

A NATURAL LAW APPROACH TO TEACHING VALUES

by

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A thesis submitted to the
University of Birmingham
for the degree of
DOCTOR OF PHILOSOPHY

Department of Philosophy
College of Arts and Law
University of Birmingham
September, 2011

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Abstract

The teaching of values to youth in contemporary societies is more problematic than ever before. Globalisation, technological change, the decline of belief systems, and the breakdown of the family have created an environment where people fear that character education may impart values to children which conflict with their own. Natural law holds the potential to identify basic values which almost all can embrace. Some believe Hume's Guillotine has rendered natural law reasoning invalid. The perceived objections to ethical naturalism of Hume, Moore, and Mackie are herein shown to pose no significant obstacles to natural law thought. A contemporary form of ancient natural law reasoning is advanced here; it is then combined with a uniquely simple and practical approach to pedagogy. This pedagogy is shown to have exceptional motivational power. The ability of the form of natural law reasoning here set forth to deduce prescriptivity from the natural world is then demonstrated, using the area of reproductive and gestational health in order to give an instantiation of legitimate derivation of values from facts. This ethical reasoning and teaching strategy will likely be approved by those who would otherwise object to children being taught values while at school.

I would like to dedicate this thesis to my wife Deborah Johnson for her patience, support, and help throughout the entire process, to my dear friend and writing coach Rosalie Williams for her encouragement, editing, and oversight of my work, to my supervisor Iain Law for his wise and subtle style of supervision, and to the congregation of Pittsfield First Baptist Church for releasing me to pursue this project.

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This is an era of globalisation. Advances in communication, information services, and travel bring peoples and cultures previously separated by great distances into regular contact. Among the peoples of earth there is a great diversity of understandings and convictions regarding many aspects of life. Consequently, those with different faiths, varying conceptions of the world and the place of human beings in it, and different economic and governmental philosophies are more and more frequently interacting with each other. The drive to discover a broad-based way of addressing morality in this pluralistic era arises from the realisation that the different values and understandings which people hold have the potential to engender conflict and confrontation.

In addition to the global scene, the national, regional, and local situations within particular countries can also be quite diverse. The countries of the West tend to have great racial diversity within their borders. In the wake of the Enlightenment, the Industrial Revolution, multiple scientific revolutions, two World Wars, and exponential changes in technology, overarching belief systems that have held sway for centuries have been slowly and steadily losing ground. These belief systems typically have spoken to ethical issues and were upheld by families and public and private institutions. In the wake of so many changes in such a short time span, the inculcation of ethical understandings and values previously imparted from early childhood has declined.

In the West, Christianity was previously the majority religious belief. Today, Christian, Jewish, Muslim, Buddhist, Hindu, Pagan, and New Age religious groups struggle to retain a place of influence in their adherents' lives. Media and science often exercise more influence upon peoples' lives than do spiritual institutions. Each of these

belief systems has its own general understanding of the world and the place of human beings in it. Though religion's cultural influence is diminished in today's world, the variety of religious groups adds to the complexity of the ethical milieu.

The breakdown of the family and home environment in many developed countries has created an historically unprecedented time in which many of the young no longer experience the inculcation of moral values which were imparted to previous generations by the family. In the case of the United States, educational institutions are not permitted to speak freely into this ethical vacuum. Apart from ideas such as respect of others and responsibility for oneself, which most can agree are benign and safe concepts, there are really no ethical imperatives or prohibitions that are being systematically instilled in the young (Lickona, 1991, pp. 24-29 and Etzioni, 1993, pp. 4-11). Educators find their situation ethically restrictive because citizens from a diverse range of perspectives, holding divergent convictions, are concerned about *whose* values children will be taught. People fear that taboos with which they do not agree will be imposed on their children or that tolerance of behaviours of which they disapprove will be encouraged.

Due to these different factors, a global ethic may seem unattainable. Human societies and cultural groups are simply too fragmented; there are too many frames of reference, too many differing perspectives for any hope of ethical unanimity. The need of this time is a means whereby to give people from these various perspectives equal ethical footing without minimizing or trivializing the beliefs of any. The claim being made here is that, at least as regards the ethical instruction of youth, there may be a way to bypass much of what divides people from one another. Simone Weil states:

Education – whether its object be children or adults, individuals or an entire people, or even oneself – consists in creating motives. To show what is beneficial,

what is obligatory, what is good – this is the task of education. Education concerns itself with the motives for effective action. For no action is ever carried out in the absence of motives capable of supplying the indispensable amount of energy for its execution. (Weil, 1952, p. 190)

I.1

Beginning With an Axiom

If the well-being of human life is not a worthy motive for those being instructed in virtue, then nothing is. Perceiving human life as valuable and working for its well-being seems the most basic of ethical motivations. What is proposed here toward that end is an axiom that all but a very few should find acceptable. It is as follows: “Human life is a great good; because human life is a great good, all humans should work for the well-being of themselves and others.” Obviously, this axiom needs practical clarification; however, it is the beginning point of the ethics herein proposed. Those who embrace it have, when informed by the understandings of science and other disciplines regarding what is necessary for the thriving of human life, a minimal basis upon which to reason ethically across cultures and faiths. From this shared standpoint, basic ethical principles with universal appeal can be identified. Acknowledging the goodness of human life should be philosophically acceptable across the broad spectrum of human beliefs, philosophies and worldviews. Philosophers and religious leaders have spoken with surprising unanimity across time and space regarding the uniquely valuable nature of human life (Stackhouse and Obenchain, 2002, p. 34). Holding this position are philosophers as diverse as Plato, Aristotle, the Stoics (e.g. Marcus Aurelius and Epictetus), Augustine, Descartes, Spinoza, Pascal, Locke, Leibniz, Rousseau, Kant and Hegel (Adler, 1993, p. 54). With the possible exceptions of Nihilism, certain darker forms of Existentialism, and some extreme animal rights groups, which taken all together

are a statistically negligible section of the human population, most people at all times and in all places have held life to be a good, and human life to be a great good.¹

I.2 *Gauging Well-Being*

The thought process behind the particular approach being used here is one based on design. It is a teleological or ends-based strategy but not of a Consequentialist variety. The evolutionist and creationist, the atheist and theist, the liberal and conservative should all be able to agree about the design of the human organism. It should be apparent that certain factors facilitate human thriving, whilst others work against it.

...the list of obligations toward the human being should correspond to the list of such human needs as are vital, analogous to hunger. Among such needs, there are some which are physical, like hunger itself. They are fairly easy to enumerate. They are concerned with protection against violence, housing, clothing, heating, hygiene and medical attention in case of illness. There are others which have no connection with the physical side of life, but are concerned with its moral side...They form, like our physical needs, a necessary condition of our life on this earth. (Weil, 1952, p. 7)

Using a practical reasoning process such as Weil suggests, my intention is to furnish minimal moral content by means of identifying basic human needs. My proposal is to use an already existing framework of the needs for human well-being. The framework is furnished in *Well-Being: Positive Development Across the Life Course*, (Bornstein, et. al., 2003) which Bornstein describes as:

...the first scientific book to consider well-being holistically, integrating physical, cognitive, and social-emotional dimensions and the first taking a developmental perspective across the life course. It is also a first in describing foundational

¹ On the value attributed to human life across cultures and faiths see: Radhakrishnan, S., (1927), *The Hindu View of Life*, pp.73-91; Mayer, A., (1991), *Islam and Human Rights: Tradition and Politics*, p. 32; Moore, D., (1989), *The Human and the Holy: The Spirituality of Abraham Joshua Heschel*, pp. 27-33; Husted, W. and Keown, D., (eds.), (1998), *Buddhism and Human Rights*, pp.111-119; and Packer, J., and Howard, T., (1985), *Christianity: The True Humanism*, pp. 114-162.

strengths for well-being -- the capacities that can be actively developed, supported, or learned. These foundational strengths—such as problem solving, emotional regulation, and physical safety—are the positive underpinnings of early child health and development and of ongoing well-being across the life course. (Bornstein, et. al., 2003, p. xiii)

Due to the limits of space the creation of a wide-spectrum instantiation of such moral reasoning will necessarily be a later project. Certain perceived obstacles to ethical reasoning of the sort I am proposing must be gotten past before this methodology can be acknowledged as viable. Thus, only Reproductive and Gestational Health , a component of one of the three categories which Bornstein lists above (physical, cognitive, and social-emotional well-being) will be fully developed here (chapter V).

When differing ethical behaviours are considered, the overarching question in this system is, “What is fitting and suitable for human beings?” Key to answering that question is the understanding that human wants or desires can be inappropriate, but human needs cannot. It is possible to want what is not in one’s own best interest or to want something which harms another. However, natural human needs cannot themselves be bad. According to Aristotle, if one holds human life to be valuable then the basic needs which human beings have naturally conform to ‘right desire’ (*NE*, Book VI, 2, 1139a, 19-30).

This approach bridges the differences between the Aristotelian and Christian views of much of the West and the monistic views of much of the East regarding human nature. One group may believe human nature flawed, while another believes it to be as it should be. One may think that human nature is composite while another holds it to be a unity. Regardless, any who agree that human life is a good must acknowledge that the meeting of its needs is necessary for its thriving and flourishing. This form of reasoning falls under the heading of ‘Natural Law.’ Some may think natural law a concept which

human society has outgrown, a relic of pre-scientific times, and inextricably connected to certain religious understandings. A bit of definition and historical background will help explain why this is not the case, and will likely make this ancient understanding more accessible to those in contemporary culture.

I.3

Natural Law

In the rest of this introduction I will describe natural law in general in a little more detail, showing why it is an attractive approach to ethics. Having done so I will then turn to defending natural law against what are often taken to be fatal objections. This will be the chief business of the first half of this thesis.

Although ‘natural law’ is a term that can be applied to a broad range of ethical theories, the core characterisation of natural law, it seems to me, is the combination of the following claims: (1) there is a law which obtains in legal and ethical spheres, which comes before and stands, necessarily, in a place of primacy over all humanly devised laws and ethical strategies; (2) this law stands in relation to law and ethics as the basic axioms of logic stand in relation to reason; (3) the presence of this law is connected to the natural order of things in this world and is humanly knowable. Further, its legal and ethical normativity in human affairs is tightly connected to the nature of the human organism.

Since ethics pertains to human life and society, it seems basic that the needs of human beings should have some bearing on ethical practice. Natural law has historically connected human nature/human need to ethical prescriptivity in a teleological manner. There is an obvious corollary between the well-being of humans and the meeting of their basic needs. Thus an understanding of those needs furnishes an ethical agent with an undeveloped framework, in part, for moral reasoning. What is new and different about

my proposal is the seemingly obvious move of using natural law rationale, as regards human nature and human flourishing, in order to give compelling content and evidential justification to moral prescriptivity. This is to be done using the insights of the various scientific, psychological, sociological, nutritional, and medical disciplines of the present day. One might naturally assume that given the contemporary renewal of interest in natural law, natural law theorists are paying close attention to the natural sciences and especially to biology, but that is not the case. The discussion in natural law seems to centre on *how* natural law reasoning should proceed, rather than on what goods it can instantiate. In what is unquestionably the most well known contemporary theory of natural law, the goods are enumerated in seven self-evident and incommensurable categories (Grisez, Boyle, and Finnis, 1987, pp. 106-107)², which the moral agent must then personally apply using practical reason. In today's natural law milieu, usage of the insights of the various disciplines of the day to enumerate the good vis-à-vis human needs is conspicuously absent. In *A Shared Morality*, Craig Boyd asks,

In what sense can we meaningfully talk about a “natural law” when we continue to ignore the valuable insights of biology and the other sciences? If natural law does not begin to consider precisely how nature functions in the theory, I suggest that these thinkers simply drop the term “natural” from their own self-descriptions.” (Boyd, 2007, pp. 32-33)

In Chapters IV and V I will develop and illustrate an approach to natural law which does take account of the ‘insights of biology and the other sciences.’ For now I will characterise natural law and my approach to it a little more generally.

The differing philosophical perspectives that exist today as regards human nature hold the potential to prevent natural law thought from being able to really get a “hearing.” The axiom which I have proposed provides a way to move past these concerns without

² Grisez, Finnis and Boyle are discussed in more detail in Chapter IV, section 3.

ignoring or trivializing them. It avoids the impasse created by such debates and gives all of its adherents an equal footing, in order that the power of natural law reasoning may become apparent. It is a simple axiom rather than a theory of practical reason. Some will be able to embrace it on the basis of religious or philosophical convictions, some on the basis of biological understandings, some out of egoistic (see Chapter III, section 5) or utilitarian motivations, and some as a matter of pragmatic concession to common sense. Despite differences in beliefs and convictions, those who agree with my axiom that “Human life is a great good; because human life is a great good, all humans should work for the well-being of themselves and others,” can work together to identify that which makes for human well-being. The axiom supplements natural law thought by furnishing a common starting point for people with divergent beliefs and values.

I.4

A Particular Pedagogy

Inasmuch as this thesis is intended to set forth and defend a way to teach ethics, there will be argumentation for and examples of the sort of pedagogy which I am proposing. Appeal to both facts and sentiment will be employed. The emphasis will be on communicating ethical principles in an engaging and clear manner which focuses upon providing students with motivation for wise ethical decision making. In my context (the USA) the educational environment is one which poses pedagogical challenges that demand a particularly strong and thought-provoking manner of instruction. As well, most moral agents are not professional philosophers or ethicists. Not only must the reasoning behind a natural law theory be able to pass muster intellectually and motivationally; but if it is to be of practical value outside of the academy, then it must be able to be understood by ordinary people of all ages. If the rudiments of one’s theory cannot be explained in

terms which a child can understand, then there is reason to question its practical worth. This is not to say that the realities of life do not confront us with complex moral dilemmas regarding which there are no easy answers; but it is to say that, for obvious reasons, one's manner of ethical reasoning must be comprehensible to the lay person, or else, in terms of general usefulness, it is *merely* theory.

I.5 *The "Vagueness" of Natural Law*

The history of natural law dates back into antiquity. It has strongly influenced both legal and moral philosophy across time. It will therefore be addressed from the perspectives of both law and ethics. Before doing so, it should be noted that compared to positive law, natural law tends to lack specific content. This is not perceived as a deficiency, but as an aspect of its bedrock and basic nature. A.P. d'Entreves states that "...recourse to natural law was never entirely unchallenged. The notion was laden with ambiguity even in the days when it was considered self-evident."(d'Entreves, 1955, p. 7) Haines says, "As a matter of fact all theories of natural law have a singular vagueness which is both an advantage and disadvantage in the application of the theories." (Haines, 1930, p. vii) This is simply because classical natural law does not dictate detailed norms or get involved with casuistry, due to the fact that it deals with general principles of right and wrong and of justice and injustice. Although it connects human needs/human nature to prescriptivity in a teleological fashion, natural law is not a form of teleological or consequentialist ethics. As well, it is not helpful to think of it in terms of deontology. Consequentialism is focused on outcomes, while deontology is focused on the reasoning moral agent. Natural law is primarily focused upon what makes for human flourishing. It is especially concerned with "the good" and "goods," rather than with the matters with

which contemporary moral philosophy is so preoccupied, such as duties, rights, and values. Natural law is about moral first principles, which are those “moral principles which we can’t not know.” (Budziszewski, 1997, p. 61)

I.6 *Thomistic Natural Law*

The largest body of contemporary writing and discussion from a natural law perspective is Thomistic. Thomistic natural law stands slightly apart from most other forms of natural law, inasmuch as it does, at a practical level, have content attached to or associated with it. The source of its content is Roman Catholic moral theology. It should be noted, however, that this content isn’t specified in Thomas. Rather, a harmony of natural law and divine law is set forth in the *Summa*, and Thomas’ interpreters then take what he says to its logical conclusion. He sees an eternal law, out of which flow two streams: (1) natural law and the human (positive) law which comes from it, and (2) divine law, as expressed in the Scriptures of Judeo-Christianity (S.T., Book 2, Question XCI, articles 1-6). Contemporary Thomistic natural law draws its norms and content from the interface between natural law and divine law. Although, at a personal level, I share many of the same convictions that Thomistic natural lawyers do, I am not proposing Thomistic methodology here, but intend to invoke natural law in the public arena without reference to divine law. This does not, in principle, preclude a Thomist from combining my proposed approach to ethical reasoning with her own convictions as regards divine law.

