

A large, leafless tree with a thick trunk and many intricate, bare branches stands on a green hill. The sky is a clear, pale blue. The tree's shadow is cast on the grass to its left.

CONTEMPORARY MORAL ISSUES

Diversity and Consensus

FOURTH EDITION

Lawrence M. Hinman

CONTEMPORARY
MORAL ISSUES

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FOURTH EDITION

CONTEMPORARY
MORAL ISSUES

DIVERSITY AND CONSENSUS

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PREFACE

THE FOURTH EDITION of *Contemporary Moral Issues* represents a substantial revision from the previous editions. Each chapter's "Introduction to the Moral Issues" has been substantially revised and in most cases greatly expanded, providing students with a clear roadmap of the major issues and arguments and often also supplying relevant empirical background as well. I hope that students will find these essays inviting and illuminating, allowing them to enter into the ongoing discussion of these issues in our discipline. In this regard, I construe my role as akin to the good host at a dinner party, providing newcomers with gracious introductions to those already present at the party and quick but thoughtful summaries of the discussions that have preceded their arrival.

An increasing number of selections are devoted to authors whose voice is distinctive—not just what they say, but how they say it. For example, Jonathan Safran Foer, the author of *Everything Is Illuminated* (2002) and *Extremely Loud and Incredibly Close* (2005), talks about eating animals and vegetarianism within the context of family life and Thanksgiving. (Foer's undergraduate degree, by the way, was in philosophy.) Edward O. Wilson, the founder of sociobiology, writes a letter to a Southern pastor, exploring overlapping concerns about the environment. David Gelernter, a remarkable computer scientist at Yale, writes about the death penalty as one of the targets of the Unabomber. Sr. Helen Prejean writes about these issues from a different perspective but with an equally distinctive voice, talking of ministering to the families of victims as well as those on death row. Voices, each distinctive, each worth attending to, even when we disagree. I want their words as well as their ideas to shine through from the pages, illuminating our experience, revealing to us the clarity of their own visions.

There are also distinctive voices of philosophers, all the more moving because they describe the intersection of their considerable intellectual expertise with their own, often deeply challenging real-life experiences. Eva Feder Kittay engages in an exchange of letters with her son Leo about the expressivity of genetic testing for disabilities, always in the light of Sessa, the severely disabled daughter and sister who has so profoundly shaped their lives. Susan M. Wolf, after years of thoughtful and probing philosophical work on end-of-life issues, allows us to see how she struggles with the final weeks of her father's dying. "Beyond Mestizaje," Greg Velasco y Trianoski brings a finely textured awareness of race in America together with a philosophical sensitivity that both amplifies and clarifies the voices he discusses, allowing us to see and understand difference in new ways. Again, distinctive voices, irreducible to simple theories.

Others included in this collection are particularly skilled in giving voice to the experiences of others. In a piece from *The New Yorker*, Atul Gawande, one of the most articulate physicians writing today, talks about end-of-life issues and the voices of both patients and doctors who are seeking an answer to the question of what it means to die well. In a piece that appeared in the *New York Times Magazine*, Ruth Padawer helps us to hear the voices of those involved in "reducing" pregnancies from twins to singletons, a type of selective abortion for non-medical reasons that is on the rise. Nancy Sherman, a professor at Georgetown and the first person to hold the Stockdale Chair in Ethics and Leadership at the United States Naval Academy, writes of the moral wounds suffered by soldiers, wounds that often cut deeper than any physical injury they endured, and she brings to her perfect-pitch attunement of one who has long studied the Stoics, Aristotle, and other ancient philosophers.

There are, of course, many other wonderful pieces contained in the following pages as well, including articles by such notable philosophers as Peter Singer, Martha Nussbaum, Michael Walzer, Jeffrey Reiman, Michael Sandel, Thomas Pöggge, Stephen Carter, Jane English, James Rachels, Tom Regan, Luciano Floridi, Jim Moor, Susan Moller Okin, and many others. Some nonphilosophers make the list as well, including Hillary Rodham Clinton and Alan Dershowitz.

This book is user-friendly for students. *Critical introductions* to each chapter provide a conceptual map of the moral terrain to be covered, whereas a short Overview of Ethical Theories helps to specify some of the common issues that arise in each chapter. Each selection is introduced with *prereading questions* to focus the students' attention. *Discussion questions* at the end of each selection are designed to help students develop their own positions on the issues raised, whereas journal questions—in italics—explore more personal issues raised by the readings. A *bibliographic essay* at the end of each chapter highlights key works and points the way to valuable resources for students. A guide about critical reading in philosophy and writing philosophical papers on moral issues is now available on Ethics Updates (<http://ethics.sandiego.edu/guides>). It includes tips on choosing and refining a topic, developing a bibliography, refining arguments, and using counterexamples.

I have retained the *Moral Problems Self-Quiz* at the beginning of this book that surveys your position on a number of issues discussed throughout the book. At the end of each chapter, there is a retest of the relevant questions. Take the initial quiz before you read any of the individual chapters, and then revisit the relevant questions at the end of each chapter. Check your responses against your initial answers and see in what ways—if any—you've changed.

Finally, the integration with the World Wide Web that was begun with the first edition is even more extensive in this third edition. One site now provides support for this book: my own site, Ethics Updates (<http://ethics.sandiego.edu>), continues to provide extensive resources on all the topics covered in this book. These resources are increasingly multimedia and interactive and contain several types of sources. First, continually updated versions of the bibliographic essays in this book will be available online, with references to the latest work in each area. (Earlier versions of the bibliographical essays are also available for reference.) Second, links to numerous Web sites will provide additional resources for the book. For example, the section on abortion contains links to the Web pages of both pro-choice and pro-life groups, and also contains links to the full texts of major court decisions about abortion. Third, there are both PowerPoint presentations and streaming video of some of my lectures and other relevant video material.

This book, like Caesar's Gaul, is divided into three parts. Part One centers around issues of life and death, including *in vitro* fertilization, abortion, euthanasia, the death penalty, and war. Central to this section is the question of the right to life and the sanctity of human life. Part Two deals explicitly with questions of diversity and equality, including issues of race, ethnicity, gender, and sexual orientation. Here one of the central issues is how we balance the recognition of diversity with the demands for community. Part Three turns to a consideration of the boundaries of the moral domain. Morality may begin at home, but how far from home does it extend? Do our moral obligations extend to the poor and starving of other countries? To animals? To the environment? To the virtual world? These four questions provide the basis for the final four chapters of this book.

I wish to thank, first of all, the authors who kindly allowed their work to be reprinted in this book, for their contributions, which form the heart of this work. Moreover, I would like to thank the reviewers for their comments and suggestions for making this a better book; any shortcomings are my own. At Pearson Education, I am especially grateful to Carly Czech, for her patience and support in a project that took longer than either of us anticipated and for Lindsay Bethoney's careful editorial support; to Marcy Schneidewind for her tireless work on permissions, and Kailash Jadli and his team at Aptara for their tireless work on transforming the manuscript into a book. At the University of San Diego, many of my colleagues and the students in my Social Ethics course provided encouragement, insight, and inspiration. Most of all, I would like to thank my wife, Virginia, for her continued love as well as her support. Without her, this book would not have been written.

Finally, I would greatly appreciate comments from readers, both students and professors. Please feel free to write to me either via e-mail (hinman@sandiego.edu) or the old fashioned way to Lawrence M. Hinman, Department of Philosophy, University of San Diego, 5998 Alcalá Park, San Diego, CA 92110-2492. Your comments and suggestions are most welcome.

Lawrence M. Hinman

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UNDERSTANDING MORAL DISAGREEMENTS

We agree about many things in the moral life, and this agreement is often reflected in our laws and social customs. It is wrong to simply shoot and kill someone; no one believes adults should be free to assault and molest children; it's wrong to cheat and lie; spitting in someone's face is a grave insult; humiliating other people just to feel superior is objectionable. We have a wide web of moral beliefs shared by the vast majority of our society.

The issues we will consider in the following chapters do not fall into that category. These are often issues about which people disagree deeply and passionately. Abortion, stem cell research, euthanasia, the death penalty, racism, sexism, homosexuality, welfare, world hunger, animal rights, and environmental issues—all are areas characterized by fundamental disagreements, often intense, sometimes bitter and acrimonious.

This situation is made even more perplexing by the fact that in all of these debates, each side has good arguments in support of its position. In other words, these are not debates in which one side is so obviously wrong that only moral blindness or ill will could account for its position. Genuinely good, well-informed and well-intentioned people find themselves on opposing sides of these issues. Thus, we cannot easily dismiss such disagreements by just saying that one side is wrong in some irrational or malevolent way. Ultimately, these are disagreements among intelligent people of good will. It is precisely this fact that makes them so disturbing. Certainly part of moral disagreement can be attributed to ignorance or ill will, but the troubling part is the moral disagreement among informed and benevolent people.

