refugees seem to me to be equally deserving of resettlement. On the other hand, why should we assume that because someone manages to get to a particular country, that country has an obligation to permit them to stay that is more pressing than the obligation the country has to accept refugees who are currently in a refugee camp in a third country? I think the idea that there is a "right of asylum" needs to be reconsidered, and perhaps it should be replaced by an equitable system of obligations on affluent countries to accept their fair share of refugees.

A recent neuroimaging study of extreme altruists by Marsh et al. reported that the neural anatomy of such altruists is distinctive, and may in fact be the reverse of the brain abnormalities associated with psychopathy. You often argue that utilitarianism, and generally a more inclusive and altruistic morality, is the product of reason. Do such results challenge this assumption?

Yes, they do, to some extent, but it's too early to reach any definite conclusion. Marsh et al. studied people who donate kidneys to strangers. They may be different from other altruists who donate large proportions of their income to altruistic causes. I'm not yet ready to give up on the link between altruism, or utilitarianism, and reason.

What is your position on human bioenhancement, including moral bioenhancement?

I have some practical concerns: will it work? Will there be unexpected negative side-effects? But suppose that we can put aside those worries and can be highly confident that the proposed bioenhancement will reduce suffering and increase happiness for all affected—then I have no problem with human bioenhancement. Indeed, it would be a very positive thing. As for moral bioenhancement specifically, I doubt that it will happen quickly enough, or spread widely enough, to solve the global moral

problems like climate change that we face right now. But once again, if we could do it, that would be very good.

Necessity and Liability: On an Honour-Based Justification for Defensive Harming

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ABSTRACT

This paper considers whether victims can justify what appears to be unnecessary defensive harming by reference to an honour-based justification. I argue that such an account faces serious problems: the honour-based justification cannot permit, first, *defensive* harming, and second, *substantial* unnecessary harming. Finally, I suggest that, if the purpose of the honour based justification is expressive, an argument must be given to demonstrate why harming threateners, as opposed to opting for a non-harmful alternative, is the most effective means of affirming one's honour. Along the way, I also suggest why I think that *internalism* about the constraints on defensive harming (the view that the satisfaction of the necessity constraint is a necessity condition of a threatener's liability) is correct. Most importantly, externalism implies that threateners can be liable to suffer gratuitous harm. I take this to be an unattractive consequence of the view.

1. INTRODUCTION

Let us begin with a case:

> *Standing One's Ground.*[1] *Threatener will culpably kill Victim unless Victim takes some preventive action. She has two options, both of which she knows will be effective. She can (1) retreat from the confrontation without risk or cost and alert the police, who will then be able to subdue Threatener without harming him, or (2) stand her ground and kill Threatener in self-defence.*

Some believe that Victim is justified in standing her ground and killing Threatener. They believe that, because of the threat he poses, Threatener is liable to suffer defensive harm. To say that a individual is liable to be harmed is to say that harming him would not wrong him nor violate his rights, and so he would not be justified in defending himself.[2] However, this verdict is at odds with a condition commonly applied to liability to defensive harm—necessity. Standardly, necessity requires that, for a defensive act to be justified it must be the least harmful of the agent's available effective means of averting the threat. Such is not the case in *Standing One's Ground*.

This paper considers whether victims can justify what appears to be unnecessary defensive harm by reference to an honour-based justification. The honour-based justification suggests that when a victim is threatened, there are two threats she faces: (1) the direct physical threat; (2) a secondary threat to her honour. It is defending herself against this secondary threat to her honour that renders certain defensive acts necessary (such as Victim's standing her ground). The primary purpose of this paper is to argue that the honour-based justification faces serious problems. (Along the way, I also suggest why I think that *internalism* concerning necessity—the view that satisfying the necessity constraint is a necessary condition of a threatener's liability—is correct, despite its initial intuitive implausibility.)

The paper proceeds as follows. Section 2 considers the relationship between necessity and liability. Section 3 advances what I take to be the most plausible version of the honour-based justification. Section 4 raises two worries with the honour-based justification: 4.1 questions whether the honour-based justification can justify *defensive* harming; 4.2 questions whether the honour-based justification can permit *substantial* unnecessary harming. Section 5 question what is meant by an honour-based justification in the first place. I argue that, if the purpose of the honour-based justifi-

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1.   This case is taken, with slight alterations, from McMahan (2016b, 195). See also Frowe's *Lucky Escape* (2014, 88).

2.   Some might add that, for an individual to be liable to some harm, he must have forfeited rights that he previously held against that harm. See, e.g., McMahan (2005, 386); Frowe (2014, 3).

cation is expressive, an argument must be given to demonstrate why harming threateners, as opposed to choosing a non-harmful alternative, is the most effective means of affirming one's honour.