I.7 *Early Natural Law*

Many of the earliest examples of ethical concepts of natural law come from politics and statecraft. The need for politics and for political endeavour was seen as a vital aspect of human nature and not simply a matter of convenience.

We all need each other. Aristotle's idea that humans are political animals stresses that we come together in society because it is in our nature to do so, and not just because it is advantageous for us to do so. The idea that we are all members of a wider whole is part of what lies behind the traditional emphasis on natural law, stemming from Aristotle. (Trigg, 2005, p. 8)

If society were going to work for the good of its constituents, there had to be a basis on which to decide whether its rulings and legislation were truly good. Politics, law, and personal ethics were all aspects of human nature. The contemporary practice of treating them as distinct and separate matters would have been unthinkable in the ancient world.

“It was a mark of Aristotle's own understanding that his work on the *Ethics* immediately preceded and formed the groundwork for his treatise on politics.” (Arkes, 1986, p.4)

Aristotle understood the state as a community and held that communities are established with a view towards some good. Thus, the state, the highest expression of human community, naturally must aim at its highest good (*Politica*, 1.1-5.1252a). Families, partnerships, gatherings, and societies of differing kinds exist before the state, and politics must serve their interests.

Ideally the principles of natural law provided a “plumb line” by which to measure the true good of the state and of its constituents and, thus, formed the shape of its legislation and positive law. If, by contrast, law is merely rulings of courts, judges, and government officials, then it is arbitrary. Presumably good government makes rulings that are in keeping with our best interests, but if it has no demonstrable connection to the “isness” of human nature and well-being, then it feels arbitrary and *merely* prescriptive. It is the same with moral prescriptions: if they are not shown to be based upon what is good for us, rather than the preferences or opinions of others, then it is easy to dismiss them as a matter of indoctrination or mere enculturation. Grounding law in this manner gives real

and compelling reason for critical thinking regarding certain behaviours as well as a providing a logical basis for motivation.

In ethics the term “natural law” has been variously defined. One can get a sense of what it refers to in Sophocles’ (c. 495-406 B.C.) *Antigone*. There is a scene in the *Antigone* where Antigone, one of Oedipus’ daughters, has been brought before her uncle Creon, the king of Thebes, because she was caught in the act of burying her brother, whose corpse Creon had decreed should remain unburied. Being denied burial was an act which conferred shame and dishonour upon the deceased:

Creon: Now, tell me thou – not in many words, but briefly – knewest thou that an edict had forbidden this?

Antigone: I knew it: could I help it? It was public.

Creon: And thou didst indeed dare to transgress that law?

Antigone: Yes; for it was not Zeus that had published me that edict; not such are the laws set among men by the Justice who dwells with the gods below; nor deemed I that thy decrees were of such force, that a mortal could override the unwritten and unfailing statutes of heaven. For their life is not of to-day or yesterday, but from all time, and no man knows when they were first put forth.

(Hutchins, 1952, p. 135)

Clearly Sophocles portrays an understanding of a law which stands behind the temporal and changing pronouncements of governments and kings, one which is held to have greater authority than their temporal authority. This is the *locus classicus* of the reasoning rightly associated with natural law, which declares that unjust law is not truly law. The *Antigone* provides one with the concept in an easily understood context. It is neither a denial of the existence of, nor the authoritative (though transient) nature of provincial positive law (e.g. Creon’s declaration). Rather it is the denial of binding personal moral validity to any law which contradicts the law of Nature.³

³ Neil MacCormick gives an extended and thorough explanation of this distinction in Robert George’s *Natural Law Theory: Contemporary Essays*, 1992, pp. 106-110. He

Aristotle, writing in the fourth century B.C. understood Sophocles to have this understanding behind his *Antigone*:

By the two kinds of law I mean particular law and universal law. Particular law is that which each community lays down and applies to its own members: this is partly written and partly unwritten. Universal law is the law of Nature. For there really is, as every one to some extent divines, a natural justice and injustice that is binding on all men, even on those who have no association or covenant with each other. It is this that Sophocles' *Antigone* clearly means when she says that the burial of Polyneices was a just act in spite of the prohibition: she means that it was just by nature.

Not of to-day or yesterday it is,
But lives eternal: none can date its birth. (Rhetoric, Bk. I: Ch. 12, 1373b, 3-13)

This is not a singular or isolated example of such thought by any means. About 400 years after the time of Sophocles Cicero wrote:

There is a true law, a *right reason*, conformable to nature, universal, unchangeable, eternal, whose commands urge us to duty, and whose prohibitions restrain us from evil. Whether it enjoins or forbids, the good respect its injunctions, and the wicked treat them with indifference. This law cannot be contradicted by any other law, and is not liable either to derogation or abrogation. Neither the senate nor the people can give us any dispensation for not obeying this universal law of justice. It needs no other expositor and interpreter than our own conscience. It is not one thing at Rome and another at Athens; one thing to-day and another to-morrow; but in all times and nations this universal law must for ever reign, eternal and imperishable. (*De Re Publica*, vol. I, book III, xxii, 33)

The literature of the ancient world is replete with examples of writings such as these, which demonstrate widespread belief in a moral law which stood above the passing and changing laws of courts and rulers. Advocates of natural law believe that such law is not invented by people, but rather discovered by them, and that its existence and authority are above all of the changing laws and mores of human societies. Logically, unless one is a scofflaw or antinomian to some degree, one must believe in a law above the laws of

says that such laws are “defective or substandard or corrupt instances of what they genuinely are – laws, legal duties, legal rights.”

human societies in order to have justifiable and defensible warrant for civil disobedience.

From of old, natural law reasoning in moral philosophy has had both secular and spiritual expressions. The secular versions of this kind of thought are present in the pre-Socratics, the Athenian school, the Hellenistic philosophers (especially the Stoics), the legal philosophers of Imperial Rome, and various modern philosophers since the 17th Century. Spiritual expressions of natural law are traceable to the ancient Hebrews and early Christians, to the scholastics of the High Medieval Period, to Roman Catholic philosophers down to the present day, and recently to numerous Protestant philosophers as well. Natural law is also, arguably, found in non-theistic Eastern forms of spirituality that espouse concepts like the *Tao* and *dharma* (Lewis, 1978, pp. 93-121; Chang, 1980, pp. 267-268; Metzger, 1977, pp. 158-161; and Parrinder, 1973, pp. 13-76). These differing forms of natural law or natural law-like thought place the locus of the law in various spheres, but all hold that there is a law which is not a mere product of human decisions, cultures, or conventions.

I.8

Natural Law in Legal and Moral Philosophy

When addressing legal philosophy, one will often encounter “naturalism” being used as a synonym for natural law. At first, this is a bit confusing to the student of ethics. As with natural law in ethics, legal naturalism comes in two varieties, one being secular and the other religious. The secular variety dates back at least as far as the Stoics of ancient Greece and is based upon reason. The religious version dates to those Catholic theologians and philosophers of Medieval times (most notably Aquinas) who applied their particular theistic understandings to the writings of Aristotle (Vanvelde, 1998, p. 151). They held that the nature and the character of the universe, as designed by God and

as revealed both through reason and also in the Christian scriptures, in fact, provided “multiple natural laws” (Porter, 2005, p. 13). In time, the de-emphasis of religion and the emphasis on science, which characterised the milieu of the 17th and 18th Centuries, shifted legal natural law to a primarily secular basis (Vanvelde, 1998, p. 151). Porter states that,

...in the transition from the later Middle Ages to modernity, the tradition of natural law was transformed from a theologically grounded interpretation of human morality into a philosophical framework for deriving, or at least testing and supplementing determinate norms. (Porter, 2005, p. 28)

Eventually even secular natural law theories were by and large downplayed and marginalized in legal philosophy.

In recent legal philosophy, positivism stands in a place of stark contrast to naturalism. Legal positivism basically holds that law is based upon “the command of a sovereign” (Vanvelde, 1998, p. 151). This is well expressed by the Latin phrase “*Rex Lex*”, or “the king is law.” When used today, the motto is usually taken to mean that the people who govern are the ones who create the law and that law is not natural or divine in its origins or bases, but rather, that it originates with human rulers. Legal positivism “is commonly traced to the work of Jeremy Bentham and John Austin in the eighteenth and nineteenth centuries and is represented in the twentieth century by the work of H.L.A. Hart” (Vanvelde, 1998, p. 151). Current legal theory has elements of both naturalism and positivism in its assumptions and its bases.

Positivism has never entirely displaced naturalism, however. First, positivism seems an incomplete theory of law because it does not explain why the will of the majority should prevail. For that, one must resort to a naturalist explanation, such as the explanation that it is in the nature of things that the majority should rule or that democracy is the only morally just form of government. Thus, the legitimacy of positive law seems to rest ultimately on naturalist assumptions. The result is that positivist justifications of a particular rule or result inevitably lead back to naturalism. (Vanvelde, 1998, p. 152)

It would appear that across time people tend to share basic assumptions regarding the concept of justice, which usually are ultimately grounded in the nature of the world.

Naturalism, then, coexists with positivism, providing the theoretical underpinnings for positivism, supplementing positive law where it seems inadequate to resolve a dispute and, in extreme cases, countermanding the results required by positivism. Positive law, without naturalism, seems undesirable, if not theoretically impossible. (Vanvelde, 1998, p. 152)

Despite the undeniable intertwining of both naturalism and positivism in the formulation of law, it has for many years been unpopular, both in academia and in legal circles, to make reference to naturalism and thus to natural law. The same is true in ethics as regards natural law.

Historically natural law has clearly had proponents and adherents in both legal and moral philosophy. Although ethical naturalism is the category under which natural law falls in moral philosophy, it is only one of many varieties of ethical naturalism. Because naturalism has a greater breadth of meaning in ethics than it does in legal philosophy, the reader should be aware that natural law thought is but one form of what is termed naturalism in ethics. In that discipline it is not a label which applies exclusively to natural law. James Lenman states:

...a moral naturalist is someone who believes an adequate philosophical account of morality can be given in terms entirely consistent with a naturalistic position in philosophical inquiry more generally. (Lenman, 2006)

Thus, all natural law accounts of morality are forms of ethical naturalism, but not all types of ethical naturalism are natural law accounts. That being said, James Rachels begins the chapter of *The Blackwell Guide to Ethical Theory*, which addresses naturalism, with the statement, "Twentieth-century philosophy began with the rejection of naturalism." (Rachels, 2001, p. 74) In ethics, the widespread rejection of naturalism in

modern times included natural law. The rejection of naturalism will be substantively addressed here in subsequent chapters dealing with Hume, Moore, and Mackie.

In contemporary Western thought, many have seen natural law as a relic of pre-modern times and suspect that it has unavoidable theistic entailments.

The strongest antipathy I have had toward Natural Law theory is its absolutism. This takes the form of an overconfident faith in reason, an unwavering commitment to the content of supposed Natural Laws, and too eager grounding in divine guarantees. (Ginsberg, 1987, p. 215)

Speaking before a recent meeting of the American Society for International Law, Associate U.S. Supreme Court Justice Ruth Bader Ginsberg quoted remarks made by Seventh Circuit Court Judge Richard Posner in 2004: “To cite foreign law as authority is to flirt with the discredited . . . idea of a universal natural law; or to suppose fantastically that the world’s judges constitute a single, elite community of wisdom and conscience.” (Ginsberg, 2005, p. 580) The main reason many treat natural law approaches to ethics as if they were a thing of the past is most likely the common perception that such approaches were definitively shown to be wrong by several well-known assaults on naturalism and natural law ethics. Added to that is the concern that if natural law is acknowledged or given credibility, religion or supernaturalism of various sorts might creep back into law and ethics. This may be due in part to the ongoing and vigorous engagement of natural law by Catholic philosophers. As long as one does not insist upon exclusively pre-modern perceptions of what constitutes human nature or ancient cosmogonies, then it does not follow that there are necessarily any religious entailments of this sort of reasoning.

I.9

A Response to the Fact-Value Challenge

Despite the rich history of natural law and its general usefulness, many believe

that philosophers such as David Hume, G.E. Moore, and J.L. Mackie have shown such reasoning to be logically unsound. For this reason the first three chapters here will engage the assertions of these philosophers.

The first chapter will address David Hume and the claim, often attributed to him, that it is illicit to reason from facts to values. Were this claim demonstrably true it would disallow the sort of reasoning from human needs to values which I am proposing. It will be seen here that Hume does not make the claim attributed to him, and that Hume's writings pose no problem for the ethical reasoning process I am suggesting. In fact Hume's emphasis upon sentiment as regards moral motivation harmonises, to a degree, with the form of pedagogy which will be proposed in chapter four.

The second chapter deals with G.E. Moore and the Naturalistic Fallacy, often wrongly associated with Hume's "Is-Ought" prohibition, and which, in the final analysis does not really exclude reasoning from fact to value. Next to casual invocation of 'Hume's Law' concerning the impossibility of deriving an 'ought' from an 'is', the objection most often made to dismiss natural law ethics without even giving it a proper hearing is that all natural law accounts commit the 'Naturalistic Fallacy'. In chapter two I will examine the roots of this objection in the work of G.E. Moore, and show that contrary to widespread belief it poses no great threat to projects such as the one undertaken here. Inasmuch as the ban on such moral reasoning has assumed the status of an orthodoxy for some in the field of ethics, both Hume and Moore must be considered to see if either of them has truly demonstrated that the sort of reasoning which I am proposing is illicit.

The third chapter addresses J.L. Mackie's *Ethics: Inventing Right and Wrong*, which poses a different sort of challenge to natural law reasoning. Mackie claims that there are no such things as objective moral values, and gives strong argumentation to support his claim. Unlike Hume and Moore, Mackie's claims do pose a challenge to my project, and were his claims unanswerable then the sort of ethical deduction I am proposing would not be valid.

I.10 *Natural Law Ethical Instruction: Theory, Content, and Practice*

Once Hume, Moore, and Mackie have each been considered and addressed, the fourth chapter will set forth both my approach to natural law reasoning and my proposed form of pedagogy. Special attention will be paid to pedagogy because didactic teaching is far less effective than is habituation in virtue, but the environment of today's school is not suited for habituation. In the absence of habituation a particularly strong and persuasive form of pedagogy is needed.

The fifth and final chapter will address Reproductive and Gestational Health, and will be the sample instantiation of my proposed way of deriving moral content from natural facts. It will consider human sexuality and reproduction across the lifespan and the ethical implications of the actual physical makeup of human beings. Special attention will be paid to the ethical implications of the process of sexual maturation in females and males.