What kind of sense can we make of such disagreement? Three possible responses deserve particular attention.

MORAL ABSOLUTISM

The first, and perhaps most common, response to such disagreements is to claim that there is a single, ultimate answer to the questions being posed. This is the answer of the moral absolutists, those who believe there is a single Truth with a capital "T." Usually, absolutists claim to know what that truth is—and it usually corresponds, not surprisingly, to their own position.

Moral absolutists are not confined to a single position. Indeed, absolutism is best understood as much as a way of holding certain beliefs as it is an item of such belief. Religious fundamentalists—whether Christian, Muslim, or some other denomination—are usually absolutists. Some absolutists believe in communism, others believe just as absolutely in free-market economics. Some moral philosophers are absolutists, believing that their moral viewpoint is the only legitimate one. But what characterizes all absolutists is the conviction that their truth is *the* truth.

Moral absolutists may be right, but there are good reasons to be skeptical about their claims. If they are right, how do they explain the persistence of moral disagreement? Certainly there are disagreements and disputes in other areas (including the natural sciences), but in ethics there seems to be persistence to these disputes that we usually do not find in other areas. It is hard to explain this from an absolutist standpoint without saying such disagreement is due to ignorance or ill will. Certainly this is part of the story, but can it account for all moral disagreement? Absolutists are unable to make sense out of the fact that sometimes we have genuine moral disagreements among well-informed and good-intentioned people who are honestly and openly seeking the truth.

MORAL RELATIVISM

The other common response to such disagreement effectively denies that there is a truth in this area, even with a lower case "t." Moral relativists maintain that moral disagreements stem from the fact that what is right for one is not necessarily right for another. Morality is like beauty, they claim—purely relative to the beholder. There is no ultimate standard in terms of which perspectives can be judged. No one is wrong; everyone is right within his or her own sphere.

Notice that these relativists do more than simply acknowledge the existence of moral disagreement. Just to admit that moral disagreement exists is called descriptive relativism, and this is a comparatively uncontroversial claim. There is plenty of disagreement in the moral realm, just as there is in most other areas of life. However, normative relativists go further. They not only maintain that such disagreement exists; they also say that each is

right relative to his or her own culture. Incidentally, it is also worth noting that relativists disagree about precisely what morality is relative to. When we refer to moral relativists here, we will be talking about normative relativists, including both cultural moral relativists and moral subjectivists.

Although moral relativism often appears appealing at first glance, it proves to be singularly unhelpful in the long run. It provides an explanation of moral disagreement, but it fails to provide a convincing account of how moral agreement could be forged. In the fact of disagreement, what practical advice can relativists offer us? All they can say, it would seem, is that we ought to follow the customs of our society, our culture, our age, or our individual experience. Thus cultural moral relativists tell us, in effect, “When in Rome, do as the Romans do.” Moral subjectivists tell us that we should be true, not to our culture, but to our individual selves. But relativists fail to offer us help in how to resolve disputes when they arise. To say that each is right unto itself is of no help, for the issue is what happens when they come together.

Although this might be helpful advice in an age of moral isolationism when each society (or individual) was an island unto itself, it is of little help today. In our contemporary world, the pressing moral question is how we can live together, not how we can live apart. Economies are mutually interdependent; corporations are often multinational; products such as cars are seldom made in a single country. Communications increasingly cut across national borders. Satellite-based telecommunication systems allow international television (MTV is worldwide as are several news networks) and international telephone communications. Millions of individuals around the world dial into the Internet, establishing a virtual community. In such a world, relativism fails to provide guidance for resolving disagreements. All it can tell us is that everyone is right in his or her own world. But the question for the future is how to determine what is right when worlds overlap.

MORAL PLURALISM

Let’s return to our problem: in some moral disputes, there seem to be well-informed and good-intentioned people on opposing sides. Absolutism fails to offer a convincing account of how opposing people could be both well informed and good intentioned. It says there is only one answer, and those who do not see it are either ignorant or ill willed. Relativism fails to offer a convincing account of how people can agree. It says no one is wrong, that each culture (or individual) is right unto itself. However, it offers no help about how to resolve these moral disputes.

There is a third possible response here, which I call moral pluralism. Moral pluralists maintain that there are moral truths, but they do not form a body of coherent and consistent truths in the way that one finds in the science or mathematics. Moral truths are real, but partial. Moreover, they are inescapably plural. There are many moral truths, not just one—and they may conflict with one another.

Let me borrow an analogy from government. Moral absolutists are analogous to old-fashioned monarchists: there is one leader, and he or she has the absolute truth. Moral relativists are closer to anarchists: each person or group has its own truth. The U.S. government is an interesting example of a tripartite pluralist government. We don’t think that the president, the Congress, or the judiciary alone has an exclusive claim to truth. Each has a partial claim, and each provides a check on the other two. We don’t—at least not always—view conflict among the three branches as a bad thing. Indeed, such a system of overlapping and at times conflicting responsibilities is a way of hedging our bets. If we put all of our hope in only one of the branches of government, we would be putting ourselves at greater risk. If that one branch is wrong, then everything is wrong. However, if there are three (at least partially conflicting) branches of government, then the effects of one branch’s being wrong are far less catastrophic. Moreover, the chance that mistakes will be uncovered earlier is certainly increased when each branch is being scrutinized by the others.

We have an analogous situation in the moral domain. As we shall see, there are conflicting theories about goodness and rightness. Such conflict is a good thing. Each theory contains important truths about the moral life and none of them contains the whole truth. Each keeps the others honest, as it were, curbing the excesses of any particular moral absolutism. Yet each claims to have the truth, and refuses the relativist’s injunction to avoid making judgments about others. Judgment—both making judgments and being judged—is crucial to the moral life, just as it is to the political life. We have differing moral perspectives, but we must often inhabit a common world.

It is precisely this tension between individual viewpoints and living in a common world that lies at the heart of this book. The diversity of viewpoints is not intended to create a written version of those television news

shows where people constantly shout at one another. Rather, these selections indicate the range of important and legitimate insights with which we approach the issue in question. The challenge, then, is for us—as individuals, and as a society—to forge a common ground that acknowledges the legitimacy of the conflicting insights but also establishes a minimal area of agreement so that we can live together with our differences. The model this book strives to emulate is not the one-sided monarch who claims to have the absolute truth, nor is it the anarchistic society that contains no basis for consensus. Rather, it is the model of a healthy government in which diversity, disagreement, compromise, and consensus are signs of vitality.

A PLURALISTIC APPROACH TO MORAL THEORIES

Just as in the political realm there are political parties and movements that delineate the main contours of the political debate, so also in philosophy there are moral theories that provide characteristic ways of understanding and resolving particular moral issues. In the readings throughout this book, we see a number of examples of these theories in action. It is helpful to look at some of the main characteristics of each of these theories. Just as Republicans and Democrats, liberals and conservatives, libertarians and socialists all have important—and often conflicting—insights about the political life, each of these theories have valuable insights into the moral life. Yet none of them has the whole story. Let's look briefly at each of these approaches.

MORALITY AS CONSEQUENCES

What makes an action morally good? For many of us, what counts are consequences. The right action is the one that produces the best consequences. If I give money to Oxfam to help starving people, and if Oxfam saves the lives of starving people and helps them develop a self-sustaining economy, then I have done something good. It is good because it produced good consequences. For this reason, it is the right thing to do. Those who subscribe to this position are called consequentialists. All consequentialists share a common belief that it is consequences that make an action good, but they differ among themselves about precisely which consequences.

ETHICAL EGOISM

Some consequentialists, called ethical egoists, maintain that each of us should look only at the consequences that affect us. In their eyes, each person ought to perform those actions that contribute most to his or her own self-interest. Each person is the best judge of his or her own self-interest and each person is responsible for maximizing his or her own self-interest. The political expression of ethical egoism occurs most clearly in libertarianism and the best-known advocate of this position was probably Ayn Rand.

GROUP CONSEQUENTIALISM

Few people care only about themselves. Most of us care, not only about ourselves, but also about some larger group as well. In some cases, this may be our immediate family. In other cases, our country. In other cases, those who share our religious beliefs and practices.