2. NECESSITY AND LIABILITY

Necessity requires that, for a defensive act to be justified it must be the least harmful of the agent's available effective means of averting the threat.[3] There is debate as to the precise role that necessity plays within a theory of self-defence. Internalism holds that necessity is an internal condition of liability to defensive harm: threateners are liable to defensive harm only if that harm is the least harmful means of averting the threat they pose.[4] This means that Threatener is not liable to be killed in *Standing One's Ground*. (For brevity, "Victim/Threatener" refer directly to *Standing One's Ground*, whereas "victim(s)/threatener(s)" characterise the generic.) If internalism is true, and Victim nonetheless stands her ground, this seems to imply that Threatener is, amongst other things, (1) wronged, (2) owed compensation, and (3) permitted to engage in counter-defence against Victim (by hypothesis, Victim is now posing a threat to which Threatener is not liable). It further permits, or even obligates, (4) third parties to defend or assist Threatener in counter-defence, as well as obligating them to refrain from interfering with Threatener's counter-defensive action. (These implications hold, absent other arguments.[5] I set these other arguments aside because our purpose is to discover the work that the honour-based justification can do in justifying what appears to be unnecessary defensive harming.)

Given what some take to be the implausibility of these implications, externalism denies that necessity is internal to liability, though it may bear on the *all-things-considered* permissibility of defensive action.[6] On externalism, because satisfying the necessity constraint is not a necessary condition of a threatener's liability, victims do not *wrong* threateners if they violate the putatively external necessity condition, but

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3.   I am tempted to think that satisfying the necessity condition does not require satisfying the (evidence-relative) effectiveness condition, but follow McMahan in the main text for ease of exposition (2016b, 192). It appears to me that one can satisfy the necessity condition vis-à-vis some likelihood of effectiveness, even when that likelihood is below that which is deemed high enough to satisfy the effectiveness condition.

4.   E.g., McMahan (2009), (2016a), (2016b); Fabre (2012a), (2012b).

5.   E.g., McMahan (2016a), (2016b, 199-203).

6.   E.g., Firth and Quong (2012); Frowe (2014).

merely act impermissibly. Given that this still means that victims act wrongly in these cases, externalism remains somewhat intuitively implausible.

Despite its apparent intuitive implausibility, one reason for endorsing internalism about necessity is that liability justifications seem to be instrumental: for a threatener to be liable to defensive harm, that harm must serve some purpose (in *Standing One's Ground*, preventing harm to Victim). This is what distinguishes liability-based justifications from desert-based justifications, which hold that imposing harm on a culpable individual is valuable as an end in itself. It is for this reason that Jeff McMahan is an internalist: 'Threatener is clearly wronged by being killed in *Standing One's Ground* because the unnecessary harm is entirely gratuitous and no one can be liable to suffer gratuitous harm' (2016b, 196).

Let us consider what the externalist says about liability. I take the most plausible version of externalism to be Helen Frowe's "proportionate means externalism". Frowe thinks that, 'to say that a person is liable to harm means only that a usual reason not to harm her—that she has a right not to be harmed—is absent'; accordingly, she thinks that 'a person who is liable to defensive harm may use non-harmful means to prevent herself from suffering the harm, even though she may not harmfully defend herself' (2014, 91, 106). So on proportionate means externalism, threateners are permitted to non-harmfully prevent themselves from suffering harm; yet, because their victims have not forfeited *their* rights not to be defensively harmed, threateners may not harmfully prevent themselves from suffering harm. However, it must follow that, were a threatener unable to non-harmfully defend herself in a case of unnecessary defensive harm and yet were the victim to nonetheless proceed with such unnecessary action, the threatener must suffer some gratuitous harm. (Namely, the amount of harm which was not necessary.) Even when the threatener can and may non-harmfully prevent himself from suffering unnecessary harm, he remains liable to suffer such gratuitous harm. This is a disturbing consequence of the view. Persons have the right to not be *gratuitously* harmed. There is no instrumental purpose to be served in the forfeiture of that right.

We might question how, on proportionate means externalism, liability is distinct from desert. After all, it seems that threateners are liable to suffer gratuitous harm. The proportionate means externalist might reply that, whilst necessity is not internal to liability, an effectiveness condition is internal to liability. For example, Frowe writes that proportionate means externalism 'recognizes that liability to defensive harm means liability to harm that can avert a threat' (2014, 105). This means

that *an* instrumental purpose must still, potentially, be served in cases of unnecessary defensive harm.[7]

The purpose of this section has been twofold: first, to situate the debate that the necessity condition figures in; second, to demonstrate that, if we understand liability as an instrumental notion, there is good reason to be internalists about the necessity condition—to think otherwise would mean that agents are liable to *some* gratuitous harm.

3. AN HONOUR-BASED JUSTIFICATION OF DEFENSIVE HARMING

Despite its theoretical plausibility, the internal necessity condition seems to have some counterintuitive implications: for example, that if a victim engages in unnecessary defensive harm, this wrongs the threatener and the threatener is thereby granted counter-defensive permissions. Even the external necessity condition implies that a victim acts wrongly if she engages in unnecessary defensive harming. In *Standing One's Ground*, one might be willing to accept either of these implications. However, consider the following case:

> Rape.[8] *Eric is in the midst of culpably raping Fran. There is nothing she can do to stop him from continuing to rape her. Fran is able to break Eric's wrist, though this will have no effect but to cause him to suffer. The only way Eric can stop Fran breaking his wrist is to quickly break her wrist first. All of these facts are known by both Fran and Eric.*

Both internalism and externalism imply that Fran acts wrongly if she breaks Eric's wrist. This seems implausible. If internalism is correct, it seems to imply further that Fran wrongs Eric and that Eric is permitted to break Fran's wrist to prevent her from unnecessarily breaking his. As it stands, the necessity condition seems implausible.