1.0 CHAPTER I: DAVID HUME AND THE “IS-UGHT” PROHIBITION

There exists a body of facts, drawn from medical science, psychology, anthropology, and human development regarding what is normative and healthy for the human organism, which if considered as a possible starting point for an ethical system will provide a very natural and commonsensical framework for any person who can agree that the thriving or flourishing of self and others is a worthwhile purpose or end for moral endeavour. The claim of this dissertation is that the design of the human organism commends certain behaviours as being ethically appropriate for both education and moral guidance. This approach to the field of ethics cannot be developed until the issue of whether or not values can be deduced from facts is examined. The impasse in moral philosophy regarding the relationship of ‘is’ to ‘ought’ must be surmounted before an ethic based on human design can be advanced.

To this day, David Hume’s famous statement regarding the impossibility of deducing values from facts by means of reason alone is perceived by some as being a barrier against any who would seek to establish an ethical framework which has its foundation in hard, verifiable data. This is the ‘Is-Ought’ controversy. Many believe that Hume claims that values simply may not be deduced from facts. This will be examined and challenged here from the point of view which holds that Hume is not rightly represented by those who call themselves “Humeans.” Although there are many names associated with that line of thought which stands in opposition to the derivation of ‘oughtness’ from ‘isness,’ the individuals who will be primarily addressed herein are first David Hume, then G.E. Moore, and lastly J.L. Mackie. Hume must be addressed because most cite him as the originator of the ban on deriving values from facts; Moore because a

term which he coined is regularly used as a label to denote this ban; and Mackie because his claims are so sweepingly dismissive of real virtue and vice as to place in question the notion that there can be any objectively true moral values.

1.1 *What David Hume Really Said: Values Derived from Facts Through Sentiment*

To begin with descriptive information about the state of a person, place, or thing and then derive prescriptive statements from that information was declared by Hume to be an improper inference. It is doubtful that Hume could ever have anticipated the status that would be accorded to his one short paragraph in *A Treatise of Human Nature* (Hereafter referred to simply as *Treatise*):

In every system of morality, which I have hitherto met with, I have always remark'd, that the author proceeds for some time in the ordinary ways of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when all of a sudden I am surpriz'd to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with an *ought*, or an *ought not*. This change is imperceptible; but is however, of the last consequence. For as this *ought*, or *ought not*, that expresses some new relation or affirmation, 'tis necessary that it shou'd be observ'd and explain'd; and at the same time that a reason should be given; for what seems altogether inconceivable, how this new relation can be a deduction from others, which are entirely different from it. (*Treatise*, 3.1.1.27)

This passage has taken on a life of its own apart from its context. J.L. Mackie says that Hume's Is-Ought paragraph addresses "how and by what faculty we discern the difference between vice and virtue." (Mackie, 1980, p. vii) By so saying, he is correct, inasmuch as Hume did not say that "ought" was inaccessible, but that it was inaccessible to reason alone:

Thus the course of the argument leads us to conclude, that since vice and virtue are not discoverable merely by reason, or the comparison of ideas, it must be by means of some impression or sentiment they occasion, that we are able to mark the difference betwixt them. Our decisions concerning moral rectitude and depravity are evidently perceptions; and as all perceptions are either impressions or ideas, the exclusion of the one is a convincing argument for the other. Morality, therefore, is more properly felt than judg'd of; tho' this feeling or sentiment is

commonly so soft and gentle, that we are apt to confound it with an idea, according to our common custom of taking all things for the same, which have any near resemblance to each other. (*Treatise*, 3.1.2.1)

What Hume says here is that “vice and virtue are not discoverable merely by reason.”

They have to be accessed in a different way. According to Hume, the faculty or aspect of human cognition which can access these values is sentiment, not reason. J.L. Mackie succinctly states the popular position in ethics today, which states that one cannot reason from fact to value, a view which claims the above paragraph from Hume’s *Treatise* as its primary foundation:

But on the whole...his doctrine means that moral distinctions do not report any objective features at all: moral goodness or rightness is not any quality or any relation to be found in or among objective situations or actions, and no purely intellectual or cognitive procedure can issue in moral judgment. (Mackie, 1980, p. 2)

Today, many in the field of moral philosophy, especially those in the U.K. and the Scandinavians on the Continent, do their research and propose their theories against the backdrop of this separation of fact and value (Bourke, 2008, p. 209). For them it is taken as a basic given of their field.

The above quoted ‘Is-Ought’ passage from Hume’s *Treatise* is a concisely stated summation of what was in Hume’s day a well known part of Frances Hutcheson’s *An Essay on the Nature and Conduct of the Passions and Affections*. Later in life Hutcheson and Hume would become friends, but before they ever were, Hutcheson was a primary shaping influence on Hume’s thought.⁴ The Is-Ought paragraph let Hume’s readers understand that his affinities were with Hutcheson and those who shared his convictions.

⁴ A dissenting view to that which holds that Hutcheson is a primary shaping influence on Hume’s thought is put forward in *Hume and Hume’s Connexions*, (1995), edited by M.A. Stewart and John P. Wright. See especially the section on Hume and Hutcheson by James Moore, pp. 23-54.

Hutcheson was the Professor of Moral Philosophy at the University of Glasgow and was “considered to be a leading moral philosopher of his time.” (Johnson, 1995, p. 24) He was 17 years Hume’s senior. The second section of Hutcheson’s *Essay*, entitled *Illustrations Upon the Moral Sense* (Hutcheson, 1969) argues in the vein later made famous by Hume. Paul McReynolds notes in his introduction to that volume:

Hutcheson...held that there is an innate disposition toward benevolent behaviour, and an inherent “moral sense” which causes individuals to react with approbation to perceptions of benevolent behaviour. This according to Hutcheson, is simply the way man is constituted. (Hutcheson, 1969, p. xv)

A fact regularly omitted from the discussion of the ‘Is-Ought’ question is that when Hume writes of it being inappropriate to transition from ‘is’ statements to ‘ought’ statements, he does so against the backdrop of advancing his understanding of the same “moral sense” found in Hutcheson (McCosh, 1875, pp. 5-7, 29-86, and 116-161). Hume entitles section II of Book III of the *Treatise*, *Moral distinctions deriv’d from a moral sense*. (*Treatise*, 3.1.2) ⁵

The intervening centuries from Hutcheson and Hume to the present have only increased the perception, for some at least, of a moral sense that seems to be “hard-wired” into the human makeup. UCLA Public Policy Professor James Q. Wilson, reasoning from data gathered in the fields of biology, anthropology, sociology, and psychology, begins his work *The Moral Sense* (1993) with this statement:

This book is not an effort to state or justify moral rules; that is, it is not a book of philosophy. Rather, it is an effort to clarify what ordinary people mean when they speak of their moral feelings and to explain, insofar as one can, the origins of those feelings. This effort is a continuation of work begun by certain eighteenth-century English and Scottish thinkers, notably Joseph Butler, Francis Hutcheson, David Hume, and Adam Smith. What I seek to add to this tradition is a

⁵ One wonders on what basis Ayer can claim that “Hume is not committed to saying that there is a moral sense.” (Ayer, 1980, p. 84)

knowledge of what the biological and social sciences have since learned about what they were the first to call the moral sense. (Wilson, 1993, p. xiii)

When Wilson writes this way at the latter end of the twentieth century, he does not write in an environment which is hostile or opposed to his primary thesis, but rather in an environment which is actually quite hospitable and friendly toward such ideas. In fact “ethical intuitionism” (of the empirical or non-rationalist variety) or “sentimentalism” (meaning primarily modern sentimentalism) are the terms used to describe the position of philosophers who subscribe to this line of thought currently. This understanding has numerous adherents at present (e.g. W.D. Ross, Robert Audi, Michael Slote, Justin D’Arms, and Daniel Jacobson to name a few). In fact sentimentalism seems to be enjoying a good deal of philosophical attention these days (D’Arms and Jacobson, 2000, pp. 722-748).

Hutcheson, Hume, and, before them, Anthony Ashley-Cooper, the 3rd Earl of Shaftesbury, are involved in the exploration of the functioning of the human mind and personality. Their theories and speculations touch heavily upon the field that is today called “psychology,” rather than on ethics alone. They are trying to address what it is that moves and motivates humans to moral action. They are speaking to the issue of the source of human ethical judgements. They are really addressing the question: “What is it about human beings that gives rise to the universal phenomenon of morality?” Thus Hume entitled his work: *A Treatise of Human Nature*.

Hutcheson and then Hume after him are stating their views in contrast to those of ethical theorists such as Richard Price, William Wollaston, and Samuel Clarke, who taught that morality was based on reason (Johnson, 1995, p. 24). The rationalists were understood to teach that morality is located within the category of reason and exists

independently of the human psychological makeup. In their view, the locus of morality is outside of the human mind. It has an objective and independent existence of its own. In contrast to them, and in the manner of true dialectic, Hutcheson and Hume located morality within the functioning of the overall human psyche and denied that it has an objective and independent existence. One can perhaps see Kant's "Copernican Revolution" foreshadowed in their line of thought.

1.2 *Hume and Hutcheson: Similarities and Differences*

Hume presented a new perspective which was like and yet unlike that of his contemporaries. Although their thought was comparable and Hume had high regard for Hutcheson, he clearly saw his own work as divergent from Hutcheson's in significant ways. He employed an analogy to explain how they differed. He described Hutcheson as a painter of human nature, whereas he called himself an anatomist. He said that the two fields were akin and that he saw his work of giving an anatomy of human nature, as it were, as supplementary and helpful to that of painting it. Hutcheson was at work "examining the mind" in order "to describe the Grace & Beauty of its Actions." (Hume, Greig, ed., 1932, p. 32) Hume, however, was seeking to "discover its most secret Springs and Principles." (Hume, Greig, ed., 1932, vol. I, p. 32) Hutcheson is poetic, at times almost flowery, whereas Hume is "scientific." Likely, this is why Hume has had the impact that he has across time. He was not involved in moralising, but in analysing. He removes the aesthetic emphasis, or the art of Hutcheson, in order to expose the structure that lies beneath the beauty of the surface. He does say to Hutcheson, "Morality according to your Opinion as well as mine, is determin'd merely by Sentiment..." (Hume,

Greig, ed., 1932, p. 40) However, in a letter to Hutcheson dated 17th September, 1739, he says of his own work:

Where you pull off the Skin and display all the minute Parts, there appears something trivial even in the Noblest attitudes & the most vigorous Actions: Nor can you ever render the object graceful or engaging but by clothing the Parts again with Skin & Flesh, & Presenting only their bare outside. (Burton, 1846, p. 112)

Hume admits an “ugliness” to what he does, but sees it as necessary. The end of the *Treatise* is entitled *Conclusion of This Book* (3.3.6.1-6). Hume was eager to get Hutcheson’s response to what he’d written, therefore, he sent a manuscript of book III to Hutcheson and then revised it in response to Hutcheson’s criticisms (Hume, Norton, ed., 2000, p. I11, *editor’s preface*). Hume’s concluding chapter begins with statements which are noticeably in keeping with Hutcheson’s thought:

We are certain, that sympathy is a very powerful principle in human nature. We are also certain, that it has a great influence on our sense of beauty, when we regard external objects, as well as when we judge of morals. We find, that it has force sufficient to give us the strongest sentiments of approbation, when it operates alone, without the concurrence of any other principle; as in the cases of justice, allegiance, chastity, and good-manners. (Treatise, 3.3.6.1)

This idea that the human capacity to appreciate and respond to beauty corresponds to an aesthetic appreciation of the beauty of moral goodness is key in Hutcheson. Hume remarks on the appropriateness of that comparison. However, having acknowledged Hutcheson, Hume goes on in his very last remarks, where he is describing what he has done in the *Treatise*, to say, “Such reflections require a work a-part, very different from the genius of the present.” (Treatise, 3.3.6.6) This is drawing the contrast between himself and his predecessors, among which Hutcheson figures most prominently; perhaps Hutcheson could be called *the* “genius of the present.” Hume compares his work with that of Hutcheson in this manner:

The anatomist ought never to emulate the painter; nor in his accurate dissections and portraitures of the smaller parts of the human body, pretend to give his figures any graceful and engaging attitude or expression. There is even something hideous, or at least minute in the views of things, which he presents; and `tis necessary the objects shou'd be set more at a distance, and be more cover'd up from sight, to make them engaging to the eye and imagination. An anatomist, however, is admirably fitted to give advice to a painter; and `tis even impracticable to excel in the latter art, without the assistance of the former. We must have an exact knowledge of the parts, their situation and connexion, before we can design with any elegance or correctness. And thus the most abstract speculations concerning human nature, however cold and unentertaining, become subservient to practical morality; and may render this latter science more correct in its precepts, and more persuasive in its exhortations. (*Treatise*, 3.3.6.6)

By so saying, he is letting Hutcheson and those who shared Hutcheson's frame of reference know that he believes he has brought a supplement, if not a corrective, to their approach. Hume perceives a lack of "correctness" in their writings, because they do not have the knowledge of the parts and connexions of the valuing process that he does.

Notice that he calls his undertaking "this latter science." He believes that he has gotten down to the bedrock of how ethical decision-making works and that he has bypassed the niceties and noble ideas which have surrounded the business of the study of ethics, at least in his native Scotland, and likely in the rest of a predominantly Christian Europe.

The original title page of the *Treatise* bore the subtitle: "Being an attempt to introduce the experimental method of reasoning into moral subjects." (*Treatise*, p. 1) Hume believed that he was dealing more with the stuff of reality than were his associates and contemporaries. He was less theoretical and esoteric than they. He was less prescriptive and more descriptive. His portrayal of how human beings make ethical choices was less flattering and idealistic, but more accurate and realistic.

Part of this contrast that Hume draws between himself and Hutcheson is likely due to the differences in the two men as regards faith. Hutcheson was a Christian, whereas Hume's scepticism is famous. Arguably, Hutcheson's faith was a control on

him, keeping him from going where Hume did in his conclusions. Yet, there is more than that distinction to be noted between their works. Hutcheson is prescriptive and assumes things more amenable to what would eventually become a Kantian perspective. Duty looms large in Hutcheson, as does virtue, but in Hume those aspects of moral philosophy are more in the background. Description and analysis of the actual business of making moral choices are being scrutinised by Hume. A deity is not present in any significant way for Hume. The discussion is simply one of how human beings arrive at the sense of value, desire, or sentiment that they do.

Hutcheson, and all those who fall under the category of “this present genius” are reflective of their time and culture, whereas Hume is claiming to be, and in a number of ways truly is, original in his observations and teachings. Hutcheson and Ashley Cooper, a student of Locke, still share many affinities with the theism of Locke, but Hume, although he is obviously aware of Locke, tends, like Hobbes, more in the direction of the thought of William of Ockham, Gabriel Biel, Gregory of Rimini, and the nominalists of the late 14th century, who are usually referred to as the *via moderna* (Holmes, 1997, p. 107). Hume dares the censure of church and of academia in a time when Christian values were predominant. His boldness cost him personally, but it also assured that his work would endure and stand out from that of his contemporaries and that it would, in time, bring the business of moral philosophy to a crossroads of sorts. Hume is very matter-of-fact in what he says, not feeling the need for the tactfulness and the veneer of Christianity which accompanies the writings of Hutcheson. In a milieu pulsing with undercurrents of the desire to throw off the bonds of religion, Hume was a pioneer with a new approach to moral philosophy which accorded well with the popular turn of opinion.