UTILITARIANISM

Once we begin to enlarge the circle of those affected by the consequences of our actions, we move toward a utilitarian position. At its core, utilitarianism believes that we ought to do what produces the greatest overall good consequences for everyone, not just for me. We determine this by examining the various courses of action open to us, calculating the consequences associated with each, and then deciding on the one that produces the greatest overall good consequences for everyone. It is consequentialist and computational. It holds out the promise that moral disputes can be resolved objectively by computing consequences. Part of the attraction of utilitarianism is precisely this claim to objectivity based on a moral calculus.

Utilitarians disagree among themselves about what the proper **standard of utility** is for judging consequences. What are “good” consequences? Are they the ones that produce the most pleasure? The most *happiness*? The most truth, beauty, and the like? Or simply the consequences that satisfy the most people? Each of

these standards of utility has its strengths and weaknesses. Pleasure is comparatively easy to measure, but in many people's eyes it seems to be a rather base standard. Can't we increase pleasure just by putting electrodes in the proper location in a person's brain? Presumably we want something more, and better, than that. Happiness seems a more plausible candidate, but the difficulty with happiness is that it is both elusive to define and extremely difficult to measure. This is particularly a problem for utilitarianism because its initial appeal rests in part on its claim to objectivity. Ideals such as truth and beauty are even more difficult to measure. Preference satisfaction is more measurable, but it provides no foundation for distinguishing between morally acceptable preferences and morally objectionable preferences such as racism.

The other principal disagreement that has plagued utilitarianism centers on the question of whether we look at the consequences of each individual act—this is called **act utilitarianism**—or the consequences that would result from everyone following a particular rule—this is called **rule utilitarianism**. The danger of act utilitarianism is that it may justify some particular acts that most of us would want to condemn, particularly those that sacrifice individual life and liberty for the sake of the whole. The classic problem occurs in regard to punishment. We could imagine a situation in which punishing an innocent person—while concealing his innocence, of course—would have the greatest overall good consequences. If doing so would result in the greatest overall amount of pleasure or happiness, then it would not only be permitted by act utilitarianism, it would be morally required. Similar difficulties arise in regard to an issue such as euthanasia. It is conceivable that overall utility might justify active euthanasia of the elderly and infirm, even involuntary euthanasia, especially of those who leave no one behind to mourn their passing. Yet are there things we cannot do to people, even if utility seems to require it? Many of us would answer such a question affirmatively.

FEMINIST CONSEQUENTIALISM

During the past 20 years, much interesting and valuable work has been done in the area of feminist ethics. It would be misleading to think of feminist approaches to ethics as falling into a single camp, but certainly some feminist moral philosophers have sketched out consequentialist accounts of the moral life in at least two different ways.

First, some feminists have argued that morality is a matter of consequences, but that consequences are not best understood or evaluated in the traditional computational model offered by utilitarianism. Instead, they focus primarily on the ways in which particular actions have consequences for relationships and feelings. Negative consequences are those that destroy relationships and that hurt others, especially those that hurt others emotionally. Within this tradition, the morally good course of action is the one that preserves the greatest degree of connectedness among all those affected by it. Carol Gilligan has described this moral voice in her book *In a Different Voice*.

Second, other feminists have accepted a roughly utilitarian account of consequences, but have paid particular attention to—and often given special weight to—the consequences that affect women. Such consequences, they argue, have often been overlooked by traditional utilitarian calculators, supposedly impartial but often insensitive to harming women. Unlike the work of Gilligan and others mentioned in the previous paragraph, feminists in this tradition do not question the dominant utilitarian paradigm, but rather question whether it has in fact been applied impartially.

CONCLUSION: CONSEQUENTIALISM

Despite these disagreements about the precise formulation of utilitarianism, most people would admit that utilitarianism contains important insights into the moral life. Part of the justification for morality, and one of the reasons people accept the burdens of morality, is that it promises to produce a better world than we would have without it. This is undoubtedly part of the picture. But is it the whole picture?

MORALITY AS ACT AND INTENTION

Critics of utilitarianism point out that, for utilitarianism, no actions are good or bad in themselves. All actions in themselves are morally neutral, and for pure consequentialists no action is intrinsically evil. Yet this seems to contradict the moral intuition of many people, people who believe that some actions are just morally wrong,

even if they have good results. Killing innocent human beings, torturing people, raping them—these are but a few of the actions that many would want to condemn as wrong in themselves, even if in unusual circumstances they may produce good consequences.

How can we tell if some actions are morally good or bad in themselves? Clearly, we must have some standard against which they can be judged. Various standards have been proposed, and most of these again capture important truths about the moral life.

CONFORMITY TO GOD’S COMMANDS

In a number of fundamentalist religious traditions, including some branches of Judaism, Christianity, and Islam, what makes an act right is that it is commanded by God and what makes an act wrong is that it is forbidden by God. In these traditions, certain kinds of acts are wrong just because God forbids them. Usually such prohibitions are contained in sacred texts such as the Bible or the Koran.

There are two principal difficulties with this approach, one external and one internal. The external problem is that, although this may provide a good reason for believers to act in particular ways, it hardly gives a persuasive case to nonbelievers. The internal difficulty is that it is often difficult, even with the best of intentions, to discern what God’s commands actually are. Sacred texts, for example, contain numerous injunctions, but it is rare that any religious tradition takes all of them seriously. (The Bible tells believers to pick up venomous vipers, but only a handful of Christians engage in this practice.) How do we decide which injunctions to take seriously and which to ignore or interpret metaphorically?

NATURAL LAW

There is a long tradition, beginning with Aristotle and gaining great popularity in the Middle Ages, that maintains that acts that are “unnatural” are always evil. The underlying premise of this view is that the natural is good, and therefore what contradicts it is bad. Often, especially in the Middle Ages, this was part of a larger Christian worldview that saw nature as created by God, who then was the ultimate source of its goodness. Yet it has certainly survived in twentieth century moral and legal philosophy quite apart from its theological underpinnings. This appeal to natural law occurs at a number of junctures in our readings, but especially in the discussions of reproductive technologies and those of homosexuality. Natural law arguments lead quite easily into considerations of human nature, again with the implicit claim that human nature is good.

Natural law arguments tend to be slippery for two, closely interrelated reasons. First, for natural law arguments to work, one has to provide convincing support for the claim that the “natural” is (the only) good—or at least for its contrapositive, the claim that the “unnatural” is bad. Second, such arguments presuppose that we can clearly differentiate between the natural and the unnatural. Are floods and earthquakes natural? Is disease natural? Either the natural is not always good, or else we have to adopt a very selective notion of natural.

PROPER INTENTION

A second way in which acts can be said to be good or bad is that they are done from the proper motivation, with the correct intention. Indeed, intentions are often built into our vocabulary for describing actions. The difference between stabbing a person and performing surgery on that person may well reside primarily in the intention of the agent.

Acting for the Sake of Duty. Again, there is no shortage of candidates for morally acceptable intentions. A sense of duty, universalizability, a respect for other persons, sincerity or authenticity, care and compassion—these are but a few of the acceptable moral motivations. Consider, first of all, the motive of duty. Immanuel Kant argued that what gives an action moral worth is that it is done for the sake of duty. In his eyes, the morally admirable person is the one who, despite inclinations to the contrary, does the right thing solely because it is the right thing to do. The person who contributes to charities out of a sense of duty is morally far superior to the person who does the same thing to look good in the eyes of others, despite the fact that the consequences may be the same.

Universalizability. How do we know what our duty is? Kant avoided saying duty was simply a matter of “following orders.” Instead, he saw duty as emanating from the nature of reason itself. And because reason is universal,

duty is also universal. Kant suggested an important test of whether our understanding of duty was rational in any particular instance. We always act, he maintained, with a subjective rule or maxim that guides our decision. Is this maxim one that everyone can accept, or is it one that fails this test of universalizability?

Consider cheating. If you cheat on an exam, it's like lying: you are saying something is your work when it is not. Imagine you cheat on all the exams in a course and finish with an average of 98 percent. The professor then gives you a grade of "D." You storm into the professor's office, demanding an explanation. The professor calmly says, "Oh, I lied on the grade sheet." Your reply would be, "But you can't lie about my grade!" Kant's point is that, by cheating, you've denied the validity of your own claim. You've implicitly said that it is morally all right for people to lie. But of course you don't believe it's permissible for your professor to lie—only for you yourself to do so. This, Kant says, fails the test of universalizability.

Notice that Kant's argument isn't a consequentialist one. He's not asking what would happen to society if everyone lied. Rather, he's saying that certain maxims are inconsistent and thus irrational. You cannot approve of your own lying without approving of everyone else's, and yet the advantage you get depends precisely on other people's honesty. It is the irrationality of making an exception of our own lying in this way that Kant feels violates the moral law. We have probably all had the experience of acting in a morally sleazy way, of making an exception for ourselves that (at least in retrospect) we know isn't justified.