It is important to clarify four ways in which harm might be justified even if it will not avert the unjustified threat faced by a victim. A harm may be justified on the grounds that: (i) threatener deserves to be harmed; (ii) it has some deterrent effect

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7. For an account of externalism which does not have an internal effectiveness condition, see Firth and Quong (2012).

8. Similar cases appear in: Firth and Quong (2012, 689); Frowe (2014, 99).

by preventing that threatener or others from perpetrating future harm; (iii) it will lessen further psychological harm to the victim; or, (iv) it defends or affirms a victim's honour. Because we are discussing the last of these justifications, we must be careful to bracket out the proceeding considerations.

(As point iii above indicates, we must not count any benefits that Fran may receive from breaking Eric's wrist under the umbrella of honour. Suppose that if Fran does not break Eric's wrist, she will suffer from Post Traumatic Stress Disorder (PTSD) for two years; if she does break his wrist, this will significantly lessen the length of time that she suffers from it. In these circumstances, breaking Eric's wrist is not necessary with respect to averting the continuation of the rape, but might be necessary with respect to preventing or lessening psychological harm to Fran. Accordingly, the honour-based account is not required to justify her breaking Eric's wrist (provided that breaking it would be proportionate in relation to mitigating Fran's PTSD). We must suppose that Fran's breaking Eric's wrist will not prevent any psychological harm to Fran (or, that it will not prevent *enough* harm to render breaking Eric's wrist proportionate).)

Whilst some defensive options might be unnecessary as means of averting the physical threat, one might argue that one goal of defensive harm is for the victim to affirm her equal moral status (in Daniel Statman's and Frowe's terms, her honour), which is challenged or violated by the threatener's action. As Statman writes, 'in the eyes of the aggressor, [the victims] are just items to be used, mere objects' (2008, 689). It is therefore reasonable to suppose that the victim is permitted to assert or vindicate her equal moral status (her honour) by violent resistance, even if doing so will not avert the physical threat she cases. (For brevity, hereafter I stick to Statman's and Frowe's terminology of "honour". See Frowe (2014, 109) for an indication that talk of "moral status" might be more accurate.) To put it another way, perhaps when a victim is threatened there are two threats she faces: (1) the direct physical threat; (2) the threat to her honour. It is defending herself against this secondary threat to her honour that renders certain defensive acts necessary (such as standing one's ground or Fran's breaking Eric's wrist).

The honour-based justification is appealing because it allows the internalist and externalist to explain why victims may sometimes employ what would otherwise be unnecessary (or ineffective) harm. Frowe has recently made two refinements to the view: (i) by limiting the proportionality of the honour-based justification; (ii) by denying deferred honour-based harming. We will consider these in turn.

(i) Proportionality of Honour-Based Harming. One might think that the amount of harm which is justifiable in defence of one's honour is that which would be proportionate in defence of the primary threat (Statman 2008, §V). In *Standing One's Ground*, because killing Threatener is proportionate to the threat Victim faces (were Victim not able to avert the threat by retreating, it would also be necessary), Threatener is liable to the harm of death in defence of Victim's honour.

This justification goes too far. Whilst the gravity of the threat to one's honour will usually rise with the seriousness of the physical threat, this does not necessarily imply that the threat to one's honour is as serious as the physical threat. As Frowe writes, '[t]he wrongness of being treated as the sort of thing that may be subjected to a harm is not the same (and is not as bad) as being subjected to that harm' (2014, 112).

That said, I do not agree with Frowe that the threat to one's honour is always 'not as bad' as being subjected to the physical harm. Consider the following case.

> *Bigot. Victim is of a persecuted minority race. Threatener is planning to flick Victim in the ear because he thinks that she is less worthy of equal moral consideration. The harm to Victim will be minor (including, let us suppose, the psychological harm).*

This case shows that the primary physical threat *may be* less serious than the secondary harm to a victim's honour. Further, it seems there will be cases in which there are threats to one's honour that do not involve harm at all. We return to the connection between the threatened physical harm and the threat to one's honour in 4.1.

(ii) Deferred Honour-Based Harming. One might also think that, '[u]nlike the defense of life, in which Victim must act before the threat materializes, acts to restore Victim's honor can take place afterwards' (Statman 2008, 673). Let us call this "deferred harming". This implies, for example, that Fran's actions would be permissible in the following case.

> *Deferred Harm.[9] On Monday, Eric rapes Fran. Fran inflicts no harm upon Eric during the rape. On Tuesday, Fran sees Eric in a bar having a drink. Fran breaks Eric's wrist.*

Frowe thinks that the honour-based justification is most plausible when 'con-

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9.   Frowe (2014, 108) calls this case 'Late Rape', but the point of the case is that the harming is deferred, not the rape.

ceived of as a defence against a threat to honour rather than an attempt to restore honour *ex post*' (2014, 113). Whilst Fran's breaking Eric's wrist appears to be permissible in *Rape*, Frowe is less sure in *Deferred Harm*. In order to drive a wedge between the *ex ante* defence of one's honour and the *ex post* restoration of one's honour, Frowe suggests that we should conceive of the secondary threat to a victim's honour as supervening upon the physical threat that the victim faces. I take the idea to be that the higher-order properties of the threat to a victim's honour are determined by, and dependent upon, the lower-order physical properties. Accordingly, once the physical threat has ceased to exist, 'nothing that the victim can do can avert that threat to her honour' (Frowe 2014, 114).