1.3 *Reasoning from Fact to Value by Way of Sentiment*

A common and frequent claim in ethics today is that Hume was setting forth the concept that one cannot logically argue from fact to value. In reality, Hume was arguing that facts alone are insufficient to move the human will to proper moral action (Bourke, 2008, pp. 26-27). He famously states that “reason is slave to the passions.” (*Treatise*, 2.3.3.4) If one claims that Hume was arguing that it is impossible to derive values from facts, then one is caught on the horns of a dilemma; for the remainder of Hume’s *Treatise* following the now famous is-ought passage, he seems to disregard his own advice. Not a few authors have enumerated Hume’s tendency to reason from fact to value in both the remainder of the *Treatise* and also in his *Enquiry*. Take for example these statements from the *Treatise* regarding the duty that arises out of parenthood:

We blame a father for neglecting his child. Why? because it shews a want of natural affection, which is the duty of every parent. Were not natural affection a duty, the care of children cou’d not be a duty; and `twere impossible we cou’d have the duty in our eye in the attention we give to our offspring. (*Treatise*, 3.2.1.5)

He goes on to speak of the fact that parents are: “restrain’d in the exercise of their authority by that natural affection, which they bear their children.” (*Treatise*, 3.2.2.4) A little later he states:

A man naturally loves his children better than his nephews, his nephews better than his cousins, his cousins better than strangers, where every thing else is equal. Hence arise our common measures of duty, in preferring the one to the other. Our sense of duty always follows the common and natural course of our passions. (*Treatise*, 3.2.2.18)

In his well-known remarks regarding what he holds to be the artificial nature of the making of oaths and promises, he demonstrates belief in a very clear connection between the state of things as they are and the natural duties and virtues that apply to humans as a consequence of those ties:

The same truth may be prov'd still more evidently by that reasoning, which prov'd justice in general to be an artificial virtue. No action can be requir'd of us as our duty, unless there be implanted in human nature some actuating passion or motive, capable of producing the action...If we thought, that promises had no moral obligation, we never shou'd feel any inclination to observe them. This is not the case with the natural virtues. Tho' there was no obligation to relieve the miserable, our humanity wou'd lead us to it; and when we omit that duty, the immorality of the omission arises from its being a proof, that we want the natural sentiments of humanity. A father knows it to be his duty to take care of his children: But he has also a natural inclination to it. And if no human creature had that indination, no one cou'd lie under any such obligation. But as there is naturally no inclination to observe promises, distinct from a sense of their obligation; it follows, that fidelity is no natural virtue, and that promises have no force, antecedent to human conventions. (*Treatise*, 3.2.5.6)

Clearly Hume sees 'oughtness' that arises out of 'isness.' Natural virtues, as he calls them, arise out of the very nature of what it is to be a human being. The lack of such natural virtues is in Hume a privation of the good and an anomaly as well. He would, of course, make the locus of the 'oughtness' to reside in the sentiment of the parent which naturally exists toward their offspring, but nonetheless, the 'isness' of parenthood gives rise to a clear sense of 'oughtness.' He does the same thing with human nature in general, declaring that there is "the obligation to relieve the miserable," which he calls a natural sentiment of humanity. As the Hume scholar Nicholas Capaldi has admitted, "commentators such as Ewing, MacIntyre, and Frankena are correct in noting that Hume *does* infer moral judgments from factual non-moral judgments." (Capaldi, 1966, p. 210)

Hume does indeed make his way from statements of fact to statements of value, and the way that he does so is by bringing in a third aspect of the ethical reasoning process. Facts are motivationally static, but it is sentiment responding to the facts which are presented to human cognition which moves people to ethical valuing and acting. He calls sentiment an actuating passion. Hume's claim was that reason alone cannot move the knower from facts to motivating values, because the human will needs something

more than mere facts to move it. As is clear from the preceding quotes from book III of Hume's *Treatise*, he believes sentiment builds the bridge from 'isness' to 'oughtness'.

...we connect ought-propositions to is-propositions all the time. In fact, ought-propositions appear to be meaningless *unless* they refer to some existing or possible state of affairs, to some 'is'...Hume recognized that 'oughtness' just does not exist except as a response to 'isness' and that human beings in fact lead their lives in response to their faith in that connection. Something must, in Hume's view, account for that connection when reason he believed could not. Hume sought to identify and analyse the something (sentiment) by which the connection could properly be made. His claim was not that an 'ought' can never be derived from an 'is', but that an 'ought' cannot be derived from an 'is' by reason...facts are to Hume morally significant. Their significance is recognised by sentiment however, not by reason. (Donnelly, 2007, p. 15)

As Donnelly says here, sentiment is for Hume that part of the human psyche which lays hold of the importance of facts. Here is Hume once again:

But to make these general reflections more dear and convincing, we may illustrate them by some particular instances, wherein this character of moral good or evil is the most universally acknowledged. Of all crimes that human creatures are capable of committing, the most horrid and unnatural is ingratitude, especially when it is committed against parents, and appears in the more flagrant instances of wounds and death. This is acknowledg'd by all mankind, philosophers as well as the people; the question only arises among philosophers, whether the guilt or moral deformity of this action be discover'd by demonstrative reasoning, or be felt by an internal sense, and by means of some sentiment, which the reflecting on such an action naturally occasions. (*Treatise* 3.1.1.24)

And again:

Nor does this reasoning only prove, that morality consists not in any relations, that are the objects of science; but if examin'd, will prove with equal certainty, that it consists not in any matter of fact, which can be discover'd by the understanding. This is the second part of our argument; and if it can be made evident, we may conclude, that morality is not an object of reason. But can there be any difficulty in proving, that vice and virtue are not matters of fact, whose existence we can infer by reason? Take any action allow'd to be vicious: Wilful murder, for instance. Examine it in all lights, and see if you can find that matter of fact, or real existence, which you call vice. In which-ever way you take it, you find only certain passions, motives, volitions and thoughts. There is no other matter of fact in the case. The vice entirely escapes you, as long as you consider the object. You never can find it, till you turn your reflection into your own

breast, and find a sentiment of disapprobation, which arises in you, towards this action. (*Treatise*, 3.1.1.26)

Many have sought to identify what it is about human perceptions of right and wrong and good and bad which move people to act in ethical ways. For instance, Stevenson uses the term “magnetic” when describing what he calls the “vital” sense of good, and he describes “magnetic” in this way: “A person who recognizes ‘X’ to be good must *ipso facto* acquire a stronger tendency to act in its favour than he otherwise would have had.” (Stevenson, 1966, p. 239) In Hume’s perception, it is clearly sentiment which detects the “magnetism” of the factual. Reason alone is flat and unresponsive, merely perceiving, whereas sentiment united with reason, sensing the magnetism of the factual, is able to join perception and volition. Sentiment is the passionate part of human beings which takes beliefs or perceptions derived from factual information and incites the will to respond, behave, and act in keeping with that information. If one is going to invoke Hume with regard for the milieu out of which he spoke and in a manner that treats what he said faithfully, then it must be admitted that fact and value are not divorced in Hume, but rather that the divide between them cannot be bridged by unaided reason. The bridge is affective; it is in the passions, in what he and a number of his contemporaries referred to as “sentiment.” Stephen Buckle states:

So, to put it in terms of his general belief-desire account of action, his position can be summed up as the claim that any valid argument must have the following form: ‘is’ premise plus impartial desire (moral motivation) premise implies ‘ought’ conclusion. (Buckle, 1991, p. 282, n. 175)

Those who invoke ‘Is-Ought’ as a wall that cannot be scaled are involved in an undertaking different from Hume’s project in the *Treatise*. He is not stating an irrefutable law that makes it impossible to reason from the indicative to the imperative or from the descriptive to the prescriptive. Indeed, he is showing the right way to reason from facts to

obligations. He is refuting those who would do so in strictly rationalist terms and demonstrating that their methodology has a glaring and obvious omission of what truly motivates people to ethical action. Hume scholar Annette Baier states:

Hume has been saddled by some commentators with “Hume’s law,” which says not just that no Humean “demonstration” can be given getting us from premises about matters of fact to conclusions about obligations or *oughts*, but that no sound inference or reasonable transition from *is* to *ought* can be made. This is not what Hume writes, and I take this famous little “observation” of his, tacked on to the end of his attack on rationalist moral theories, to be directed at their deficiencies, not to be any sort of a general impossibility claim. The unrestricted claim that Hume makes here is that any transition from *is* to *ought* is “of the last consequence,” and that the move to *ought* “shou’d be observ’d and explain’d.” Then he adds the particular observation that a deduction of an *ought* from any set of *is*-claims “seems altogether inconceivable.” Here he uses the rationalists’ own rules against them, as he did in his discussion of their use of the principle of induction. But he does not share their view that the only good inferences are demonstrations, so it is still open to him to move from *is* to “should,” and to give a carefully explained account of a transition from facts about human agreements or conventions to conclusions about our “natural obligation.” This is precisely what he does in his account of the obligations not to rob, steal, break promises and so on. This discussion, in Part II, is appropriately placed to be a discernible follow-up to the brief discussion of *is-ought* transitions in Part I. Hume first “wou’d subvert all the vulgar systems of morality” (T. 470) which take a leap of faith from supposed facts about divine commands to conclusions about what ought to be done, then constructs his own sophisticated system that explains the sort of facts from which the transition can be made. He observes and explains the transition from facts about importance and claims about norms, from facts about conventions to conclusions about rights, and makes them reasonable. (Baier, 1991, p. 175)

This is quite different from what Hume is usually credited with doing. He is not speaking of the move from fact to value being absolutely impossible. He is speaking about which lines of moral reasoning are valid and which are unwarranted when one makes one’s way from things as they are to things as they ought to be.

1.4

Hume’s Milieu

It is helpful to understand the shifts and changes in the philosophical landscape which were afoot in Hume’s time. In the *Enquiry* Hume makes it clear that Aristotle and

his ilk are out of vogue. Teleological thought is a relic of the past to Hume, “The fame of Cicero flourishes at present; but that of Aristotle is utterly decayed.” (Hume, 2004, p. 3)

In the ancient world and down to the beginnings of the Enlightenment, the concept of *teleology*, an end or purpose towards which things and people rightly tended or moved was a common perception. In order to conclude how a thing or person ought to be treated or employed, one asked what was the end or the purpose of this person or thing? This is metaphysics, the understanding that there is an ultimate reality in the context of which the facts of human existence make sense. Out of one’s metaphysic there came a perception of basic human nature thought to be essential to the business of ethics as well. That perception spoke to the field of knowledge which is today known as anthropology. For Socrates and those secular philosophers who followed in the centuries after him, as well as for the religious, there was the perception of the existence of a rightful purpose or end for a human being which was largely knowable. Not only were facts and values related, but the most important facts of all were in the area of values, and they were tightly connected to both metaphysics and anthropology. In the time of the Enlightenment, with the advent of writers such as Hobbes and Hume and later at the most extreme end of things, with those like Sartre, who would deny the very concept of human nature, this sense of a *telos* or an end for human beings is in eclipse. In reaction to the excesses and wars of the Reformation and the Counter-Reformation, the idea of a knowable ultimate reality began to be challenged. The concept of ultimate reality sounded too religious, even when used in a secular sense such as one finds in Plato and Aristotle. Besides, there was too much consonance between Plato and Augustine, and Aristotle and Aquinas. Teleological thought was perceived to entail religious overtones. The medieval model of

humans and their place in the world began to be replaced by new concepts and theories which challenged the claims of ancient wisdom. This was thought a liberation from the shackles and bonds of religion.

In this turbulent time, with worldviews in upheaval and conflict and with differing epistemological schemes being set forth, Hume undertook to write regarding ultimate reality and religion. He is often reckoned a deist, but it is hard to say what exactly he was.

He was a man in flux. He says in his *Natural History of Religion*:

The universal propensity to believe in invisible, intelligent power, if not an original instinct, being at least a general attendant of human nature, may be considered as a kind of mark or stamp, which the divine workman has set upon his work; and nothing surely can more dignify mankind than to be thus selected from all the other parts of the creation, and to bear the image or impression of the universal Creator. (Hume, 1889, p. 84)

However, a few lines later he remarks, “No theological absurdities so glaring as have not, sometimes, been embraced by men of the greatest and most cultivated understanding.”

(Hume, 1889, p. 46) Huxley refers to Hume’s “parade of sarcastic respect” (Huxley, 2004, p. 138) for theologians whom he really intends to insult and demean. Aiken says of him in his editor’s preface to the *Dialogues*:

We may infer that Hume much preferred a candid and open avowal of an irrational faith in a Supreme Being, supported by nothing but its own intensity and fervour, to the specious attempt to establish the existence of God by reason. He might with justice have said that he had destroyed the false pretensions of religion in order to restore faith to its proper position as the only sufficient bulwark of the religious life. (Hume, Aiken, (ed.), 1972, p. ix)

As is well known, Hume took pains to see that the *Dialogues Concerning Natural Religion* were released posthumously, not wanting to face the storm of controversy they would excite.

1.5 *Hume’s Discomfort With His Own Assertions*

Hume’s scepticism and doubt at times left him in a place of deep disquiet. In part

I of the *Treatise* he says: “For I have already shewn, that the understanding, when it acts alone, and according to its most general principles, entirely subverts itself, and leaves not the lowest degree of evidence in any proposition...”(*Treatise* 1.4.7.7) He then speaks of battling with total scepticism. A little further on in the same paragraph he says, “We have, therefore, no choice left but betwixt a false reason and none at all.” (*Treatise* 1.4.7.7) He goes on to speak quite darkly in the next paragraph:

The intense view of these manifold contradictions and imperfections in human reason has so wrought upon me, and heated my brain, that I am ready to reject all belief and reasoning, and can look upon no opinion even as more probable or likely than another. Where am I, or what? From what causes do I derive my existence, and to what condition shall I return? Whose favour shall I court, and whose anger must I dread? What beings surround me? and on whom have, I any influence, or who have any influence on me? I am confounded with all these questions, and begin to fancy myself in the most deplorable condition imaginable, environ'd with the deepest darkness, and utterly depriv'd of the use of every member and faculty. (*Treatise* 1.4.7.8)

His solution is one of distraction. He goes about the business of living, eating, playing backgammon, and soon the darkness fades. (*Treatise* 1.4.7.9) His scepticism undeniably throws him into despair at times. He can avoid it only by diversion and amusement.

Hume’s renunciation of a metaphysical framework at times threatened to drive him into a place of desperation. His denial of ultimate reality when taken to its logical end threatened to undermine his confidence in reason. He was making his way forward into a new reality where there was no big picture explanation of the world, the place of humans in it, or their purpose. It would seem that a workable approach to ethics should be habitable, capable of being “lived in”. An inadequate ethical framework will naturally create emotional and rational dissonance in the one who tries to inhabit it. Logic would seem to indicate that the more adequate an ethical framework is, the more liveable it will be. Hume’s approach was one with implications that he could only avoid by employing

distraction. If he were consistent in his scepticism, he risked a descent into madness.