Kant's argument captured something valuable about the moral life: the insight that what's fair for one is fair for all. Yet critics were quick to point out that this can hardly be the entire story. Consequences count, and intentions are notoriously slippery. A given act can be described with many different intentions—to cheat on a test, to try to excel, to try to meet your parents' expectations, to be the first in the class—and not all of them necessarily fail the test of universalizability.

Respect for Other Persons. Kant offered another formulation of his basic moral insight, one that touches a responsive chord in many of us. We should never treat people merely as things, Kant argued. Rather, we should always respect them as autonomous (i.e., self-directing) moral agents. Both capitalism and technology pressure us to treat people merely as things, and many have found Kant's refusal to do this to be of crucial moral importance.

It is easy to find examples at both ends of this spectrum. We use people merely as things when we do not let them make their own decisions and when we harm them for our own benefit without respect for their rights. Consider the now infamous Tuskegee experiment, in which medical researchers tracked the development of syphilis in a group of African American men for over 30 years, never telling them the precise nature of their malady and never treating them—something that would have been both inexpensive and effective. Instead, the researchers let the disease proceed through its ultimately fatal course to observe more closely the details of its progress. These men were used merely as means to the researchers' ends.

Similarly, we have all, hopefully, experienced being treated as ends in ourselves. If I am ill, and my physician gives me the details of my medical condition, outlines the available options for treatment (including nontreatment), and is supportive of whatever choice I finally make in this matter, then I feel as though I have been treated with respect. Atul Gawande's selection in the chapter on euthanasia offers a good, real-life example of such respect in the doctor-patient relationship.

The difficulty with this criterion is that there is a large middle ground where it is unclear if acting in a particular way is really using other people merely as things. Indeed, insofar as our economic system is based on commodification, we can be assured that this will be a common phenomenon in our society. To what extent is respect for persons attainable in a capitalist and technological society?

Compassion and Caring. Some philosophers, particularly but not exclusively feminists, have urged the moral importance of acting out of motives of care and compassion. Many of these philosophers have argued that caring about other persons is the heart of the moral life, and that a morality of care leads to a refreshingly new picture of morality as centering on relationships, feelings, and connectedness rather than impartiality, justice, and fairness. The justice-oriented person in a moral dispute will ask what the fair thing to do is, and then proceed to follow that course of action, no matter what effect that has on others. The care-oriented individual, on

the other hand, will try to find the course of action that best preserves the interests of all involved and that does the least amount of damage to the relationships involved.

Many in this tradition have seen the justice orientation as characteristically male, and the care orientation as typically female. (Notice that this is not the same as claiming that these orientations are exclusively male or female.) Critics have argued that such correlations are simplistic and misleading. Both orientations may be present to some degree in almost everyone and particular types of situations may be responsible for bringing one or the other to the fore.

RESPECT FOR RIGHTS

Kant, as we have just seen, told us that we ought to respect other persons. Yet what specific aspects of other persons ought we to respect? One answer, which has played a major political as well as philosophical role during the past two centuries, has been framed in terms of human rights. The Bill of Rights was the first set of amendments to the U.S. Constitution. At approximately the same time, the French were drafting the Declaration of the Rights of Man and Citizen. Concern for human rights has continued well into the twentieth century and the past 40 years in the United States have been marked by an intense concern with rights—the civil rights movement for racial equality, the equal rights movement for women, the animal rights movement, the gay rights movement, and equal rights for Americans with disabilities. Throughout the selections in this book, we see continual appeals to rights, debates about the extent and even the existence of rights, and attempts to adjudicate conflicts of rights.

Rights provide the final criterion to be considered here for evaluating acts. Those acts that violate basic human rights are morally wrong, this tradition suggests. Torture, imprisoning, and executing the innocent; denial of the right to vote; denial of due process—these are all instances of actions that violate human rights. (The fact that an act does not violate basic human rights does not mean that it is morally unobjectionable; there may be other criteria for evaluating it as well as rights.) Human rights, defenders of this tradition maintain, are not subject to nationality, race, religion, class, or any other such limitation. They cannot be set aside for reasons of utility, convenience, or political or financial gain. We possess them simply by virtue of being human beings and they thus exhibit a universality that provides the foundation for a global human community.

Criticisms of the rights tradition abound. First, how do we determine which rights we have? Rights theorists often respond that we have a right to those things—such as life, freedom, and property—that are necessary to human existence itself. Yet many claim that such necessities are contextual, not universal. Moreover, they maintain that there is something logically suspicious about proceeding from the claim that “I need something” to the claim that “I have a right to it.” Needs, these critics argue, do not entail rights. Second, critics have asked whether these rights are negative rights (i.e., freedoms from certain kinds of interference) or positive rights (i.e., entitlements). This is one of the issues at the core of the welfare debate currently raging in the United States. Do the poor have any positive rights to welfare, or do they only have rights not to be discriminated against in various ways? Finally, some critics have argued that the current focus on rights has obscured other morally relevant aspects of our lives. Rights establish a moral minimum for the ways in which we interact with others, especially strangers we do not care about. But when we are dealing with those we know and care about, more may be demanded of us morally than just respecting their rights.

MORALITY AS CHARACTER

It is rare that a philosophy anthology reaches the bestseller lists, and it is even more unusual when that book is a relatively traditional work about character. William Bennett’s *The Book of Virtues*, however, has done just that. Staying on the bestseller list for week after week, Bennett’s book indicates a resurgence of interest in a long-neglected tradition of ethic: Aristotelian virtue theory.

THE CONTRAST BETWEEN ACT-ORIENTED ETHICS AND CHARACTER-ORIENTED ETHICS

This Aristotelian approach to ethic, sometimes called character ethics or virtue ethics, is distinctive. In contrast to the preceding act-oriented approaches, it does not focus on what makes acts right or wrong. Rather, it focuses

on people and their moral character. Instead of asking, “What should I do?”, those in this tradition ask, “What kind of person should I strive to be?” This gives a very different focus to the moral life.

An analogy with public life may again be helpful. Consider the American judiciary system. We develop an elaborate set of rules through legislation and these rules are often articulated in excruciating detail. However, when someone is brought to trial, we do not depend solely on the rules to guarantee justice. Ultimately, we place the fate of accused criminals in the hands of people—a judge and jury. As a country, we bet on both rules and people.

A similar situation exists in ethics. We need good rules—and the preceding sections have described some attempts to articulate those rules—but we also need good people to have the wisdom and good will to interpret and apply those rules. Far from being in conflict with each other, act-oriented and character-oriented approaches to ethics complement one another.

HUMAN FLOURISHING

The principal question that character-oriented approaches to ethics asks is the following: What strengths of character (i.e., virtues) promote human flourishing? Correlatively, what weaknesses of character (i.e., vices) impede human flourishing? Virtues are thus those strengths of character that contribute to human flourishing, whereas vices are those weaknesses that get in the way of flourishing.

To develop an answer to these questions, the first thing that those in this tradition must do is to articulate a clear notion of human flourishing. Here they depend as much on moral psychology as moral philosophy. Aristotle had a vision of human flourishing, but it was one that was clearly limited to his time—one that excluded women and slaves. In contemporary psychology, we have seen much interesting work describing flourishing in psychological terms—Carl Rogers and Abraham Maslow are two of the better known psychologists who attempt to describe human flourishing. The articulation of a well-founded and convincing vision of human flourishing remains one of the principal challenges of virtue ethics today.

VIRTUE ETHICS AS THE FOUNDATION OF OTHER APPROACHES TO ETHICS

We can conclude this section by reflecting once again on the relationship between virtue ethics and act-oriented approaches to ethics. One of the principal problems faced by moral philosophers has been how to understand the continuing disagreement among the various ethical traditions described earlier. It seems implausible to say that one is right and all the rest are wrong, but it also seems impossible to say that they are all right, for they seem to contradict each other. If we adopt a pluralistic approach, we may say that each contains partial truths about the moral life, but none contains the whole truth. But then the question is: How do we know which position should be given precedence in a particular instance?

There is no theoretical answer to this question, no meta-theory that integrates all these differing and at times conflicting theories. However, there is a practical answer to this question: We ultimately have to put our trust in the wise person to know when to give priority to one type of moral consideration over another. Indeed, it is precisely this that constitutes moral wisdom.