In summary, victims face two threats: a primary physical threat and a secondary threat to their honour. (i) The secondary threat to a victim's honour is determined by the gravity of, and yet is less serious than, the physical threat. (ii) The secondary threat to a victim's honour supervenes upon the primary physical threat. Accordingly, victims can justify some defensive harm *vis-à-vis* defending their honour only as long as they face the primary physical threat.

4. AGAINST THE HONOUR-BASED JUSTIFICATION

I think both of the alterations made above, whilst necessary for the honour-based justification, are unsuccessful. I argue against them in reverse order.

4.1 Supervenience

The problem with Frowe's supervenience argument arises when considering the point at which the threat to a victim's honour emerges. She faces a dilemma. In order to deny that deferred harming is permissible, it must be that Fran can break Eric's wrist only to avert the *ex ante* threat to her honour and not to restore her honour *ex post*. However, on the one hand, if the threat to the victim's honour emerges only when the threatener brings the physical threat to fruition, then the victim's avoidance of the primary threat will *itself* dissolve the supervening threat to her honour.[10] In *Standing One's Ground,* Victim's retreating *itself* nullifies the threat to her honour which would have occurred had Threatener been able to engage in harming Victim.

If, on the other hand, the threat to a victim's honour emerges earlier than the

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10.   I owe a lot of this horn of the dilemma to discussions with Henry Phipps.

onset of the primary physical threat, her honour is not *being threatened* but has already been violated, namely when the physical *threat* emerged. If this is correct, any "defence" of one's honour is actually a deferred restoration of that honour. Consider *Rape*. There is not merely a *threat* to Fran's honour unless she breaks Eric's wrist. The physical threat is *already* being realised, which means that, if the claim about supervenience is correct, the violation of Fran's honour has already occurred. By breaking Eric's wrist, Fran is affirming her honour. (Due to space constraints, I cannot discuss when a victim's honour *is* violated. It seems reasonable to suppose that it occurs when threateners begin to act on their intention to do what will wrong their victim. It could be argued that it begins with the formation of the intention itself.)

Frowe might suggest that, because the rape is still occurring, there is still a threat to Fran's honour (or, that Fran is preventing the threatened continued violation of her honour). However, this entails that the further into the rape Fran can break Eric's wrist, the less harm can be justified by reference to the honour-based justification. This is because, if the threat to a victim's honour supervenes upon the physical threat, the remaining violation of Fran's honour must decrease in severity as the rape gets nearer to ending. This seems absurd.

Perhaps it could be suggested that the harm of rape cannot be disaggregated as I suggest (i.e., one cannot say, at t2, there is less harm threatened than at t1). We might think that the threat to Fran's honour supervenes upon the total harm of the rape. However, this does not seem quite right either. Other things equal, it appears that a longer rape must be more *harmful* than a shorter rape. What might not change is the *wronging* of the victim. But this is exactly the point: the threat to one's honour depends more upon the wrongdoing than the threatened harm; and, in *Rape*, there is not a threat that Fran *will be* wronged—she already has been wronged.

The threat to one's honour does not seem to depend purely upon the magnitude of the physical harm faced (as also suggested at 3.2.i in the case, *Bigot*)—harm and honour come apart in a way that the supervenience argument cannot account for. It is this half of the dilemma (that victim is affirming, not averting a threat to her honour) that supports the suggestion that a victim's honour is being defended—we are just equivocating in our understanding of defence. Fran's breaking of Eric's wrist may be necessary (and effective) in respect to affirming her honour.

At this stage, whilst the honour-based justification might not permit *defensive* harming, it may still permit what appears to be unnecessary harming *ex post*.

4.2 Justifying Standing One's Ground

My second concern is whether the honour-based justification can justify the in-fliction of what appears to be *substantial* unnecessary harm on threateners. As suggested in 3.2.i, with Frowe I think that the honour-based justification is most plausible when justifying less severe harms. Let me illustrate this with *Standing One's Ground*. Victim can (1) retreat, or (2) engage in defensive action, killing Threatener. It seems implausible that Victim may kill Threatener *merely* in defence of her honour. It would seem, though, that Victim may (3) break Threatener's leg in defence of her honour. That Victim would be justified in breaking Threatener's leg has implications on her actions if she nonetheless engages in lethal defensive action. When victims engage in what appears to be unnecessary defensive action which is also disproportionate in relation to the threat to that victim's honour (as (2) Victim's standing her ground appears), we can subtract from the disproportionate defensive harm that which *is justified* by appeal to the honour-based justification.