Hume's framework for thought and life does not commend itself to the common human need for a sense of origin, meaning, purpose, and destiny. These are teleological or ends focused issues and Humeans deny teleology. What is oftentimes missing from their discussions are substantive grounds for this denial. When one hears that an idea such as a knowable ultimate reality, a discoverable *telos* for humans, and an ethically prescriptive understanding of human nature has been jettisoned and that a whole new way of understanding these things has replaced it, it seems appropriate to ask some questions about the now passé idea or understanding. Why did it become obsolete? The claim is that it could no longer bear up in a world which was becoming more and more scientific. Hume refers to teachings of the moral philosophers who anchored their beliefs in faith as "airy sciences." (Hume, 2004, p. 6) Was teleological thought, in fact, demonstrated to be "airy" and lightweight? Was it powerfully refuted? If it were refuted, by whom was it refuted and how conclusively?" In considering Hume's approach to the field of ethics, Christine Korsgaard finds neither his "anatomy" nor Hutcheson's "painting" of human nature to be satisfying. She says, "neither the anatomist nor the painter seems to be interested in the justification of morality's claims." (Korsgaard, 1996, p. 52) Her project is the justification of modern methods of establishing ethical normativity. (Korsgaard, 1996, p. 51, n. 4) She leaves the discussion of Aristotle's teleology for another time, but regarding Hume's dismissal of teleological thought, she has rightly pointed out: "It turns out that Hume's argument for separating fact and value is inadequate, for he does not really prove...that reason cannot motivate." (Korsgaard, 1996, p. 12) Elsewhere she says:

What is important to notice in this discussion is the relation between Hume's views about the possible contents of principles of reason bearing on action and the

scope of its motivational efficacy. The answer to the question what sorts of operation, procedure, or judgment of reason exist is presupposed in these passages...In other words, Hume's argument against a more extensive practical employment of reason depends upon Hume's own view of what reason is – that is, about what sorts of operation and judgment are “rational”. His motivational scepticism (scepticism about the scope of reason as a motive) is entirely dependent upon his content scepticism (scepticism about what reason has to say about choice and action). (Korsgaard, 1986, p. 7)

She goes on to state that:

Yet Hume's arguments may give the impression of doing something much stronger: of placing independent constraints, based solely on motivational considerations, on what might count as a principle of practical reason. Hume seems to say simply that all reasoning that has a motivational influence must start from a passion, that being the only possible source of motivation, and must proceed to the means to satisfy that passion, that being the only operation of reason that transmits motivational force. Yet these are separate points: they can be doubted, and challenged separately. (Korsgaard, 1986, p. 8)

Many have challenged Hume's conclusions in recent years. Some of the best known contemporary moral philosophers are amongst their ranks. Searles, Rawls, MacIntyre, Putnam, Anscombe, Sen, Foote, and Ross would be but a few who agree with Korsgaard on this point. Surprisingly, even J.L. Mackie admits Hume's error here:

...the mere *firm belief* that something is fit to be pursued, and that such fitness is an objective requirement to act, can be a motive to action without any accompanying passion or desire, as we noted in chapter IV. Hume's psychological thesis is overstated if he claims that motivation always involves a desire as well as belief. The belief in objective moral (p. 141) requirements, made explicit by such writers as Clarke and Price and Reid, but implicit in much ordinary moral thinking, can in this curious way act as a motive on its own, even if, as Hume would argue, that belief is false. (Mackie, 1980, p. 141)

1.6 *Questioning the Anti-Metaphysical Stance of Humeanism*

Despite the argumentation over Hume and his assumptions, the ‘fact-value’ or ‘Is-Ought’ divide has, for some, widened with time. For many it is not truly rooted in Hume's distinction between reason and sentiment, although the claim is made that ‘Is-Ought’ originates with Hume. In the judgment of some moral philosophers, the fact-value divide is seemingly an inviolable law of their field and has taken on the character of a basic axiom. Be that as it may, the assumption appears to have come about through a

gradual process of repetition and assertion. The truth is that no single refutation has been conclusive. No one, including Hume, has categorically demonstrated that values cannot be derived from facts. Scepticism has not conclusively dismissed the possibility of meaningful metaphysics, any more than it has made human nature indefinable.

Today, Deconstructionists may dismiss the concept of *metanarrative* as an exercise of power, but though they have sought to disabuse people living in these postmodern times of the idea of a ‘big picture,’ explanation for all that exists, it is quite clear that most people will formulate their own ‘big picture’ of reality if there is none which they find persuasive. Human beings persist in believing in the basic concept of a metaphysic, even if they don’t call it by that name. The fact that an idea is no longer in vogue does not equal a refutation of that idea, despite the mounting weight of expressions of academic opinion that it has been somehow disproved or is no longer a relevant issue. Three questions need to be asked in this regard. First, apart from deconstructionist expressions of scepticism, has anyone given a definitive, salient, and persuasive refutation of the possibility of forming an accurate and meaningful *metanarrative*? Second, if no one has conclusively refuted the possibility of constructing a useful *metanarrative*, then on what basis is the construction of a meaningful metaphysic dismissed? Third, if the possibility of doing metaphysics remains, then within the context of a metaphysical understanding which holds human nature to be a great good, what are the ethical implications of human nature as best it can be defined and understood? These issues have direct bearing on the issue of the relations of facts to values. If there is an identifiable and defensible *telos* or end for human beings, then that speaks to how people ought to treat one another. Taking the thriving or flourishing of human life as a *prima*

facie candidate for such a telos, I have stated that there are certain identifiable states at which to aim if such flourishing of oneself and others is one's objective. If the sciences and the disciplines can inform human understanding regarding what is necessary for the thriving of human life, then it would appear that a human-design based approach to ethics is very doable. The facts about human beings are capable of speaking to axiology or ethics. They by themselves, as Hume has stated, may be static or inert, but if they are combined with reasoning and education which appeals to human sentiment or desire, they can then motivate to ethical action.

1.7 *Reason's Relationship to Desire*

It appears that desire and knowledge are not as separate and different from each other as some in times past believed. This is not to speak in Socratic terms of right knowledge issuing forth in right actions. Socrates seems to have omitted the will or volition from his calculations. Clearly, one can have right knowledge and not be moved by it; in fact, human beings regularly report making choices with a perversity that intentionally disregards what they believe to be right.

In 1875, in a book about Hume's era, James McCosh wrote:

Possibly the next great addition may be made to psychology, when internal observation of the thoughts and feelings, and external observation of the brain and nerves and vital forces, are in circumstances to combine their lights. But in the days of the great masters of the Scottish school, physiology was not in a state, nor is it yet in a position, to furnish much aid in explaining mental phenomena. The instrument employed by them was the internal sense; and they always maintained that it is only by it that we can reach an acquaintance with mind proper and its various operations, and that the knowledge acquired otherwise must ever be regarded as subordinate and subsidiary. (McCosh, 1875, p. 5)

What McCosh conjectured might happen in the future has arguably come to pass. Brain research and knowledge of the workings of human cognition have made much forward

progress. The “internal sense” of which McCosh speaks is no longer the only significant instrument available for the observation of the brain. Today, although most philosophers realize that the fields of perception and epistemology have broadened and that knowledge has become a bit more “fuzzy” than it once was thought to be, there is still a tendency to speak as though feeling and knowing are distinct and separate. There is a body of scientific evidence which has surfaced which refutes this perception and shows that feeling and knowing are more tightly connected than they were thought to be previously.

The field of Social and Emotional Learning (SEL) is burgeoning, and the discovery of the human capacity for what Goleman has called “Emotional Intelligence” (Goleman, 1995) has yielded direct benefits in terms of test results, grade point averages, and increased memory and attention (Cross, 2004, p. 132). The best known and most ground-breaking researchers in the field of Emotional Intelligence are Mayer and Salovey. They define it this way:

Emotional intelligence refers to an ability to recognize the meanings of emotions and their relationships, and to reason and problem-solve on the basis of them. Emotional intelligence is involved in the capacity to perceive emotions, assimilate emotion-related feelings, understand the information of those emotions, and manage them (Mayer, Caruso, and Salovey, 1999, p. 267).

Notice that they claim that human beings reason and actually solve problems by means of emotions. It appears that dealing with a child’s emotions relative to the learning of facts actually increases the executive functions of the prefrontal cortex of the brain:

The long held notion of mind-body dualism held by Descartes contributed to the traditional separation of emotion from the brain. Under this theory, emotions were viewed as originating primarily in the body, with rational thought being the primary concern of the “mind.” That is, we feel in our “gut and heart” and think in our brain. Gradually, this view has been changing, and the brain is now viewed as playing a critical role in emotion processing. In fact, some investigators have begun to emphasize the importance of emotion for what has traditionally been

viewed as the domain of rational thought, for example, for effective decision making. (Salovey and Sluyter, eds., 1997, pp. 94-95)

The separation of desire and knowledge would appear to be a notion which is, at least in the field of psychology, being overturned.

Emotional Intelligence has, in a short time come to be highly valued and utilized with significant results, especially in the fields of education and management/ organizational development. This field of research has not been without its dissenters, especially Ed Locke and Frank Landy (Spainhower, 2009, pp. 61-64), but the concept of emotional intelligence is being substantiated medically and scientifically.

This research demonstrates, for instance, that Locke's (Edwin Locke that is) point that individuals cannot reason with emotion is, in fact, not correct. While it's true that the idea of separation of mind and body has been a key tenet of scientific philosophy since Descartes, this idea has now been superseded. This is illustrated in a passage from Damasio's (1994) book *Descartes' Error*, where the author describes a poignant example of a patient who had suffered damage to a part of his brain associated with emotional experience. This patient demonstrated high IQ in all the standard tests, and was capable of driving his car on icy roads while all around was mayhem. But, when it came to making a simple decision about a date for his next appointment, Damasio's patient proved totally incompetent. Indeed, despite his high IQ, he was completely unable to live an independent life. Damasio explains this in terms of 'somatic states' (or bodily feelings) that play an essential role as shapers of cognitive thought processes, especially thoughts that involve evaluative comparisons and judgments. It seems that people do indeed reason with emotion. (Ashkanasy and Daus, 2005, p. 441)

Antonio Damasio is currently a professor of neuroscience at the University of Southern California. He wrote about the patient mentioned above when he was working as the Head of Neurology at the University of Iowa Hospitals and Clinics. The problem with his patient, a lawyer, was that the surgeon who removed a tumour from the pre-frontal lobes of his brain accidentally cut the circuits connecting the pre-frontal lobes with the amygdala. The lawyer displayed no cognitive deficits, but he became incompetent at his work, lost his job, his wife, and his house. His intellect as typically defined, that is his

cognitive function, was fully operational, but he had no decision making capabilities whatever. He had no feelings about his thoughts, and therefore he had no preferences. Damasio concluded that the mind weighs the factual information it is given, and then, utilizing the emotions, it delivers a decision about a course of action (Goleman, 1998, p. 52).

1.7.1 *Reason and Emotion Inseparable*

It appears that there is good evidence for the claim that reason and desire or sentiment are married and do not dwell in entirely separate compartments in the brain. In fact, in another place, Damasio states that “consciousness and emotion are not separable.” (Damasio, 2000, p. 16) He speaks of the “continuity of the melodic line of background emotion.” (Damasio, 2000, p. 93) He states that cognitions always have some sort of a mental component (Damasio, 2000, p. 286) and that “Well-targeted and well-deployed emotion seems to be a support system without which the edifice of reason cannot operate properly.” (Damasio, 2000, p. 42) Steven Pinker of Harvard agrees with Damasio’s findings:

The emotions are mechanisms that set the brain’s highest-level goals. Once triggered by a propitious moment, an emotion triggers the cascade of subgoals and sub-subgoals that we call thinking and acting.... No sharp line divides thinking from feeling, nor does thinking inevitably precede feeling or vice versa. (Pinker, 1997, p. 373)

It seems as though contemporary discussions about desire and knowledge in the field of ethics will need to take these realisations into consideration in the future if they are to speak accurately. If current research is correct, then to speak of a schism between desire and knowledge is to speak erroneously from an older paradigm of human cognition than that which is emerging in contemporary times.

Over against today's Humean thought, which is usually aligned with either subjectivism or non-cognitivism, Hume, who has been made the rallying point ideologically for those who would deny objective rights and wrongs and objective goods and bads simply does not subscribe to either line of thought. Hume may have been a brilliant sophist of sorts as G.E.M. Anscombe accuses him of being, (Anscombe, 1958, p. 3) but he plainly was not a Humean. In Book III of the *Treatise* Hume states:

`Tis evident, that when we praise any actions, we regard only the motives that produced them, and consider the actions as signs or indications of certain principles in the mind and temper. The external performance has no merit. We must look within to find the moral quality. This we cannot do directly; and therefore fix our attention on actions, as on external signs. But these actions are still considered as signs; and the ultimate object of our praise and approbation is the motive, that produc'd them. (*Treatise*, 3.2.1.2)

This is most decidedly *not* a Humean point of view. This is, in fact, at variance with the popular understanding of sentimentalism, because this statement, the essence of which is repeatedly echoed in this part of the *Treatise*, is one which, like many of the writings of Hume's friend and associate Hutcheson, allows for real virtue and real vice. In Hume's thought and valuation such statements are probably based upon his fondness for and familiarity with Cicero ⁶ (Hume, Norton (ed.), 2000, p. I83, *editor's preface*). He goes on to speak of that which is in his words "really virtuous":

It appears, therefore, that all virtuous actions derive their merit only from virtuous motives, and are consider'd merely as signs of those motives. From this principle I conclude, that the first virtuous motive, which bestows a merit on any action, can never be a regard to the virtue of that action, but must be some other natural motive or principle. To suppose, that the mere regard to the virtue of the action. may be the first motive, which produc'd the action, and render'd it virtuous, is to reason in a circle. Before we can have such a regard, the action must be really

⁶ In a letter sent by Hume to Hutcheson 17th, September, 1739, he remarks on Cicero's concept of virtuous motives making an act virtuous. (Hume, Norton (ed.), 2000, p. 540, editor's Annotations to *Treatise*)

virtuous; and this virtue must be deriv'd from some virtuous motive: And consequently the virtuous motive must be different from the regard to the virtue of the action. A virtuous motive is requisite to render an action virtuous. An action must be virtuous, before we can have a regard to its virtue. Some virtuous motive, therefore, must be antecedent to that regard. (*Treatise*, 3.1.2.1).

Though he has separated himself from the particular form of objectivism which he believes to be in Wollaston, and which certainly is in Clarke, he, like them, believes in real virtue. This is a view which is very much at variance with a great deal of contemporary meta-ethics. Immediately following the famous “Is-Ought” passage, Hume has stated, just a few paragraphs previous to this one, that “the course of the argument leads us to conclude that since vice and virtue are not discoverable merely by reason, or the comparison of ideas, it must be by means of some impression or sentiment they occasion, that we are able to mark the difference betwixt them.” (*Treatise*, 3.2.1.4). This line of thought is seen as the warrant for the assertions of ethicists such as Ayer and Mackie that value judgments are comparable to expressions of taste or preference. Clearly, this is taking Hume’s philosophical ponderings and meanderings further than he would have wanted. However virtue was to be arrived at or discovered, he clearly believed in real virtue. He speaks of an action being “antecedently virtuous”:

*Wherein consists this honesty and justice, which you find in restoring a loan, and abstaining from the property of others? It does not surely lie in the external action. It must, therefore be plac'd in the motive, from which the external action is deriv'd. This motive can never be a regard to the honesty of the action. For 'tis a plain fallacy to say, that a virtuous motive is requisite to render an action honest, and at the same time that a regard to the honesty is the motive of the action. We can never have a regard to the virtue of an action, unless the action be antecedently virtuous. No action can be virtuous, but so far as it proceeds from a virtuous motive. A virtuous motive, therefore, must precede the regard to the virtue, and 'tis impossible, that the virtuous motive and the regard to the virtue can be the same. (*Treatise*, 3.2.1.9)*

Hume’s belief in real virtue is problematic for most who would call themselves “Humeans”, inasmuch as it implies that Hume is not himself a Humean.