ANALYZING MORAL PROBLEMS

As we turn to consider the various moral problems discussed in this book, each of these theories will help us to understand aspects of the problem that we might not originally have noticed, to see connections among apparently unconnected factors, and to formulate responses that we might not previously have envisioned. Ultimately, our search is a personal one, a search for wisdom.

But it is also a social approach, one that seeks to discern how to live a good life with other people, how to live well together in the community. As we consider the series of moral issues that follow in this book, we will be attempting to fulfill both the individual and the communal goals. We will be seeking to find the course of action that is morally right for us as individuals, and we will be developing our own account of how society as a whole ought to respond to these moral challenges.

AN INITIAL MORAL PROBLEMS SELF-QUIZ

Drawing on your current moral beliefs, answer the following questions as honestly as possible. You may feel that these check boxes do not allow you to state your beliefs accurately enough. Please feel free to add notes, qualifications, and so on, in the margins. You will be asked to return to reassess your answers to these questions throughout the semester.

To participate in an online version of this self-quiz, and to see how others have responded, visit the Ethics Surveys section of Ethics Updates (<http://ethics.sandiego.edu>).

- | | <i>Strongly Agree</i> | <i>Agree</i> | <i>Undecided</i> | <i>Disagree</i> | <i>Strongly Disagree</i> | |
|----|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|---|
| | | | | | | <i>Chapter 1: Cloning and Reproductive Technologies</i> |
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <i>In vitro</i> fertilization is morally wrong. |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Any procedure that helps infertile couples to have children is good. |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Embryos frozen and stored in a lab have the same moral status as an embryo in a pregnant woman. |
| 4. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Genetic screen of embryos for diseases (PGD) is morally permissible. |
| 5. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Screening to determine whether your baby will be male or female should be permitted. |

- | | <i>Strongly Agree</i> | <i>Agree</i> | <i>Undecided</i> | <i>Disagree</i> | <i>Strongly Disagree</i> | |
|-----|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|---|
| | | | | | | <i>Chapter 2: Abortion</i> |
| 6. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The principal moral consideration about abortion is the question of whether the fetus is a person or not. |
| 7. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The principal moral consideration about abortion is the question of the rights of the pregnant woman. |
| 8. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The only one who should have a voice in making the decision about an abortion is the pregnant woman. |
| 9. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Abortion should be legal but morally discouraged. |
| 10. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Abortion protesters are justified in breaking the law to prevent abortions. |

-
- | | <i>Strongly Agree</i> | <i>Agree</i> | <i>Undecided</i> | <i>Disagree</i> | <i>Strongly Disagree</i> | |
|-----|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--|
| | | | | | | <i>Chapter 3: Euthanasia</i> |
| 11. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Euthanasia is always morally wrong. |
| 12. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Euthanasia should be illegal at least under almost all circumstances. |
| 13. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The principal moral consideration about euthanasia is the question of whether the person freely chooses to die or not. |
| 14. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Actively killing someone is always morally worse than just letting them die. |
| 15. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Sometimes we have a duty to die. |
| | | | | | | <i>Chapter 4: Punishment and the Death Penalty</i> |
| 16. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The purpose of punishment is primarily to pay back the offender. |
| 17. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The purpose of punishment is primarily to deter the offender and others from committing future crimes. |
| 18. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Capital punishment is always morally wrong. |
| 19. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The principal moral consideration about capital punishment is the question of whether it is administered arbitrarily or not. |
| 20. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The principal moral consideration about capital punishment is whether it really deters criminals. |
| | | | | | | <i>Chapter 5: War, Terrorism, and Counterterrorism</i> |
| 21. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | It is always morally wrong to strike first in a war. |
| 22. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Captured terrorists should be treated like prisoners of war. |
| 23. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Sometimes we must go to war to save innocent people from being killed. |
| 24. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Terrorists should be hunted down and killed. |
| 25. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Torture is always wrong and should be forbidden. |
| | | | | | | <i>Chapter 6: Race and Ethnicity</i> |
| 26. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | African Americans are still often discriminated against in employment. |
| 27. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Affirmative action helps African Americans and other minorities. |

28. Racial separatism is wrong.
29. Hate speech should be banned.
30. We should encourage the development of racial and ethnic identity.

Strongly Agree
Agree
Undecided
Disagree
Strongly Disagree

Chapter 7: Gender

31. Women's moral voices are different from men's.
32. Women are still discriminated against in the workplace.
33. Sexual harassment should be illegal.
34. Affirmative action helps women.
35. Genuine equality for women demands a restructuring of the traditional family.

Strongly Agree
Agree
Undecided
Disagree
Strongly Disagree

Chapter 8: Sexual Orientation

36. Gays and lesbians should be allowed to serve openly in the military.
37. Gays and lesbians should not be discriminated against in hiring or housing.
38. Homosexuality is unnatural.
39. Same-sex marriages should be legal.
40. Homosexuality is a matter of personal choice.

Strongly Agree
Agree
Undecided
Disagree
Strongly Disagree

Chapter 9: World Hunger and Poverty

41. Only the morally heartless would refuse to help the starving.
42. We should help starving nations until we are all at the same economic level.
43. In the long run, relief aid to starving nations does not help them.
44. Overpopulation is the main cause of world hunger and poverty.
45. The world is gradually becoming a better place.

Strongly Agree
Agree
Undecided
Disagree
Strongly Disagree

Chapter 10: Living Together with Animals

46. There's nothing morally wrong with eating veal.
47. It's morally permissible to cause animals pain to do medical research that benefits human beings.

48. All animals have the same moral standing.
49. Zoos are a morally good thing.
50. There is nothing morally wrong with hunting.

*Strongly Agree**Agree**Undecided**Disagree**Strongly Disagree**Chapter 11: Environmental Ethics*

51. Nature is just a source of resources for us.
52. The government should strictly regulate toxic waste.
53. We should make every effort possible to avoid infringing on the natural environment any more than we already have.
54. We owe future generations a clean and safe environment.
55. We should not impose our environmental concerns on developing nations.

*Strongly Agree**Agree**Undecided**Disagree**Strongly Disagree**Chapter 12: CyberEthics*

56. All spam should be outlawed.
57. Hackers only want to cause trouble.
58. Cyberstalking is not really different from regular stalking.
59. There's nothing wrong with downloading music from the Internet.
60. We should ban cyborgs.

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PART ONE

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The Destruction of Human Embryos. Abortion.
Euthanasia. Capital Punishment. War. All involve
killing, sometimes in huge numbers, sometimes on a

much smaller scale. When are we justified in killing? When can killing be done in our name? How do we respond when others kill? In the following five chapters, we address these and other questions of life and death. In abortion, cloning, euthanasia, the death penalty, and war, we are faced time after time with decisions in which lives hang in the balance. Before looking at any of these specific issues, it is helpful to look at the general background issue in all these chapters—the question of the value of life—and the tension between deontological and consequentialist moral theories.

THE VALUE OF LIFE

In the following remarks, we will examine a range of positions relating to the question of whether we can put a value on human life.

THE 9/11 SETTLEMENT AND THE VALUE OF A LIFE

Ken Feinberg knows the value of a human life. In fact, he knows the value of 2,819 lives, the number of people killed in the 9/11 attacks. Feinberg is an attorney who specializes in mediation and dispute resolution, and he was the Special Master of the September 11th Victim Compensation Fund, a program passed by the United States Congress to compensate the families of victims of the 9/11 attacks in exchange for their agreement not to sue the airlines for damages resulting from the 9/11 attacks. The bill was called the Air Transportation Safety and System Stabilization Act (49 USC 40101), and its explicit purpose was to shelter the airlines and their insurance companies from possible bankruptcy if they were sued by the families of victims. A few families refused to accept compensation and forgo law suits, either believing the proffered settlements were too low or wanting to uncover more details about anti-terrorist screening prior to the attacks. Feinberg worked tirelessly (and *pro bono*, without pay, it is worth noting) for almost three years with the families of victims, trying to negotiate settlements to everyone's satisfaction. Faced with a difficult and unenviable task of establishing the value of each individual life lost in the attacks, Feinberg developed some general rules based on the potential earning power of each individual who was killed in the attacks, dispensing over \$7 billion to victims' families, with an average compensation of \$1.8 million per family. The families of those who were younger and had greater earning power received higher compensations, and the families of older victims with less future potential earning power received proportionately lower compensation.

What is a human life worth? Is it worth less as we get older? Is the life of a hedge fund manager worth more than that of a janitor? Many of us want to recoil at the very question, unwilling to place a price tag on human beings. Others may say that we do this all the time, and insurance is just one of the many ways in which this happens. Yet others may point to the 9/11 settlements and deny that the Victims' Compensation Fund puts a value on human life; instead, it places a value on the loss that the families experience, a loss that has a financial dimension as a part of a much larger picture.