If internalism concerning necessity is correct, and Victim nonetheless stands her ground by killing Threatener, this means that she wrongs Threatener to the extent of a harm that would be equivalent to the harm of death, minus the harm of a broken leg. This is because we have stipulated that Threatener is liable *only* to a broken leg as a means of defending Victim's honour, meaning that he is not wronged by a harm of that degree. (For brevity, let us refer to the harm that would be equivalent to the harm of death minus the harm of a broken leg as "harm [death—broken leg]".) Threatener may harm Victim in counter-defence to the extent that is proportionate to harm [death—broken leg]. This is because agents are permitted counter-defence against unjustified threats which, by hypothesis, Victim is now subjecting Threatener to.

Harm [death—broken leg] is an awfully large harm. One way of understanding harm [death—broken leg] is on the following preference-based view. Begin by considering how much life one would give up in order to avoid the harm of a broken leg. Plausibly, one might give up one month of their life in order to not suffer such a harm. If the badness of death is that future good which one would be denied through dying, harm [death—broken leg] might be thought of as the harm of being killed in one months time from now—this is equivalent to the harm of death, minus the harm of a broken leg.[11]

Victim wrongs Threatener to an extent that is equivalent to harm [death—

11.   Thanks to Jeff McMahan for this illustration.

broken leg] and Threatener is permitted counter-defence to the extent that is proportionate to harm [death—broken leg]. Even with the honour-based justification in place, internalism concerning necessity has massive intuitive implausibility when justifying what appears to be substantial unnecessary harm. (Again, I would like to stress that these implications hold, absent additional arguments that do not concern the honour-based justification.)

Before turning to how proportionality relates to externalism, let me illustrate the problem for internalism further. What can be drawn from what is said above is that there is a difference between that harm which Threatener unjustifiably threatens to inflict upon Victim (the harm of death), and that harm which Victim unjustifiably threatens to inflict upon Threatener (the unnecessary harm, [death—broken leg]). Whilst there is *a* difference between Threatener's and Victim's wrongdoing (Threatener commits a more serious wrong), the harm of a broken leg that differentiates their wrongdoing is not substantial enough to mitigate Victim's wrongdoing if she engages in unnecessary harming. She still commits a grave wrong.

To put it another way, let us amend *Standing One's Ground.*

> *Standing One's Ground Bystander. The case unfolds as above, except that Bystander is watching. Bystander cannot stop Threatener from attacking Victim. Victim chooses option (2), and stands her ground and is about to kill Threatener. Bystander is now faced with the following three options: she can (A) stop Victim from engaging in unnecessary defensive action by killing Victim; (B) let Victim kill Threatener; (C) stop Victim from killing Threatener by imposing harm [death—broken leg] onto Victim, thereby also stopping Threatener from killing Victim.*

The only difference with respect to unjustified harm between choosing options (A) and (B) is the justifiable harm of a broken leg—all other harm is, by hypothesis, unjustified. With the honour-based justification in place (and the stipulation that all Victim is justified in doing in defence of her honour is breaking Threatener's leg), option (C) is what Bystander ought to do. This is because option (C) is the option whereby everyone receives *only* the harms to which they are liable. Even with the addition of an honour-based justification, the internalist still faces implausible implications.

Things do look a little better for externalism, for it does not imply that Victim wrongs Threatener or that Threatener is permitted counter-defence. However, if ex-

ternalism concerning necessity is correct and Victim nonetheless stands her ground, this does imply that Victim acts, *all-things-considered*, impermissibly to an extent that would be equivalent to unjustifiably threatening to cause someone to suffer harm [death—broken leg]. If necessity is external to liability to defensive harm (about which I raised reservations above), then even with the addition of the honour-based justification, externalism still faces implausible implications.

The plausibility of the honour-based justification increases when the defensive action Victim takes is smaller (compare (3) Victim breaking Threatener's leg with (4) Victim paralysing Threatener merely in defence of her honour). Accordingly, even with the honour-based justification, the difference in wrongdoing between Threatener and Victim is smaller than necessary to rule out, on internalism, substantial counter-defence on the part of Threatener and, on externalism, substantial impersonal wrongdoing.

5. WHAT IS HONOUR ANYWAY?

This final section asks what is meant by honour and how can it be appropriately and effectively "defended". Statman writes, '[c]oncrete acts of resistance are needed in order to communicate to the aggressor, to ourselves, and to an actual or potential audience that we are not just passive objects to be trodden upon. By carrying out such acts, we reaffirm, or protect, our honor'; he continues, '[t]he idea that self-defensive acts aim at blocking the degrading message sent by Aggressor is reminiscent of expressive theories of punishment' (2008, 669, fn 22). I think this reading of honour is the most plausible: there is expressive value realised when victims defend themselves, even when they know that this defence is not going to avert the physical threat they face; and, because this value *is* realised by certain defensive acts, when proportionate, threateners are liable to them.