In summary, regarding the relationship of facts to values, Hume was asserting a concept in the *Treatise* that is at least as old as Aristotle. Hume's assertion of the need to bring sentiment or desire into the moral reasoning enterprise was made in the context of the confrontation between empiricism and rationalism. He asserted what really was an ancient maxim, which was by no means original with him, and did so in the context of the clash with rationalists such as Price, Wollaston, and Clarke. When he did so, he was arguing from the understanding which he shared with Lord Shaftesbury, Frances Hutcheson, and Adam Smith that there is a moral sense to the composition of the human psyche and that moral values are more internal than external. This line of reasoning is very much alive to this day, such that both non-rationalist ethical intuitionism and sentimentalism enjoy popularity in certain quarters at the present time. Hume's actual claims regarding the relationship of 'isness' to 'oughtness' really pose no challenge to the thesis presented herein.

Hume did not say that it is impossible to reason from facts to values, but rather that it is impossible to do so without the interplay of desire or sentiment. He stated that the significance of facts *vis-à-vis* motivation is responded to by means of reasoning eliciting sentiment; sentiment then moves the will to act. In reality, Hume never did refute the ability of facts to motivate; rather, he merely asserted his own scepticism about unaided reason's ability to respond to facts in order to motivate the will. Further, in Hume's thought, it is the affective which drives the volitional. Rather than declaring that one cannot reason from facts to values, he is actually declaring how to properly reason from 'is' to 'ought.' To use Hume to prove that it is impossible to reason from the descriptive to the prescriptive is to misrepresent what he says.

Desire and reason, or emotion and logic, have recently been discovered to be more tightly connected in the functions of the brain than was hitherto realized. It turns out that reason cannot function properly without emotion. This discovery has two bearings on Humean thought. If Hume is truly allowed to speak for himself, then it turns out that he is both right and wrong. He is wrong, because his discussion was predicated on the misperception that reason and sentiment are quite separate. They are not nearly as separate as he thought. He is right, however, in that sentiment is always present in the decision making process and is necessary for ethical motivation. Recent research on the functioning of the brain confirms that reason and sentiment are always united in human cognition and decision making.

Lastly, it is hard to escape the conclusion that Hume was not a Humean. Though he was less certain of how vice and virtue were to be identified than his friend Hutcheson, it is doubtful that Hume would be comfortable with either today's ethical subjectivism or non-cognitivism. These realizations leave the original project proposed here unaffected. In fact, sentiment will be utilized in teaching a human needs based ethic, in order to get those being confronted by such an ethic to see its implications in terms of the personal and the human, rather than from an abstract and impersonal point of view. One might say that the pedagogy which shall be employed here is very much in keeping with Hume's actual understandings about motivation.

When Hume's purported 'is-ought' prohibition is being referenced, it is quite common to find it described as "the Naturalistic Fallacy," a term coined not by Hume but by G.E. Moore in *Principia Ethica*.⁷ Associating the "is-ought" problem with 'the Naturalistic Fallacy' is so common that one could easily get the impression that the two terms are synonymous; that G.E. Moore was carrying forward Hume's work in his own time; and that Moore said essentially the same thing that Hume did in a slightly different manner and context. Thomas Baldwin, well known as Moore's biographer, attributes the tendency to confuse the 'Naturalistic Fallacy' with the 'is-ought' issue to unclarity in Moore's natural/non-natural distinction (Baldwin, 1990, p. 80) and holds that "it is a mistake to read Hume into Moore." (Baldwin, 1990, p. 90) Next to casual invocation of 'Hume's Law' concerning the impossibility of deriving an 'ought' from an 'is', the objection most often made to dismiss natural law ethics without even giving it a proper hearing is that all natural law accounts commit the 'Naturalistic Fallacy'. In this chapter I will examine the roots of this objection in the work of G.E. Moore, and show that contrary to widespread belief it poses no great threat to projects such as the one undertaken here.

In August of 1903, Moore, a prize fellow in the fifth year of a six-year fellowship at Trinity College, Cambridge, released a publication entitled *Principia Ethica*. In the preface to the book, with the sort of hubris which seems especially characteristic of bright and learned young men, he said:

⁷ Some examples of this tendency are as follows: Cahan, 2003, p. 13; Holmes, 2003, p. 171; Kohlberg, 1971, p. 154; Kohlberg and Mayer, 1972, p. 466; Richards, 1987, p. 234; Petrinovich, 1998, p. 24; and Kass, Norton, and Donnelly, 1996, p. 20.

I have tried in this book to distinguish clearly two kinds of question, which moral philosophers have always professed to answer, but which, as I have tried to shew, they have almost always confused both with one another and with other questions. These two questions may be expressed, the first in the form: What kind of things ought to exist for their own sakes? the second in the form: What kind of actions ought we to perform? I have tried to shew exactly what it is that we ask about a thing, when we ask whether it ought to exist for its own sake, is good in itself or has intrinsic value; and exactly what it is that we ask about an action, when we ask whether we ought to do it, whether it is a right action or duty. (Moore, 2004, pp. iii-iv)

This was Moore's declared intention. He meant to bring clarification to a field where he believed there was a general confusion about just what *good* is. He identified two different types of *good*: (1) *good* things or things which "ought to exist for their own sakes" and (2) *good* actions or the kind of actions we ought to perform. His book is largely an explanation of the differences between these two types of *good*.

Unlike Hume's *Treatise*, which is quite broad in its scope, Moore's *Principia Ethica* has one overriding concern: the understanding of what *good* is and then its division into the categories of *good* things and *good* actions. The *Principia* is more sparse in its argumentation and subject matter than Hume's *Treatise*, and it is very tightly reasoned. Unlike Hume's work, Moore's writing doesn't specifically engage the ideas of those who have come before him in the field of ethics, but rather, it speaks more generally to the concept of *good*. It should also be noted that Moore seems unaware of any connectedness between his work and that of Hume, in that he never mentions Hume or his writings in *Principia Ethica*. This alone would tend to indicate that Moore did not believe he was carrying forward the business of divorcing 'is' from 'ought.' *Principia Ethica* does, however, have some parallels with the separation of facts and values since it opposes some varieties of philosophical naturalism, but these are only similarities and not to be confused with the 'is-ought' divide.

Another way that Moore is unlike Hume is that he is not particularly concerned with what motivates ethical actions. That is not his focus or emphasis. Whereas Hume is supposedly concerned that one not derive an 'ought' from an 'is,' Moore does not want any 'is' or natural property to be identified with the *good*. Hume is addressing motivation while Moore is more focused on addressing definition and identification. Moore declares early on that his intention is to overturn the theories of some naturalistic philosophers. He describes the ethical theories which he opposes in this manner:

Those theories of Ethics, then, are "naturalistic" which declare the sole good to consist in some one property of things, which exists in time; and which do so because they suppose that "good" itself can be defined by reference to such a property. (p. 41, §27)

This is the sort of thought Moore wants to oppose and refute because he believes that it is flawed, and that it is a mistake which many philosophers before him have made (p. 10, §10). Interestingly, Hume, the supposed progenitor of the fact-value divide, sometimes gives naturalistic definitions of virtue and vice as well as good and evil (Frankena, 1995, p. 131). Thomas Baldwin raises an additional contrast between Hume and Moore:

Moore's theory is often taken to involve a 'fact/value' gap of the kind Hume is supposed to uphold; indeed it is common to accuse those who think one can derive 'ought' from 'is' of committing the naturalistic fallacy. But since Moore holds that obligations are derivable from intrinsic values, and that there are necessary connections between the properties definitive of kinds of states of affairs and their intrinsic value, it follows that he is committed to necessary 'is/ought' connections. In his reply to his critics he explicitly admitted, then, that at least one natural property is 'ought-implying' (PGEM p. 604). So it is a mistake to conflate Moore with Hume (Baldwin, 1990, p. 86)

Upon examination, it becomes quite clear that Moore is simply not engaged in the the 'fact-value' debate as commonly understood. Moore's project is what he tells the reader it is and should not be construed as his attempt to carry forward the 'is-ought' controversy.

2.1

Pinning Down 'Good'

Throughout Moore's *Principia*, the business of identifying what sort of a thing

'good' is and how it pertains to things and actions is first and foremost. He is opposed to 'good' being defined as any naturalistic property. According to Moore, 'good' is non-natural, which means that it cannot be identified with any particular property or properties of a natural object (p. 40, §26). Further, it does not "exist by itself in time," (p. 41, §26) and objects which "do not exist in time, are not therefore parts of Nature...and in fact do not *exist* at all." (p. 110, §66). When he says that they do "not *exist* at all," he does not mean that they are imaginary or hypothetical. He means that non-natural objects, such as *good*, do not exist in a material sense:

It is immediately obvious that when we see a thing to be good, its goodness is not a property which we can take up in our hands, or separate from it even by the most delicate scientific instruments, and transfer to something else. It is not, in fact, like most of the predicates which we ascribe to things, a *part* of the thing to which we ascribe it. (p. 124, §73)

He asks rhetorically, "Can we imagine 'good' as existing by itself in time, and not merely as a property of some natural object?" (p. 41, §26) One must follow carefully what Moore is saying here, because although he poses this question, nonetheless he believes that the adjective "good" must not be confused with the thing it describes. 'Good' is real, but without invoking metaphysics, Moore maintains that it is not an intrinsic property of anything and that it is not something which can be detected within the bounds of the natural sciences or the field of psychology (p. 40, §26). Eventually the reader begins to get a "feel" for what Moore means as he multiplies analogies and distinctions to say what 'good' is not. 'Good' is really beyond definition and is detected by means of intuition, although Moore rejects the label "intuitionist" for his position (preface, page vi).

In the very first of the quotes by Moore cited above, it is important to notice the phrase "is good in itself or has intrinsic value." (p. 5, §5) Addressing the nature of 'good'

as it applies to things or intrinsic value is Moore's first emphasis in the beginning of *Principia Ethica*. It has proven across time to be the most influential part of the book (Bourke, 2004, p. 211). Over the course of the work he uses other phrases to denote what he says people have in mind when they are actually invoking the notion of 'good': "intrinsic worth" (§13, p. 17), "ought to exist" (§13, p. 17), "good in itself" (§15&16, pp. 21-22), "absolutely good" (§63, p. 105), and "what ought to be" (§68, p. 115). Moore sincerely believed that in all the philosophical discussions which had come before, something very important about the concept of 'good' had escaped the notice of his predecessors. At first it is a bit puzzling to try to grasp what Moore is driving at regarding the meaning of 'good.' He sounds rather pedantic, but he is actually invoking what he believes to be an innate sense of 'good,' which he believes all human beings recognise intuitively in a manner similar to their ability to recognise particular colours (§ 7, p.7), and which, therefore, defies description and definition:

If I am asked, "What is good?" my answer is that good is good, and that is the end of the matter. Or if I am asked "How is good to be defined?" my answer is that it cannot be defined, and that is all I have to say about it. But disappointing as these answers may appear, they are of the very last importance. To readers who are familiar with philosophic terminology, I can express their importance by saying that they amount to this: That propositions about the good are all of them synthetic and never analytic; and that is plainly no trivial matter. And the same thing may be expressed more popularly, by saying that, if I am right, then nobody can foist upon us such an axiom as that "Pleasure is the only good" or that "The good is the desired" on the pretence that this is "the very meaning of the word".
(§ 6, pp. 6-7)

The reader should take notice of his usage of the language of "synthetic" vs. "analytic." Analytic statements are true by definition, whereas synthetic statements convey information in their predicate which is not already present in their subject. An example of an analytic statement would be: "All dogs are canines." A synthetic statement would be: "This dog is friendly." Analytic statements give no new information besides that which is

already in their terms. They may break that information into constituent parts, but it is not new or additional information. Synthetic statements bring together two concepts which are not synonymous or interchangeable, usually employing the use of a predicate descriptor (Kant, CPR, A736/B764). When Moore raises the issue of definitions of 'good' always being synthetic and never analytic, he is saying essentially that there is nothing with a one-to-one correspondence to the concept of 'good.' If there were, it would permit a statement about 'good' comparable to the following analytic statements: all bachelors are unmarried, all corpses are dead, or all bipeds have two legs. Moore contends that all definitions of 'good' are, by necessity, synthetic and introduce new information into the equation. He is saying that it is impossible to create an analytic statement that rightly says either "all X's are goods" or "all goods are X's." It is Moore's view that nothing corresponds exactly to 'good'; therefore, 'good' is atomistic and thus incapable of further reduction or definition.

As he makes his way forward, Moore argues that the business of defining 'good' is at the heart of ethics and that the whole field turns on its definition:

...this question, how "good" is to be defined, is the most fundamental question in all Ethics. That which is meant by "good" is, in fact, except its converse "bad," the *only* simple object of thought which is peculiar to Ethics. Its definition is, therefore, the most essential point in the definition of Ethics; and moreover a mistake with regard to it entails a far larger number of erroneous ethical judgments than any other. Unless this first question be fully understood, and its true answer clearly recognised, the rest of Ethics is as good as useless from the point of view of systematic knowledge. (§ 5, p. 5)

What is often overlooked, according to Moore, is that 'good' in the first sense, or 'good' as it applies to things, is indefinable because it is something simple, axiomatic, and incapable of reduction (§ 7, pp. 7-8). In making this claim, he employs a rather eccentric understanding of the word "definition" and how it applies to 'good':

“Good,” then, if we mean by it that quality which we assert to belong to a thing, when we say that the thing is good, is incapable of any definition, in the most important sense of that word. The most important sense of “definition” is that in which a definition states what are the parts which invariably compose a certain whole; and in this sense “good” has no definition because it is simple and has no parts. (§ 10, p. 9)

Moore rejects verbal definitions (§6-8, pp. 6-9) and maintains that only definitions which are analytical are truly acceptable to him as definitions. It should here be noted that if the reader submits to the limits Moore places on the business of giving a definition, then those restrictions naturally force the reader to concur with his conclusions. If ‘good’ is as simple as Moore claims it to be, then he is, in fact, correct; it cannot be defined.

Further, in §7, the same place where Moore famously equates knowledge of the ‘good’ with recognition of the colour yellow, he goes on to say:

You can give a definition of a horse, because a horse has many different properties and qualities, all of which you can enumerate. But when you have enumerated them all, when you have reduced a horse to his simplest terms, you can no longer define those terms. They are simply something which you think of or perceive, and to anyone who cannot think of or perceive them, you can never, by any definition, make their nature known (pp. 7-8).

His point is the simplicity of ‘good’: that it is like a colour such as yellow in its simplicity, but unlike “horse,” inasmuch as the concept “horse” is complex. One can define “horse” because it admits of parts which compose a whole. Yellow, like ‘good,’ is a simple notion not comprised of parts. Moore says that in order to get to something comparable to ‘good’ when dealing with a complex notion or idea such as “horse,” one would have to reduce a horse down to a level where one was speaking of the simple and indefinable things which constitute a horse.

2.2

The ‘Naturalistic Fallacy’

Moore addresses the issue of definition and two other issues as well. By his contemplation of the important questions of ethics, he felt that he had acquired three

significant insights: (1) ‘good’ is indefinable, irreducible, and simple; (2) what makes an action right is that it produces the most ‘good’; (§ 16, pp. 22-23; § 17, pp. 23-27; § 89. pp. 146-148) and (3) “personal affections and aesthetic enjoyments include *all* the greatest, and *by far* the greatest, *goods* we can imagine.” (§ 113, p. 189) Although Moore emphasizes these three understandings as a result of his attempt to fully attend to the “big questions” of ethics, it is the failure to realise the first of them and the subsequent attempt to define ‘good’ in natural terms which Moore labels “the Naturalistic Fallacy.” Of the points Moore put forward, it is this one which has drawn the most attention and provoked the most discussion and debate.