KANT ON HUMAN LIFE AS PRICELESS

Immanuel Kant, one of the most influential moral philosophers of modern times, said in his *Groundwork of a Metaphysics of Morals* that human life is priceless. It is important to understand precisely what Kant means by this claim and why he believes what he does. Then we will turn to the question of whether Kant's position can be defended in a way that is independent of accepting his overall philosophical position.

In saying that human life is priceless, Kant is drawing a contrast between things that have a price and that which has dignity. Kant's universe is divided (from a moral point of view) into two classes of entities. The first of

these are things that can properly be bought and sold. A car, a book, a piece of land, an airline ticket—all of these are objects that can be bought and sold. This is what it means to *have a price*. Some translate Kant's claim as "to have a market price." The market price is the amount of money that an object fetches on the open market.

Before turning to a discussion of human beings, Kant notes that some objects have a different kind of price. Consider objects to which we have an emotional attachment. For example, a couple may have exchanged wedding rings when they got married. Prior to the ceremony, they purchased the rings from a jeweler, paying the market price. Imagine them twenty-five years later. The rings still have a market price, equivalent to what they would cost on the open market. Yet in addition to this, they have what Kant calls an *affective price*, that is, they are objects to which we have an emotional attachment. In contrast to the market price, the affective price is specific to the individuals involved. A jeweler will purchase the rings from them at the market price, but no one except the couple has an affective connection to these rings and thus they have an affective price only to the persons involved. That affective price is, however, one that does not easily translate into market price, even for insurance purposes.

Let me add a distinction to Kant's discussion that may be helpful. Lawyers and others draw a distinction between things which are fungible and things which are not. An object that is fungible is one that can be replaced by another object of equal value and nothing is lost. A dollar bill is a perfect example of a fungible object: one dollar bill can be replaced by any other dollar bill, and nothing is lost (or gained, for that matter). We live in a world in which there are many fungible objects, things that can be exchanged one for another without any loss. We might have a bunch of cheap ballpoint pens, each identical to the others. They are fungible.

Human beings are not fungible. They cannot be exchanged, one for another. They are not mere objects which have a price. People such as Feinberg may compensate family members for the loss of a loved one, but they are not gaining a replacement. Nothing can replace the deceased person because *human beings are not replaceable*. This is Kant's key insight. Human beings are not the kind of thing that can be replaced, exchanged one for the other. They are not fungible. To put a price tag on them is to make a category mistake, to attempt to apply a characteristic that is simply inapplicable.

Consider this analogy in order to understand what we mean by a category mistake. Take a painting such as Van Gogh's "Starry Night." There are many things we can say about the painting that describe Van Gogh's use of color, the brush strokes, etc. But we cannot say that the painting is *noisy*. Why? Certainly not because it is silent; rather, it is because that spectrum of possible predicates—"noisy," "loud," "quiet," "silent," etc.—does not apply to painting. To try to make them apply, except in a metaphorical sense, is to commit a category mistake. Human beings are "priceless" in the sense that they are outside the spectrum of things to which the language of prices properly applies.

Why, according to Kant, are people priceless? Let me try to answer this question in a language less technical than what Kant uses and more accessible to most of us. (My apologies to Kant scholars everywhere.) Human beings, Kant suggests, are *the authors of their own lives* in a way that no other kind of being is. Actions *originate* from us in a way that is not true of any other kind of being on earth. (It should be noted that Kant, in keeping with the views of his day in Prussia, did not have a very sophisticated view of animals, their cognitive abilities or their moral status.) For all other kinds of beings, their output can be reduced to their input. The motion of a billiard ball on a pool table is nothing more than the sum of the impacts it receives from other balls and the cue. Nothing comes from the ball itself that is not already input to the ball from external sources. The billiard ball does not originate motion. It is not a source of action. It is not an agent.

Human beings, on the other hand, are agents. They are the authors of their own actions, the authors of their own lives, in a way that is not true of other kinds of beings. They cannot be reduced to the sum of the forces that act upon them. They are primordial sources of agency in the world. In ways that we cannot explore here, they are outside the chain of cause and effect that governs the rest of the natural world.

AGENCY AND THE GOOD WILL

It is precisely this sense of agency that is awe-inspiring to Kant, for it is like nothing else in the universe. It arises out of the network of natural cause and effect as a surd, a radical element that is irreducible to the factors that

contributed to it. It is uniquely human and almost divine—certainly there is nothing else like it in the natural world. It is closer to God’s creative activity in making the universe than it is to the causally determined motion of billiard balls. It is radically *other* than the natural world.

This agency is not chaotic or formless in Kant’s eyes. In fact, what Kant respects in human beings is not the mere fact that they are the authors of their own lives, but that they can be a particular kind of author: they are capable of writing the story of their own lives in accord with the moral law. They are uniquely capable of giving the moral law to themselves, of both articulating their moral obligations and imposing them on themselves. Thus human beings are not only authors of their own lives, they are also the authors of their own morality.

It is important at this juncture to avoid a possible misunderstanding when we see a phrase such as “authors of their own morality.” For many, that might imply some kind of moral relativism, suggesting that each of us can write the laws of morality in the ways that suit us best. Nothing could be further from the truth in Kant’s eyes. We all—and this is the crucially Kantian point—have to write the moral law in the same way. In other words, we have to write the moral law in such a way that it applies equally to all rational beings, to all human beings. Human beings, to use another of Kant’s formulations, are self-legislators, that is, they give the law to themselves. Far from being something external to them, the moral law comes *from within*.

KANT, RESPECT, AND NOT USING PERSONS AS A MERE MEANS

It is precisely this capacity for agency, the ability to give the moral law to oneself and then to follow that law, which both makes human beings unique in the world and which Kant says ought to be the object of our respect and even awe. Just as we might stand in awe of some tremendous natural phenomenon such as Niagara Falls or the beauty of the stars in the desert on a cloudless night (or those depicted in Van Gogh’s “Starry Night”!), so too we stand in awe or reverence toward the human will, of its authorship of actions that sets it apart from everything else on the planet. It is this free will that gives human beings their moral status, which is the foundation of human **autonomy**. Indeed, the etymology of the word “autonomy” captures perfectly this Kantian insight. “Autonomy” comes from the Greek words for “self” and “law,” and it refers to the uniquely human ability to give the moral law to oneself. Human beings are not merely free in the negative sense of not being determined by causal forces in the natural world; they are free in a more profound sense, in the sense that they are able to give the moral law to themselves. In other words, they are *autonomous*.

Because human beings possess this unique ability to give the moral law to themselves, we must treat human beings in a unique way, in a way that is different from how we treat everything else in the world. Our treatment of human beings must be appropriate to the kind of beings they are, to the fact that they are authors of their own lives. We cannot treat human beings as mere things, as objects to be manipulated. Thus one version of Kant’s fundamental law of morality: *never treat human beings merely as a means, but always also as ends in themselves*. Recognize and respect their authorship of their own lives.

Kant’s imperative about respect constrains the ways in which we are permitted to treat other persons, and this has important implications for the topics discussed in the following five chapters. Consider, for example, the issue of punishment. Kant is what is generally called a **retributivist**, that is, he sees punishment as justified primarily as a “paying back” or retribution for the offense committed. We are never, Kant argues, entitled to punish an innocent person in order to make an example of the person to deter others. Punishment may also have a deterrent effect, but it cannot be administered *solely* on the promise of deterrence. This is in accord with Kant’s general stance: it is morally permissible to use people in part as a means, but never *solely* as a means. Thus, for example, we might become friends with someone who can also help us in our career, and this is morally permissible for Kant as long as we also independently value the person’s friendship. If, however, we are becoming friends solely in order to advance up the corporate ladder, then this violates Kant’s imperative about not using other persons as a mere means.

Kant’s position forbids using other people as a mere means, and this principle has important implications in the area of bioethics. In the United States, the government conducted research for decades on black men in the South who had syphilis, not telling them that they had the disease and doing nothing to cure it. They simply tracked the progression of the disease in order to better understand its development. These experiments—known as the Tuskegee Syphilis Experiment—continued into the early 1970s. They were a clear violation of

patient autonomy, denying to patients both knowledge about their condition and treatment of it. This Kantian criticism of those experiments also points the way toward what we need to do in such situation, namely, to provide research subjects with the conditions necessary for **informed consent**. We can treat lab rats and guinea pigs as mere objects (at least according to some people), but it is morally forbidden to treat human beings in the same way because human beings possess autonomy.