If we take forward Statman's remark that the honour-based justification is reminiscent of expressive theories of punishment, we run into a problem. Expressive theories of punishment say that the function of punishment is, amongst other things, to show society's moral condemnation of the criminal's behaviour. Joel Feinberg writes that punishment is a 'conventional device for the expression of [...] resentment and indignation, and of judgements of disproval and reprobation' (1965, 400). Yet, as H. L. A. Hart notes, expressive theories of punishment treat 'the infliction of suffering as a uniquely appropriate or 'emphatic' mode of expression'; however, the normal way

in which we express moral condemnation is through *words*: 'if denunciation is really what is required, why a solemn public statement of disapproval would not be the most 'appropriate' or 'emphatic' means of expressing this?' (1963, 63, 66)

If the instrumental value to be achieved by the honour-based justification is merely the expression of the "defence" of one's honour, why must threateners be harmed to achieve this goal? Consider the peaceful protest of Gandhi's followers in the face of British soldiers' brutality during the Salt March. In response, it might be suggested that harming threateners is the conventional method by which victims protect their honour. However, if this is the case then we ought to reject those conventions. To paraphrase Victor Tadros, if harming threateners is simply conventional, then making wrongdoers suffer in order to protect victim's honour is barbaric: 'We ought to find some other way of effectively communicating about wrongdoing' (2011, 102).

Statman takes the line of suggesting that acts of violence are the conventional devices by which we protect our honour. Considering the example of a Gandhi-figure, he suggests that '[i]t is not the nonviolence itself that would protect a Gandhi from degradation but his prior overcoming of his concern about honor' (2008, 680). This reply misses the point. We ought to not be concerned with harmful affirmations of honour. (At least, as concerns ideal theory. The most this argument might show is that, given the *non-ideal* circumstances we find ourselves in, honour-based harming is currently permitted. Even that, I am unsure of. Perhaps Statman could recast this argument and suggest that, with some additional account of demandingness, such Gandhi-like responses are supererogatory.)

The aim of this section has been modest: all I mean to do is shift the burden of proof onto those who endorse the honour-based justification of defensive harming. If defensive harming is a means of affirming a victim's honour, an argument must be presented as to why *harming* threateners is the only, or the most effective way to achieve this. To put it another way, if there are less harmful ways of defending (or restoring) one's honour, *harming* threateners is not going to satisfy necessity in any case.

6. CONCLUSION

This paper has considered whether one can pursue an honour-based justification to account for cases in which it seems that victims should be permitted to unnec-

essarily harm threateners. The primary purpose of this paper has been to argue that such an account fails. In 4.1 I suggested that if the threat to a victim's honour emerges when the physical threat occurs, victim's avoidance of the primary threat will *itself* prevent the supervening threat to her honour; if the threat to victim's honour emerges earlier, it has already been violated—in which case, any defence of one's honour is actually a deferred restoration of it. Accordingly, the honour-based justification can only permit harming *ex post*. In 4.2 I suggested that even with an honour-based justification in place, the difference between the victim's and the threatener's wrongdoing is not going to be substantial enough to mitigate victim's wrongdoing if she engages in unnecessary defensive harm. In section 5 I suggested that if the purpose of the honour based justification is expressive, then an argument must be given to demonstrate why harming threateners is the only means by which to achieve this end.

The problem of reconciling the necessity condition and accounting for intuitively plausible cases in which it seems that victims should be permitted to unnecessarily harm threateners remains. This task is even more pressing if, as I have suggested at the close of section 2, internalism concerning the necessity condition (the view that meeting the necessity condition is partly constitutive of a threatener's liability) is correct.

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Consistent Vegetarianism and the Suffering of Wild Animals

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ABSTRACT

Ethical consequentialist vegetarians believe that farmed animals have lives that are worse than non-existence. In this paper, I sketch out an argument that wild animals have worse lives than farmed animals, and that consistent vegetarians should therefore reduce the number of wild animals as a top priority. I consider objections to the argument, and discuss which courses of action are open to those who accept the argument.

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Many consequentialists are vegetarian because they care about the harm done to farmed animals. Some consequentialists may be vegetarian because of environmental concerns, and others for non-consequentialist reasons, but these are not my main focus here. More precisely then, ethical consequentialist vegetarians believe that farmed animals have lives so bad they are not worth living, so that it is better for them not to come into existence. Vegetarians reduce the demand for meat, so that farmers will breed fewer animals, preventing the existence of additional animals. If ethical consequentialist vegetarians[1] believed that animals have lives that are unpleasant but still better than non-existence, they would focus on reducing harm to

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1.   Hereafter I drop the qualifiers and use 'vegetarians' to mean 'ethical consequentialist vegetarians', unless otherwise specified.

these animals without reducing their numbers, for instance by supporting humane slaughter or buying meat from free-range cows.

I will argue that if vegetarians were to apply this principle consistently, the suffering of wild animals would dominate their concerns, and would plausibly lead them to support reducing the number of wild animals, for instance through habitat destruction or sterilisation.