And it is a fact, that Ethics aims at discovering what are those other properties belonging to all things which are good. But far too many philosophers have thought that when they named those other properties they were actually defining good; that these properties, in fact, were simply not “other,” but absolutely and entirely the same with goodness. This view I propose to call the “naturalistic fallacy” and of it I shall now endeavour to dispose. (§ 10, p. 10)

To reduce the concept of the ‘Naturalistic Fallacy’ to its most basic points, Moore says that most exponents of naturalistic ethics either confuse the property of ‘goodness’ with things which possess that property or with some other property which ‘good’ things possess. Moore maintains that the usage of any other term as though it were able to be used interchangeably with the term ‘good’ is a wrong decision in one of two possible ways: (1) If there is a one-to-one correspondence between the word employed and the term ‘good,’ then such a usage is simply a tautology. (§ 11-12, pp. 10-15) Speaking this way is equivalent to saying ‘good’ is ‘good.’ Some writers refer to this particular idea as the “Barren Tautology Argument,” a name given to it by Bertrand Russell (Pigden, 2006, p.9). This observation raises a perennial difficulty in definitions referred to as the “paradox of analysis,” (Altmann, 2004, pp. 401-404) which would eventually prove

problematic for Moore himself (Prior, 1949, pp. 4-7). (2) If, however, the two words, 'good' and (e.g.) *pleasant* are being used to describe the same thing, person, or act, they may not necessarily be describing exactly the same characteristic. One may use 'good' to denote X, or one may use *pleasant* to denote X, but one cannot have any certainty that the specific attributes or characteristics that cause one to say that X is good are the same as those which cause one to say that X is pleasant; in fact, Moore states that it is unlikely that they are the same (§ 12-13, pp. 12-17). Denotative statements about a thing, act, or person are not necessarily equivalent to that which they connote. Thus, according to Moore, one cannot validly invoke natural objects or sensations, or things as they ordinarily are as being appropriate descriptors of the 'good.'

By showing the simple, non-natural, and irreducible nature of 'good,' and by identifying the inappropriate usage of 'good' by the Naturalistic philosophers, Moore aspired to dispense with the 'Naturalistic Fallacy' in the field of ethics. Once again, this is not akin to laying claim that one cannot deduce a value from a fact or an 'ought' from an 'is'. This is an entirely different issue than that which Hume is credited with addressing in the *Treatise*. As Bruening points out, "Moore himself never seems to express the naturalistic fallacy in terms of a distinction between factual statements and evaluative statements." (Bruening, 1977, p. 147) Moore is concerned with a different sort of category confusion:

When a man confuses two natural objects with one another, defining the one by the other, if for instance, he confuses himself, who is one natural object, with "pleased" or with "pleasure" which are others, then there is no reason to call the fallacy naturalistic. But if he confuses "good," which is not in the same sense a natural object, with any natural object whatever, then there is a reason for calling that a naturalistic fallacy; its being made with regard to "good" marks it as something quite specific, and this specific mistake deserves a name because it is so common. (§12, p. 13)

By using the term ‘Naturalistic Fallacy,’ Moore has certain philosophical opponents in view. He means those who would be regarded as proponents of naturalism such as Spencer and Mill as well as some who are considered to be non-naturalistic and idealist such as Kant and Hegel (Bruening, 1971, p. 144).

2.3 *The ‘Open Question Argument’*

If one follows the noteworthy aspects of Moore’s discussion of the ‘good’ in terms of its being indefinable, irreducible, and simple, there is first the general and quite broad discussion of his undertaking; secondly, there is the explanation of what he means when he makes reference to the ‘Naturalistic Fallacy’; and lastly, there is the Open Question Argument (OQA). The term “open question” is only actually used by Moore four times. It is used negatively one time (“is not an open question”, p. 21) in § 14, and it appears in a positive sense three times in § 27 of the *Principia Ethica*. When it is used in § 27, it is used very specifically to place in question the concept that what is natural, especially as regards health, is necessarily normative of what is “good”:

...it may be said that nevertheless the normal is good; and I myself am not prepared to dispute that health is good. What I contend is that this must not be taken to be obvious; that it must be regarded as an open question.... All that has really been shewn is that in some cases there is a conflict between the common judgment that genius is good, and the common judgment that health is good. It is not sufficiently recognised that the latter judgment has not a whit more warrant for its truth than the former; that both are perfectly open questions... We must not, therefore, be frightened by the assertion that a thing is natural into the admission that it is good; good does not, by definition, mean anything that is natural; and it is therefore always an open question whether anything that is natural is good. (§ 27, pp. 41-44)

One ought not however to get the idea that § 27 is what is being referenced when the OQA is under discussion. This is a source of some confusion in reading Moore. In § 13, in what is the only part of *Principia Ethica* up to this point which doesn’t correspond to ideas previously put forward in Moore’s earlier work *The Elements of Ethics*, he states:

The hypothesis that disagreement about the meaning of good is disagreement with regard to the correct analysis of a given whole, may be most plainly seen to be incorrect by consideration of the fact that, whatever definition may be offered, it may always, be asked, with significance, of the complex so defined, whether it is itself good. (p. 15, § 13)

Although the phrase “open question” does not appear here, this is the OQA as usually understood (Altmann, 2004, p. 397 and Baldwin, 1990, p. 87). It is the technique of asking of any and every candidate put forward as a synonym for ‘good’ whether or not it is in fact good. Since Moore holds and argues for the idea that ‘good’ cannot be defined using natural terms, asking this question highlights the fact that natural definitions always fall short of being able to define ‘good.’ His primary example, presumably in reaction to hedonistic thought, is “pleasure.” To employ the OQA in the instance of happiness, imagine the following scenario: Jones says of an action which he performed, “That made me very happy.” As with all definitional candidates put forward for “the good” when one is using the OQA, Smith is now able to simply reply to Jones: “Yes, but was it good?” Smith is now simply asking if the act which made Jones happy was in fact ‘good.’ By being able to do so legitimately or “with significance,” Smith shows in a very simple way that happiness is not the same thing as ‘good.’

Moore demonstrates for his readers how to use the OQA. As a bit of background to this endeavour, in *Elements of Ethics* Moore took Mill to task for his hedonism for the better part of 50 pages, calling Mills’ particular brand of hedonism “Psychological Hedonism.” (Moore, 1991, pp. 43-96) Moore is strongly opposed to placing “pleasure” in the place of ‘good,’ and, therefore, he brings the OQA to bear upon it and states:

But whoever will attentively consider with himself what is actually before his mind when he asks the question “Is pleasure (or whatever it may be) after all good?” can easily satisfy himself that he is not merely wondering whether pleasure is pleasant. And if he will try this experiment with each suggested definition in succession, he may become expert enough to recognise that in every

case he has before his mind a unique object, with regard to the connection of which with any other object, a distinct question may be asked. Every one does in fact understand the question "Is this good?" When he thinks of it, his state of mind is different from what it would be, were he asked "Is this pleasant, or desired, or approved?" It has a distinct meaning for him, even though he may not recognise in what respect it is distinct (§ 13, p. 16-17)

Thus, Moore claims that employing the OQA highlights the uniqueness and indefinability of 'good,' even as he expresses his opposition to hedonism. This is a very gentle tactic, which might be likened to some of the martial arts where one does not oppose force with force, but uses an opponent's movement against him. By employing this technique, Moore seems to have dispensed effortlessly with the hedonistic claim that pleasure is the greatest 'good.'

The remainder of *Principia Ethica*, apart from Moore's highlighting of the uniqueness of 'good,' the idea of the 'Naturalistic Fallacy,' and the concept of the OQA, is a matter of Moore bringing his convictions and arguments to bear on first naturalistic philosophers, then hedonists, and lastly metaphysical philosophers. After that he addresses some general issues regarding ethical behaviour and aesthetics.

2.4 *Moore's Repudiation of Idealism*

In seeking to understand Moore, the factors which motivated him to write the *Principia*, and what he primarily wanted to assert, it is helpful to consider his context. In his autobiography he stated that it was neither the natural world nor the physical sciences which suggested philosophical problems to him, but rather "philosophers and what they have said about the world and about the sciences." (Schilpp, 1968. p. 14) There is good reason to believe that Moore was directing that remark primarily at those who espoused idealism. Moore first learned Kant at Cambridge and then lectured on him there. His understanding of Kant and Hegel was one distilled through the lens of British idealism. It

is beyond the scope of this present work to address the differences between the two, but suffice it to say that likely it was sometimes a caricature of idealism as understood under Kant, Fichte, and Hegel against which Moore was reacting. His disagreement with his perception of their thought was so strong that as he was writing *Principia Ethica*, he was also working on *The Refutation of Idealism*. Both were published in 1903. In *The Refutation of Idealism*, he complained of the prison house, so to speak, of idealism, where one cannot lay hold on realities, but only on one's perceptions of realities, in a system where all things are interconnected and mind-dependent for their apprehension. Moore wrote regarding how one might escape from the confines of one's own ideas and sensation: "The 'solution' lies in seeing that there is no problem, just to *have* a sensation is to be outside that circle." (Moore, 1903, p. 45) He proceeded to invoke what sounds like Direct Realism as a means of escaping the implications of idealism. Unfortunately this form of realism is an extreme response to idealism and is fraught with problems of its own.

Direct realism, the first, the most obvious approach to knowledge, the approach which occurs to anyone who does not think the problem through, is a claim to grasp cognitive objects directly, without any intermediary between the subject which knows and the object which is known. (Rockmore, 2007, p. 57)

Regardless of the difficulties of maintaining the philosophical position of direct realism, the effect of casting off idealism and thinking and perceiving themselves and their world differently than they had gave Moore, Russell and those they influenced a great sense of release and liberation from a philosophy which held that the human observer's experience of what appears to be reality is totally subjective and that he or she actually projects their perception of the sensible qualities of the world onto the world. By embracing the perspective that he did, Moore and those he influenced were able to think and act in terms

of external realities apart from the framework of their minds and which were not dependent upon the observer for their characteristics.

2.5 *The “Linguistic Turn”*

Moore’s language-based arguments regarding the non-reducibility of ‘good’ are interesting, but it seems that in his writing he blurs the line between semantics and ontology. To have semantical difficulties in pinning ‘good’ down does not necessarily mean that it is ontologically irreducible and atomistic. Language has its limitations. Many 20th century moral philosophers went down this same road and spent more time talking about talking about ethics than pursuing the ancient ethical concerns of how to live “the good life” and addressing what is the greatest good or the *summum bonum*.

An idea which Moore had as a young man seems to have set him in the direction of addressing ethics from a linguistic standpoint. In a letter to his lifelong friend Desmond McCarthy, dated August of 1898, he said, “I have arrived at a perfectly staggering doctrine...An existent is nothing but a proposition: nothing is but concepts. There is my philosophy.” (Baldwin, 1990, p. 41) He says much the same thing in his 1899 work, *The Nature of Judgement*:

A proposition is composed not of words, nor yet of thoughts, but of concepts. Concepts are possible objects of thought; but that is no definition of them. It merely states that they may come into relation with a thinker; and in order that they *may* do anything, they must already *be* something. It is indifferent to their nature whether anybody thinks them or not. (Moore, 1899, p.179)

It seems counter-intuitive that one who so strongly repudiated idealism would embrace a notion of reality defined by mere concepts. Thomas Baldwin, Moore’s best known biographer, says that, at this point, Moore is unaware of his affinities with the thought of Bradley, but he holds something very much like Bradley’s identity theory of truth, which

Moore had unjustly criticized as a correspondence theory of truth, (Baldwin, 1991, pp. 35-52) The identity theory of truth “is basically the thesis that the truth of a judgment consists in the *identity* of the judgment's content with a fact.” (Baldwin, 1991, p. 35) Baldwin goes on to cite a definition for truth that Moore wrote for J.M. Baldwin’s Dictionary of Philosophy and Psychology in 1901:

...a truth differs in no respect from the reality to which it was supposed merely to correspond: e.g. the truth that I exist differs in no respect from the corresponding reality—my existence (Baldwin, 1901, p. 717).

Ironically, as regards Moore’s repudiation of idealism, Baldwin traces this whole line of thought to Hegel and his *Logic*, which states: "Truth in the deeper sense consists in the identity between objectivity and the notion." (Baldwin, 1991, p. 40) In any case, Moore is affirming a radically tight connection or association between a true proposition and the reality itself.

When it came to the business of giving definitions of a thing, Moore defined the term “definition” in a rather unorthodox fashion, and, as has been noted above, if the reader submits to Moore’s terms as regards what is an acceptable definition, then his point is conclusive:

The most important sense of “definition” is that in which a definition states what are the parts which invariably compose a certain whole; and in this sense “good” has no definition because it is simple and has no parts (§ 8, p. 9).

This fits with his explanation of simple vs. complex. The question is whether or not this is really what it means to give a definition of a thing. Arriving at an analytical statement regarding a person or object is not traditionally what is meant by giving a definition of it. Definition generally means to describe, make clear, express the essential nature of a thing, but not to reduce a thing to its component parts. Quite simply, a definition tells what a thing is. Moore usually does not attempt definition in this sense. Usually he

addresses “What does it mean?” rather than “What is it?” Moore’s emphasis is on the linguistic signifier rather than the actual entity which it signifies.

This sets the tenor of Moore’s argumentation. He declares in his preface to *Principia Ethica* that in chapter IV he intends “to present some conclusions, with regard to the proper answer to the question, ‘What is good in itself?’” (preface, p. v); however, the reader finds little if any ontology or metaphysics what follows. Everything is a matter of words. He says that his answers regarding what is ‘good’ in itself will be “very different from any which have commonly been advocated by philosophers.” (preface, p. v) He spoke truly. The essence of ‘good’ is clearly not his concern, such that he rather emphatically declares in chapter IV, “If we ask: What bearing can Metaphysics have upon the question, What is good? the only possible answer is: Obviously and absolutely none.” (§ 69, p. 118) Moore makes it plain that he has essentially abandoned metaphysics when it comes to describing “what good is in itself.” For Moore it all comes down to language about ‘good’ rather than to an ontology of good. Consequently the publication of *Principia Ethica* basically marks the birth of 20th Century meta-ethics.

2.6 *Getting it Wrong: Comparing Good to the Colour Yellow*

Much has been written about Moore’s comparison of ‘good’ to yellow. I believe I may have something to add to that discussion. The source of my observations is not some new and innovative line of thought, but rather, it is an ancient understanding.

Socrates, who usually spends a lot of his time on the business of definition, is asked the beginning of the *Meno* whether virtue can be taught (70a), and he responds that he doesn’t know what virtue itself is. (71a) Employing his usual questioning technique, he begins questioning Meno about the nature of virtue and health and asking if it is the

same thing in one person as it is in another. (72d and e) Eventually, as Socrates is listening to Meno try to define virtue, he says, “We have discovered a number of virtues when we were looking for only one. This single *virtue*, which permeates each of them, we cannot find.” (74a) He comes quickly to the place where, for purposes of analogy, he seeks to have Meno define what he means when he speaks of other things such as shape and colour. He says to Meno, assuming his agreement, that if someone to whom you were explaining “white” were to ask you: “ ‘Is white colour or a colour?’ you would say that it is a colour, because there are other colours as well.” Meno simply says, “I should.” (74c). He then discusses a person making inquiry of Meno about shape:

‘Then what is this thing which is called “shape”? Try to tell me.’ If when asked this question either about shape or colour you said: ‘but I don’t understand what you want or what you mean’, your questioner would perhaps be surprised and say: ‘Don’t you see that I am looking for what is the same in all of them?’ Would you even be unable to reply if the question was: ‘What is it that is common to roundness and straightness and other things which you call shapes?’ Do your best to answer as practice for the question about virtue. (75a)

One cannot help feeling that Moore, in attempting to address ‘good,’ is standing in much the same place as Meno trying to define “shape.” His difficulty is in some ways Meno’s difficulty. It might well be said that Moore never gets past the business of a nominal definition of ‘good,’ inasmuch as he really makes almost all of his work about the word “good” rather than the reality for which the word stands.