Despite his deep respect for human beings, Kant did not believe that we could never kill human beings. He supported capital punishment as a just retribution for the taking of a human life. He was not a pacifist and did not oppose war in all of its forms. Thus Kant's respect for life was deep and unwavering, but it did not lead to an absolute prohibition against taking human life under any circumstances.

THE SANCTITY OF HUMAN LIFE AND CARDINAL BERNARDIN

For some, respect for human life yields more radical conclusions, conclusions that require us to change many of our current practices. In its strongest version, which forbids all killing of human beings and in some forms the killing of animals as well, it is often supported by a religious framework. Indeed, when we see references to the *sanctity* of human life, we can infer that this is a discussion from a religious perspective.

One of the more powerful examples of this position was first articulated by Joseph Cardinal Bernardin, the long-time Catholic cardinal of Chicago. Bernardin developed the notion that respect for life was a “seamless garment,” respect for life is a single fabric and it is not possible to extract one portion without all the rest. While a key component of Bernardin's position was opposition to abortion, it was part of a more general opposition to all forms of killing humans, including capital punishment, war, and active euthanasia. Bernardin's position was firmly rooted in Catholic social teaching, but it stood out as an extraordinarily strong and powerful statement of that tradition in the contemporary world. Moreover, the deep consistency of the ethic extended itself beyond matters of life and death. In contrast to many public figures who decry abortion but seem uninterested in the welfare of the fetus once it is born, Bernardin presents a consistent ethic of life that shows a deep concern with poverty, especially poverty conjoined with the impact of racism.

For Bernardin, this deep respect for life was grounded in a faith in God. To say that each individual has an immortal soul is to talk about the soul as if it were an add-on, something given to an individual along with other items upon entry into this world. There is another way to think about the notion of a soul which may be more illuminating: to say that an individual has a soul is to say that he or she is a child of God, that he or she stands in a relationship with God, a relationship of love and care. It is precisely because of this relationship that individuals are owed respect within this framework and way of life. Here, I think, is the secret of Bernardin's position: he is not simply saying that it is wrong to kill people. He is saying it is wrong not to love people, first and foremost, and we refrain from killing as a by-product of that love. In fact, even this way of expressing his message distorts it by emphasizing the negative, by beginning with “It is wrong . . .” Here is a more adequate formulation of Bernardin's position: Love people, and then you won't abandon them or kill them.

It is also worth noting that Bernardin did not have a monopoly on this notion of the sanctity of human life. We find it among other great leaders as well, including Gandhi and Dr. Martin Luther King, Jr. It is first and foremost a message of the fullness of spirit, a fullness from which all else follows. It is also a message of almost all pacifists, those who eschew killing other humans, no matter what the circumstances.

INNOCENT HUMAN LIFE

In addition to those who maintain that we should never kill human beings under any circumstances, there are many others who espouse a more moderate position, claiming that we should never kill *innocent* human beings. For many, respect for the lives of others dwindles quickly in the face of threats and danger from those others, and killing in self-defense seems eminently defensible to many. Thus wars, or at least wars of self-defense, become morally permissible. So, too, for many the *lex talionis*, the law of an eye for an eye, should make murders liable to a punishment

proportionate to their own offenses. Killing in the service of self-defense or even in retribution for capital offenses meets the requirements of morality for many. For those who advocate this position, morality is still deontological, rule-oriented, but now the rule has changed from “Never kill human beings” to “Never kill innocent human beings.”

DEONTOLOGICAL AND CONSEQUENTIALIST APPROACHES

In the area of life and death decisions, we see most clearly the stark contrast between deontological and consequentialist approaches to the moral life. The deontologist tells us to follow certain moral rules, and the rationale for this is not dependent on the consequences. In our discussion of Bernardin’s position, the strongest version of the deontological position that we have seen so far, the deontologist maintains that we should not kill any human beings at all. In the slightly weaker version that we have just considered, the deontologist tells us that we should refrain from killing any human beings who are not innocent. In Kant’s version of this, the rule is that we must always treat persons as ends in themselves, never merely as a means to an end. Thus all three of these positions claim that we ought to follow the rules of the moral life, but they differ significantly among themselves about what those rules are.

In contrast to these two approaches, the consequentialist maintains that matters of life and death, just like other matters, are ultimately to be judged in terms of the consequences alone. Indeed, we often think about matters of life and death in precisely these terms, even if we do not necessarily acknowledge them as such. Take a simple example: speed limits. When the speed limit was reduced to 55 mph nationally during the oil crisis in 1973, we found that traffic fatalities decreased. In 1995, the federal government again allowed individual states to set their own speed limits at 65 mph on rural limited access roads. The result was an overall increase of 3.2 percent in traffic fatalities, with a much higher rate on rural highways. A 2009 study estimates that 12,545 deaths and over 36,000 injuries are related to the higher speed limit during a ten-year period.

Would we be willing to reduce speed limits to 55 mph if doing so would save thousands of lives over the next decade? It’s important to note that the lives saved may, at least in some cases, be “innocent” drivers who in fact were observing the lower speed limit. Those who died were not necessarily those who driving the fastest. Despite all this, many Americans would be unwilling to make the trade-off. And what would happen if we could save even more lives by reducing the limit to 50 mph? 45 mph? It is easy to imagine that many would revolt, refusing to drive more slowly. After all, it would cost a lot in terms of time alone, even if it would save in terms of fuel. The point the consequentialist wants to make here ultimately has nothing to do with speed limits in particular. It is simply that we make trade-offs all the time, and often they involve innocent lives.

STEM CELL RESEARCH: CONSEQUENTIALISM VS. DEONTOLOGY

Human embryonic stem cell research is one of the areas in which the tension between deontological and consequentialist perspectives is most pronounced. A number of prominent thinkers have criticized human embryonic stem cell research because, in the process of creating the stem cell lines that scientists use in their research and therapy, human embryos are destroyed. Although some progress has been made on devising methods of deriving these pluripotent cells in ways that are not destructive to embryos, the gold standard of human embryonic stem cell research is still found in the lines derived directly from human embryos that are destroyed in the process. Those who oppose such research argue that, just as we are not morally justified in killing newborn babies for the purpose of research, we are not justified in destroying human embryos for research purposes, no matter how many lives might eventually be saved through such research. Thus we seem to have a clear clash between deontological and consequentialist perspectives.

The consequentialist, however, has yet another argument to add to the discussion: these embryos, if they are not used for stem cell research, will be destroyed anyway. The embryos to be used for stem cell research as those that remained after they were originally created as part of the fertility treatment. Typically, doctors harvest more eggs (after a regime of hormone therapy) in order to avoid putting the woman through an invasive surgical procedure for each cycle of IVF. If they are not used for stem cell therapy, the remaining embryos are typically destroyed. Thus the consequentialist case becomes stronger, at least on its own (consequentialist) ground. How,

consequentialists ask, is the world a better place because we have destroyed these eggs instead of using them—with proper consent—for stem cell research that may alleviate great human suffering?

This disagreement between deontologists and consequentialists reveals another dimension to such disputes generally. To be sure, this is a dispute between rule-based moralities and consequence-based ones. But it is also a dispute *within* deontology about the application of the rule. Some maintain that it is perfectly consistent to accept a rule such as never kill innocent human beings and still make use of donated human embryos at the blastocyst stage because those embryos do not yet qualify as human beings. Defenders of this position will point to Thomas Aquinas, one of the foremost theologians of the Catholic Church, and his claim that ensoulment (the infusion of an immortal soul) does not occur in human beings until the point of quickening. Critics of this argument will point out that, although Aquinas was an amazing theologian, he was not a formidable biologist. Indeed, the general principle on which his view about the soul is based, the doctrine of hylomorphism, claims that the bodily matter can only receive the human soul after it has reached a certain level of complexity, a level that occurs around the third month. (The embryos used for stem cell research are around five days old.) Yet, with the advent of DNA, we now know that even at the moment of conception, the genetic blueprint is present for all that will follow.

CONSEQUENTIALIST CONSIDERATIONS ABOUT END-OF-LIFE CARE

One of the areas in which the tension between deontological and consequentialist perspectives emerges most clearly is in end-of-life care. It is easy to imagine, and perhaps some of the readers of this book have seen this themselves in their loved ones' last weeks of life. Death is near, and it is certain that it will occur within a matter of days. The intervening days, however, promise to be painful at best, excruciating at worst. However, doctors can control this pain, albeit at a cost: the patient can be terminally sedated, which means that the patient will never wake up and will not experience any pain. Moreover, nutrition and hydration can be withdrawn, with the inevitable result that after a few days, the patient will die—painlessly, unaware of what is happening. This is legal in the United States.