SUFFERING IN NATURE, AND ITS IMPLICATIONS

If animals like free-range cows have lives that are not worth living, almost all wild animals could plausibly be thought to also have lives that are worse than non-existence. Nature is often romanticised as a well-balanced idyll, so this may seem counter-intuitive. But extreme forms of suffering like starvation, dehydration, or being eaten alive by a predator are much more common in wild animals than farm animals. Crocodiles and hyenas disembowel their prey before killing them (Tomasik 2009). In birds, diseases like avian salmonellosis produce excruciating symptoms in the final days of life, such as depression, shivering, loss of appetite, and just before death, blindness, incoordination, staggering, tremor and convulsions (Michigan Department of Natural Resources). While a farmed animal like a free-range cow has to endure some confinement and a premature and potentially painful death (stunning sometimes fails), a wild animal may suffer comparable experiences, such as surviving a cold winter or having to fear predators, while additionally undergoing the aforementioned extreme suffering (Tomasik 2013). Wild animals do experience significant pleasure, for instance when they eat, play, have sex, or engage in other normal physical activity. One reason to suspect that on average this pleasure is outweighed by suffering is that most species use the reproductive strategy of r-selection, which means that the overwhelming majority of their offspring starve or are eaten shortly after birth and only very few reach reproductive age (Horta 2010; Ng 1995). For instance, 'in her lifetime a lioness might have 20 cubs; a pigeon, 150 chicks; a mouse, 1000 kits' (Hapgood 1979), the vast majority of which will die before they could have had many pleasurable experiences. Overall, it seems plausible that wild animals have worse lives than, say, free-range cows. If vegetarians think it's better for the latter not to exist, they must believe the same thing about wild animals.

A second important empirical fact is that wild animals far outnumber farmed animals. Using figures from the FAO, Tomasik estimates that the global livestock

population is 24 billion (including 17 billion chicken) (Tomasik 2014). I restrict my count of wild animals to those at least as complex as chicken or small fish, which vegetarians clearly believe do have moral weight. Using studies of animal density in different biomes, Tomasik estimates conservatively that there are at least $6*10^{10}$ land birds, 10^{11} land mammals, and 10^{13} fish. Animals in each of these categories alone are several times more numerous than livestock.

If wild animals' well-being is indeed below the threshold for a life worth living, and the above numbers are remotely correct, the scale of wild animal suffering is vast. As Richard Dawkins writes, 'During the minute it takes me to compose this sentence, thousands of animals are being eaten alive; others are running for their lives, whimpering with fear; others are being slowly devoured from within by rasping parasites; thousands of all kinds are dying of starvation, thirst and disease.' (Dawkins 1996) If they accept the premises so far, consistent vegetarians should focus on preventing the existence of as many wild animals as possible, since even a small reduction in the global number of wild animals would outweigh the impact of ending all livestock production. For example, they could reduce animal populations by sterilising them, or by destroying highly dense animal habitats such as rainforests. It may even be the case that vegetarians should react to this argument by eating *more* meat, since feeding livestock requires more surface area for agriculture, and fields contain far fewer wild animals per square kilometre than other biomes such as forests (Matheny and Chan 2005, 585). Of course, to the extent that it is more difficult to reduce wild animal populations than farm animal populations, vegetarians should focus more resources on the latter. But it seems implausible that it would be over a hundred times more difficult to achieve the same proportional reduction, which is what would be needed to reverse my conclusion that wild animal suffering dominates. There could be some simple ways, for instance, for vegetarians to reduce habitat sizes: supporting the construction of large parking lots, or donating to a pro-deforestation lobby. In the final paragraph, I touch upon the issue of how most effectively to reduce wild animal suffering.

OBJECTIONS IN PRINCIPLE

An intuitive response to wild animal suffering can be that cycles of predation and starvation are natural, and therefore they must be neutral morally. But what is natural is not necessarily what is good, for instance, humans will routinely use technology to remove diseases which are natural.

It is important to emphasize that the claim that wild animal suffering is bad does not imply a guilt claim of the form 'predators are morally guilty'. A lion's instinct is indeed natural and does not deserve our moral condemnation. However, we can avoid much confusion if we remember to keep separate the concepts of guilt of an agent and wrongness of an action. It is perfectly possible to claim that X is harmful and should be prevented while also holding that the direct cause of X is not a moral agent. The fact that we are so used to thinking about cases of human behaviour, where guilt and wrongness are largely aligned, may partly explain why arguments about wild animal suffering seem counter-intuitive.

Underlying some of these principled arguments is the intuition that harmful acts, like killing livestock, are worse than harmful omissions, like failing to avert wild animal suffering. Consequentialists should reject these intuitions. It is not my goal here to convince non-consequentialists to abandon the act-omission distinction. However, I offer them a thought experiment to suggest that harmful omissions matter at least somewhat. Imagine you see a fire spreading in a forest and, while walking away from the fire, you see an injured fawn: a broken leg prevents her from fleeing. You carry a rifle and could instantly kill the fawn at no cost to yourself, preventing her from the extreme suffering of being burned alive. In this situation, for vegetarians who care about harm to animals, it is clear that it would be immoral to *omit* to act and allow wild animal suffering to happen. So the general principle that allowing wild animals to suffer is morally neutral cannot hold.

EMPIRICAL OBJECTIONS

A second set of counter-arguments are empirical: they concede that consistent vegetarians would be morally obliged to reduce wild animal suffering, but attack various empirical claims made above.

It may be objected that we cannot reduce the number of animals by sterilising them, because as soon as fewer animals are born, more resources (like food and territory) become available, which increases the evolutionary payoff of producing more animals. If we sterilise some deer, there will at first be fewer fawns, so there will be more nuts and berries available, which allows other deer (or other species) to have more offspring, until we are back to the original equilibrium. The existence of such evolutionary pressures towards an equilibrium population seems plausible, but it remains an unsolved empirical question. It may be the case that the population takes

several years to reach its equilibrium again, in which case much animal suffering would be averted in the meantime. Regardless, this is only an objection against one particular method for reducing wild animal numbers, and it only tells us that sterilisation would be ineffective, not harmful. If we reject sterilisation on these grounds, habitat destruction, for instance, evidently does reduce animal numbers for the long run.

A frequent objection against intervening in nature is that we are uncertain about the consequences: for instance, culling predators might cause an ecological catastrophe. While our uncertainty is a good reason to do more research in order to reduce it, it is not in principle an argument for inaction. First, we should avoid the misconception that inaction is not uncertain: the consequence of inaction is to maintain the status quo, and the status quo could be causing vastly more (or less) suffering than we currently estimate. Of course, to the extent that we know something about the amount of suffering under the status quo, inaction is less uncertain than intervention. However, this would only be an argument for inaction if we were risk averse about amounts of animal suffering. Such fundamental risk aversion appears both theoretically problematic, and, in a case where the status quo already seems to contain immense suffering, unintuitive.

In order to see if our aversion to intervene may be caused by a bias in favour or the status quo, we can use the reversal test (Bostrom and Ord 2006), an elegant instance of which is provided by the reintroduction of wolves in Scotland, where they had been hunted to extinction in the 1700s (BBC News 2007). If we oppose re-introducing wolves because this would cause their prey to suffer, then we should prima facie support sterilising existing wolf populations. The outcome of inaction in the sterilisation case is similar to the outcome of action in the reintroduction case, and those who oppose both reintroduction and sterilisation should explain what the morally relevant difference is.

The strongest counter-arguments are those trying to show that wild animals' lives actually are better than non-existence. This is empirically a very uncertain question. How much pain or pleasure animals feel in response to certain stimuli is dependent on facts about their neurology which is not well understood. While we may make some reasonable extrapolation from our human experience (being eaten alive is very painful), animal subjective experience may differ significantly. While animals might experience hedonic adaptation (Shane and Loewensein 1999) to their circumstances, encounters with predators produce lasting psychological damage similar

to post-traumatic stress disorder in humans (Zoladz 2008). There is some evidence that domesticated animals are less stressed (Wilcox 2016), but measures of stress hormones may not coincide with animals' revealed preferences (Dawkins 2004). Clearly, I do not pretend to have solved this difficult question (more research on this neglected topic should be a pressing priority for those who agree that wild animal suffering on a vast scale would be morally catastrophic). However, I note that these considerations should *also* make us uncertain about the subjective well-being of farmed animals; and I have already offered reasons why wild animals plausibly have worse lives than free-range animals.

EVEN IF WILD ANIMALS HAVE GOOD LIVES, RE-DUCING SUFFERING MAY STILL BE A PRIORITY

Even if vegetarians still reject this argument, and believe that wild animals' lives are better than the lives of farm animals, to the extent that they are worth living, this does not imply they should do nothing. They should not reduce animal numbers, but they should still reduce the suffering of existing animals. Because there are so many animals and the suffering they undergo can be so extreme, this consideration would likely still dominate concern about farmed animals. One could vaccinate animals against diseases: rabies has already been eliminated from foxes for human benefit (Freuling 2013). After elephants' teeth wear out, they are no longer able to chew food and eventually collapse from hunger, after which they may be eaten alive by scavengers and predators. Fitting elephants with artificial dentures, which has already been done on captive animals, would significantly increase their healthspan (Pearce 2015). Or one could cull predator populations by allowing more of them to be hunted.

With this type of intervention, as opposed to interventions reducing the number of wild animals, a possible concern may be that any advantage given to a particular individual by reducing their suffering would increase the suffering of others. For instance, if elephants can eat for longer, more other herbivores will starve; or if we kill predators, their prey will proliferate and *their* competitors will starve. If we think that ecosystems lie on such a razor-sharp Malthusian equilibrium where all animals are strongly competing for every piece of resource, this objection is plausible. But crucially, if we accept this, then it becomes more plausible that wild animals *actually do* have lives that are not worth living: if evolution produces so many animals that each can just barely survive, it is likely that they endure much suffering and little pleasure.

So it seems like we must either accept that some interventions can reduce extreme wild animal suffering, or concede that animals' lives are plausibly not worth living.

CONCLUSION

Some may choose to treat this outlandish conclusion as a *reductio* against consequentialist ethical vegetarianism (either against the idea that farm animals matter morally or against the belief that we should prevent them from coming into existence). Perhaps vegetarians who still reject the conclusion should increase their confidence that buying free-range meat is a good thing. For those who accept it, the question of how most *effectively* to reduce wild animal suffering is left open. As I have repeatedly emphasised, we are still very ignorant about many relevant empirical questions, so immediate large-scale intervention will not be very effective. In addition, intervention may have significant backlash effects and reduce sympathy for the anti-speciesist message. The best immediate action is probably to produce more research on wild animal suffering, in order to make future action more likely to be effective.

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