What is not legal, and what is also considered a violation of the American Medical Association's code of ethics, is for the physician to administer a lethal dose of some sedative that would immediately end the patient's life. (It is permissible to administer increasingly strong doses of pain medication, even realizing that this will hasten death; I'll discuss that later.) To do this is to cross a line that deontologists maintain should never be crossed: a physician should never intentionally kill a patient.

I've talked personally with many physicians over the years directly about this issue, and it is clear that it is not a mere technicality in their eyes. The prohibition against acting in order to end of the life of a patient is absolute for them, and it is important to understand the way in which this is so. Many feel that they went into medicine to save lives or, failing that, at least to reduce people's suffering. They did not go into medicine to intentionally end lives, to kill people. This is a core part of their professional identity. They don't even necessarily object to some other physician doing this, though in some cases they have. What's crucial is that such an action just cannot be part of their identity as a physician. In effect, they say, "That's just not who I am as a doc."

This reveals an interesting and sometimes neglected dimension of the deontological position: fundamental rules may be closely tied to professional roles, rather than to our identity as human beings. These professional identities are to some extent malleable and culturally specific, but it is clear that for many people the core rules that are at the center of their professional mission are inviolable. It is not a matter of consequences, it is a matter of who you are.

These examples already hint at two general issues that will arise throughout the following chapters, and they are issues about which deontologists and consequentialists differ significantly. The first relates to the distinction between killing and letting die, and the second to what is called the principle of the double effect.

KILLING AND LETTING DIE

On the surface, the distinction between killing and letting die seems straightforward and unproblematic. One is active, the other passive. In one case, you actually kill someone; in the other, something else—perhaps the disease—kills the person. You simply stop trying to prevent it from happening.

We see this scenario time after time in intensive care units around the country. Some is critically ill. We fight to save the person's life, using whatever miracle tools of modern medicine are at hand. At some point, we decide that we cannot win. (Can we ever win?) And at that point, we switch to what is called palliative care, trying to make the patient as comfortable and lucid as possible, as psychologically present to his or her loved ones as is possible within the confines of managing the patient's pain. We let people die, but we do not kill them. The disease kills them. We just stop fighting the disease.

Consequentialists question this distinction both in terms of its conceptual clarity and its moral relevance. They argue, first of all, that the outcome is often the same: the patient is dead, and we let the patient die by no longer fighting the disease. What's the difference between killing and letting die if the outcome is the same? In fact, what if the outcome is the same (death) but in letting die, we allow the patient to suffer much more than would have been the case if we had practiced active euthanasia? In other words, the outcome is the same, but one path to that outcome involves much more pain than the other. Consequentialists ask: why is that morally preferable? Shouldn't we choose the path that causes the least pain, all other things being equal?

This issue will recur throughout this book in a wide range of different scenarios. In the discussion of world hunger, for example, Peter Singer will ask us what the moral difference is between killing someone and merely letting them die when we could—with little inconvenience or cost to ourselves—save the person's life. For those of us in highly industrialized countries such as the United States giving up a minor luxury could be the price of saving the lives of an entire family in certain regions of the world. The key issue here will be the moral significance of intentions and whether consequences tell the whole story from a moral point of view.

THE PRINCIPLE OF DOUBLE EFFECT

The other issue that recurs continually in the discussion of matters of life and death is what has been called the principle of the double effect. It's most easily illustrated through the following example. A pregnant woman is diagnosed with an aggressive case of cervical cancer. If her doctors want to get rid of the cancer, they have to remove it surgically and then probably follow this up with either radiation therapy or chemotherapy. The surgery will inevitably also destroy the life of the fetus. Thus the termination of the pregnancy is a foreseeable but unintended result of the surgery. If you believe that abortion is morally wrong, is it permissible to perform the surgery?

The standard answer to this question in traditional Catholic theology is that the surgery would be morally permissible because it was not being done *in order to* effect an abortion. It was being done in order to remove the cancerous growth. The termination of the pregnancy is a foreseeable but unintended consequence of the surgery. There is no other way to achieve the goal of removing the cancerous growth, and that goal is appropriately weighty: without the surgery, the woman will die. This is not some trivial bit of unnecessary cosmetic surgery, but a life-saving operation. Finally, it is important to note that the good effect—the removal of the tumor—does not occur *as the result of* the bad effect (the abortion). In other words, the elimination of the cancer is not the result of the abortion. Rather, the causal chain runs in the other direction.

An example such as this will cause consequentialists to pull their hair out. How, they ask sometimes in exasperation, does it make any difference what is intended? The fetus is just as dead either way. The principle of double effect, they argue, may make people feel better, but it has no *moral* significance.

This same principle recurs in other contexts as well. In some end-of-life scenarios, physicians often administer increasingly strong doses of morphine to control pain, knowing that one of the inevitable but unintended effects of the increased dosage will be to shorten the patient's life. Military commanders often order attacks on enemy command centers, knowing that inevitably some civilians will die as "collateral damage." What these and other cases highlight is a central moral question that divides consequentialists from deontologists: *what is the moral significance of intentions?* For deontologists, the correct moral intention is crucial; for consequentialists, it is of little or no significance.

KANT AND CONSEQUENCES

In the preceding discussion of the cancer surgery that resulted in the termination of a pregnancy, we noted that one of the conditions necessary to the principle of double effect is that the good consequence not be the direct result of the bad consequence. Instead, the causal chain has to go in the other direction, and our direct action has to be aimed at the good consequence (in that example, removing the cancerous tumor). What difference does it make, since the outcome is the same in either scenario?

Immanuel Kant, perhaps the greatest deontological thinker of all time, makes an interesting suggestion in this regard. Imagine a case of lying to protect someone from harm. Let's say that the Gestapo is hunting down Jews who are hiding in your attic. They come to your door, looking for Jews to arrest and deport to the camps, where they will probably die. You say, "There are no Jews here. I saw them fleeing down the street." The Gestapo follows your lead, going down the street and by chance finding some other Jews who were trying to elude capture. Kant's claim is that, by virtue of our lying, we bear a responsibility for the fate of the captured Jews that would not fall on our shoulders if we had not lied. Once we begin to participate in an evil chain of events, we become implicated in a way that would not have occurred if we had done the right thing. If we had not lied to the Gestapo and they found the Jews hiding in our attic, we would not be morally responsible for what happens to them—the Gestapo would. It's as though, in Kant's world, there are two causal chains, one a chain of goodness and the other a chain of evil. Once we cross over from goodness to evil, we are implicated in the entire set of events issuing from our choice, even if we do not directly choose them.

Consequentialist critics of Kant's position denounce him for his aspirations to moral purity and they criticize him as sanctimonious, pretending to a moral purity that is purchased at the price of the suffering of others. If Kant were genuinely concerned with the welfare of the Jews being hunted by the Nazis, he would do everything in his power—including lying—to protect them from injustice and death. Instead, his critics argue, he keeps his hands clean by letting others die so that he can live a life without moral compromise.

THE PROBLEM OF "DIRTY HANDS"

The discussion of this issue takes us to the core of a central problem in the moral life: to what extent should we compromise our own moral convictions, our personal moral integrity, for the sake of a greater good? Consider the problem that national leaders often confront: to what extent should they cooperate with a corrupt foreign power in the hope that eventually this will lead to a better world? If they refrain from such cooperation and innocent people die as a result, is the responsibility for those deaths at least partially upon their shoulders? Or, if they cooperate and some die anyway, are they now complicit?

Although the discussion of this issue stretches at least all the way back to Machiavelli, the contemporary moral and political philosopher who has brought it most sharply into focus is Michael Walzer, whose work on just war theory and humanitarian intervention we will examine in the chapter on the ethics of warfare. Are we ever justified in doing something immoral in order to prevent a much greater moral catastrophe? Walzer returned to this problem over a course of decades, increasingly raising the threshold for what might justify this suspension of ordinary morality. In his earlier work, it seemed that the kind of "supreme emergency" that could trigger such a situation could involve saving the lives of a few hundred troops—not a trivial matter at all, but modest compared to his later position, which allows justification only when it is necessary to save an entire people from extermination or a country from falling.

We will see this issue recur in the chapter on the morality of war, especially in the discussion of torture. Is torture ever justified? It is certainly a case of getting your hands dirty. In Walzer's earlier work, it might be justified to thwart a major enemy attack; in his later work, it would be justified only if it prevented the destruction of a nation or the elimination of a whole people. Thus torture in the cause of the prevention of genocide would presumably pass the test, whereas torture to prevent a small attack on innocent civilians would not.