Some difficulties arise out of Moore’s comparison of ‘good’ to a hue or a particular colour, such that one wonders if ‘good’ as Moore attempts to define it wouldn’t have fit better under a heading akin to that of Aristotle’s idea of a unity. In the *Metaphysics*, Aristotle spoke of employing a *genus* plus a *differentia* (a specific difference) in the business of defining. (Z - Book VII, Chap. 12, 1037b-1038) Thus, humans are “rational” (a particular *differentiate*) “animals” (a *genus*) for Aristotle.

However, in Aristotle, colour (itself) cannot be defined as such because it is a *genus* without *differentia*. When one attempts to define colour further and speaks of actual hues, then one has *differentia* with which to work. Thus, yellow would not be a simple concept (per Moore) for Aristotle, but colour, the category which yellow itself belongs to, would. Using the analogy of the idea of yellow to describe what ‘good’ is like fails to take into account the fact that yellow is a descriptor, a *differentia*. Logically, Moore’s analogy places ‘good’ in the same category. However, Moore, as well as the rest of the philosophical community, knows and maintains that ‘good’ is something more than a mere *differentia*. Now, what Moore describes as a “simple object of thought” (§5, p.5) is for Aristotle a *genus* without a *differentia*. A *genus* without a *differentia* raises the issue of unity, which Aristotle speaks to when he says,

But of the things which have no matter, either intelligible or perceptible, each is by its nature essentially a kind of unity, as it is essentially a kind of being – individual substance, quality or quantity (and so neither ‘existent’ nor ‘one’ is present in their definitions), and the essence of each of them is by its very nature a kind of unity as it is a kind of being – and so none of these has any reason outside itself for being one, nor for being a kind of being; for each is by its nature a kind of being and a kind of unity, not as being in the genus ‘being’ or ‘one’ nor in the sense that being and unity can exist apart from particulars. (H – Book VIII, Ch. 6, 1045a-1045b)

A bit further on Aristotle states: “All things which have no matter are without qualification essentially unities.” (H – Book VIII, Chapter 6, 1045b) When Moore is contrasting ‘good’ with natural properties, he winds up declaring that natural properties are parts which comprise the things they describe, “rather than mere predicates which attach to it.” (§26, p. 41). This leaves him in the peculiar place of seeming to say, by way of contrast, that the non-natural ‘good’ of which he is speaking is a “mere predicate.” It seems though that Moore’s ‘good,’ as he describes it, is more like an Aristotelian *genus* without a *differentia*. However, when Moore compares it to a colour or when he contrasts

it with a natural property, he makes 'good' comparable to a *differentia*. Then, by qualifying it in the many ways that he does, it becomes something like a unique *differentia*, which is often being spoken of without a *genus*. This is largely to reduce 'good' to nothing more than a qualifier, even as one maintains that 'good' is unique, non-natural, *sui generis*, and non-reducible. Likely this was not Moore's intent, but it is one of the consequences of describing it as he did. In his *Refutation of Idealism*, while dealing with the refutation of Berkeley's "*Esse est percipi*" rather than the nature of 'good,' Moore speaks of the distinction between differing colours and shows a bit of his thought process as regards perception:

We all know that the sensation of blue differs from that of green. But it is plain that if both are sensations they also have some point in common, What is it that they have in common? And how is this common element related to the points in which they differ? I will call the common element 'consciousness' without yet attempting to say what the thing I so call *is*. (Moore, 1903, p. 444)

This sounds more like the thinking of James Ward, one of Moore's lecturers and a professor of Mental Philosophy and Logic, than it does like philosophy proper. Ward, dealing from the perspective of "mental philosophy" or psychology, rightly (for his discipline) spoke of "the duality of object and subject," (Hicks, G, 1925, pp. 280-299) Ward was Moore's favourite lecturer and one of his primary influences at Cambridge in his undergraduate days. Moore seems to be thinking in Ward's dualistic categories of consciousness and object of consciousness as he writes of colour here, but he is writing in philosophy not in psychology. In fact, Moore's primary objection to Kant's work was that he turned philosophy into psychology (Baldwin, 1990, p. 7-8). Moore has skipped over an important distinction and thereby omitted an aspect of cognition which philosophy must address if it is to speak of the human capacity to recognise hues and colours. He has missed the fact that in order to use what he calls "sensations," human

cognition, naturally and unselfconsciously must distinguish the type of sensations it is encountering. Are they taste? Are they temperature? Are they sound? Are they visual? The “objects of consciousness,” as Moore calls them, truly have, as Aristotle distinguished, both *genus* and *differentia*. The neglect of this aspect of cognition and his focus on the human perception of reality as “transparent” (Moore, 1903, p. 446) and “diaphanous” (Moore, 1903, p. 450) may well be why he likens ‘good’ to a hue (*differentia*) like yellow rather than a category (*genus*) like colour. By way of illustration, employing Aristotle’s example of human beings as “rational animals,” Moore speaks in his descriptions of ‘good’ as if one can directly perceive a *differentiate* such as “rational” without having a *genus* such as “animal” under which to understand it, but “rational” is not a sensation; it is a judgment, a discernment, which is not directly and immediately perceived. Thus it is with ‘good.’ One cannot merely recognise or see ‘good’ as a sensation; it requires something to stand in relationship to it, such that one can discern its presence in, through, or in relationship to that thing. This is due to the fact that ‘good’ in many ways is not similar to simple things such as a colour like yellow. Apart from its being more than a mere *differentia* is the fact that ‘good’ is not, in most situations, a mere descriptor.⁸

Dussel quotes Habermas as saying that “Moore took the wrong turn by identifying descriptive predicates (for example, yellow) with prescriptive predicates (for example, good).” (Dussel, 2000, p. 241) Habermas is right. When some thing or act is ruled by the mind or declared by the mouth to be ‘good,’ there is a process of assessment and/or prescription going on. Either something is being judged to be ‘good,’ or already having

⁸ For more on the contrast between Aristotle and Moore in this regard see: Victor Caston’s *Aristotle on Consciousness*, (2002).

been judged as 'good,' it is then being commended as the right thing to do precisely because it is 'good.' Very seldom is talk about 'good' a matter of mere description. Moore seems to miss this aspect of 'good' and the way it contrasts with something like a hue or colour. In fact, this raises an ancillary point, that being Moore's claim that the 'good' is the "subject matter of ethics" (this is the title of chapter 1 of *Principia Ethica*). A wide angle lens review of ethics over time will yield the realisation that there is far more discussion of the 'right' than of the 'good.' Thomas Baldwin, Moore's biographer and the current editor of *Mind*, which Moore previously edited, has recently pointed this out (Baldwin, lecture at Cambridge alumni weekend, 27/9/08). Although 'good' is both a term of valuation and of commendation, 'right' is even more so. The concept of 'right' also has more force for implying that of 'ought' than does the concept of 'good.'

As has been noted above, at the outset of the *Principia*, Moore declared his desire to address particular issues:

What kind of things ought to exist for their own sakes?...What kind of actions ought we to perform? I have tried to shew exactly what it is that we ask about a thing, when we ask whether it ought to exist for its own sake, is good in itself or has intrinsic value; and exactly what it is that we ask about an action, when we ask whether we ought to do it, whether it is a right action or duty. (Preface, p. iv)

It's apparent that Moore was looking for a unified concept of 'good,' which would speak to existents and also to actions. Later in his life, in his *A Reply to My Critics*, Moore states:

I think that it is true that, among the many different senses in which the word "good" is used, there is one particular sense which is the sense which I have been mainly concerned to talk about in my ethical writings...I think it is true that, in the main, there is just one sense with which I have been principally concerned. I have often used the expression "intrinsically good" as a synonym for "good," when used in this particular sense, and I have also sometimes used the expression

“has intrinsic value” as a synonym for “is good,” when “good” is used in this particular sense. (Schilpp, 1968, pp. 554-555)

In his comments in the preface of the *Principia* about Brentano’s *Origin of the Knowledge of Right and Wrong*, Moore speaks about Brentano’s being quite close to him in his understandings of ‘good.’ Then he remarks about Brentano’s own concept of the ‘good’:

But he regards the fundamental ethical concept as being, not the simple one which I denote by ‘good,’ but the complex one which I have taken to define the ‘beautiful’; and he does not recognise, but even denies by implication, the principle which I have called *the principle of organic unities*. In consequence of these two differences, his conclusions as to what things are good in themselves, also differ very materially from mine. (Preface, p. vii).

Moore goes on to use the term “organic wholes” frequently in §18 - § 22, and then he returns to the term “organic unities”, especially in chapter IV, but his meaning is different from that of Aristotle. Moore uses it more to refer to the aesthetic sense of ‘good’ rather than the ethical sense (§ 113-§ 114). Moore’s organic unities are more unities of the consciousness and that which consciousness perceives (esp. §18 and § 113, pp. 28 and 188-189) rather than the type of unity of which Aristotle speaks. The employment of something more like Aristotle’s idea of ‘good’ as a unity in itself would likely have protected Moore from the accusation of having made ‘good’ so mystical and hard to comprehend. A *genus* without a *differentia*, a “unity” such as Aristotle speaks of, would better satisfy the requirements and demands of Moore’s ‘good’ than does a simple indefinable concept. Such a unity can speak both to actions and also to what sorts of things ought to exist for their own sake. It can serve the purpose of addressing intrinsic good in ways that a simple concept which has merely to be seen to be perceived cannot.

Looking back to the beginning of Moore's musings, the idea of an intuited knowledge of the 'good' comparable to the human ability to recognise colours is quite difficult in many ways. If ethical knowledge of the kind which people use when discussing what is 'good' is intuited, then what of those all too frequent instances when human beings disagree about what the 'good' is in a given situation? By what standard can the argument be settled? How is it to be decided? If such knowledge is intuited, and 'good' is therefore incapable of definition, why is there so much disagreement about what 'good' is in the first place? How exactly is this debate over 'good' to be resolved if there is no external or definitional standard of 'good' to which human beings can appeal and resort? If there is no plumb line against which one can measure a wall, then how can it be determined whether that wall is crooked or straight? The comparison of the recognition of the 'good' to the human recognition of colour does not seem apt and, quite frankly, is rather simplistic. If one has merely to see 'good' in order to recognise it, since it is something which is grasped by intuition, how is it that so many human beings find themselves at variance over what this naturally intuited quality is? Why don't they all recognise and agree upon it when they see it? One is prone to believe, on the basis of life experience, that the weightier matters of ethics and the struggle to identify what is the 'good' in given situations is such a complex and difficult process that it ought not to be compared by way of analogy to arriving at an agreement about what colour it is upon which two opposing parties are looking. Moore's intuitionism fails to provide a means for settling ethical disagreements about what 'good' is or what is the 'good' in a given situation. Inasmuch as Moore's notion of the 'good' resides in human intuition and is not able to be associated with any natural properties, it is neither verifiable nor describable. It

is so subjective, so inescapably relative to the observer, that, in practical terms, it is unreliable. Even apart from ethical disagreements between two parties, how does a man or a woman definitively chose the 'good' when it is so undefined and subjective? How can they be sure of their own discernment of it? How does one optimise one's choices and choose between 'goods'? By what measure can one separate the 'good' from that which is the most 'good' or best? How practically useful is such a nebulous notion of 'good'? If Moore is correct in his assertions, then he has unintentionally brought the field of ethics to a place of 'good' agnosticism as A.N. Louch here describes it:

The only view, so far as I know, that attempts to adapt the idea of moral observation and description to an atomistic metaphysics is G.E. Moore's doctrine of simple non-natural properties. But any such view dead-ends in mystery; we have no idea what such a property is like. The analogies (e.g. 'like yellow') are offered in one statement and retracted in the next (but non-natural, i.e. 'not like yellow'). (Louch, 1966, p. 234, n. 1)

Louch is not being unkind or unfair. Those who think highly of Moore are forced to acknowledge the difficulty of accessing Moore's 'good':

Still, property or concept, Moore thought that the nonnatural "good" was something we could have knowledge of. That raises problems about the metaphysical status of "good" and about how we have epistemological access to it-and these are the problems that make most contemporary philosophers reject Moore's "good." (Regan, 2003, p. 652)

Thomas Baldwin, Moore's biographer, who was quite friendly with Moore and who has made the study of Moore a significant part of his life's work, has himself commented:

Why on earth should we care about the abstract 'goodness' of states of affairs if the possession of this goodness is as detached from all our recognisable concerns as Moorean goodness turns out to be? Furthermore, as to whether we were denoting the same property by our use of good would be unanswerable. Moore's confidence that 'we are all aware of a certain simple quality, which (and not anything else) is what we mainly mean by the term "good" (PE p. 38) is just naïve, and Mary Warnock is right to observe in this connection that there is a crucial disanalogy between 'good' and 'yellow', in that we can give an ostensive definition of the latter, but not the former. (Baldwin, 1990, p. 76)

In the final analysis, Moore's comparison of 'good' to a simple property such as yellow does not succeed.

2.8 *Why the 'Naturalistic Fallacy' Isn't*

Much discussion and debate has been directed towards Moore's concept of what he called the 'Naturalistic Fallacy' (NF). Surprisingly, the NF as Moore stated it seems to use both of its terms wrongly. Bernard Williams says of the term 'Naturalistic Fallacy':

It is hard to think of any other widely used phrase in the history of philosophy that is such a spectacular misnomer. In the first place it is not clear why those criticized were committing a fallacy (which is a mistake in inference) as opposed to making what in Moore's view was an error, or else simply redefining a word. More important, the phrase appropriated to a misconceived purpose the useful word "naturalism." A naturalistic view of ethics was previously contrasted with a supernaturalistic view, and it meant a view in which ethics was to be understood in worldly terms, without reference to God or any transcendental authority. It meant the kind of ethical view that stems from a general attitude that man is a part of nature. Aristotle's outlook is naturalistic in this sense... (Williams, 1985, p. 121)

Williams rightly points out that the meaning of 'naturalistic' as used by Moore is not that which had hitherto been primarily associated with the term. Thus, Moore's decision to call this supposed fallacy 'naturalistic' brought about some reduction in the distinctive nature of the term.

As long ago as 1939, Moore's claims regarding the NF were answered and challenged by W.K. Frankena, who began his monograph entitled *The Naturalistic Fallacy* with the statement:

The future historian of "thought and expression" in the twentieth century will no doubt record with some amusement the ingenious trick, which some of the philosophical controversialist of the first quarter of our century had, of labelling their opponents' views "fallacies." (Frankena, 1995, p. 468)

His point is well taken. The NF is not a fallacy at any level except the semantic level, (Pigden in Singer, ed., 1991, pp. 426-427) perhaps not even at that level, if committing

the NF usually involves, as Frankena maintains that it often does, an enthymeme, (Frankena, 1995, p. 468) a syllogism with one of its three points implied but not stated. In any case, a fallacy which can only be demonstrated to exist at a semantical level and which does not qualify as a formal fallacy is not noteworthy. Frankena makes the case for the NF being a label applied by intuitionists to definitists (naturalistic philosophers), because they do not share the naturalists' understanding of the irreducibility or indefinability of 'good.' He says that "the issue is one of inspection or intuition and concerns the awareness of qualities and relations. That is why it cannot be decided by the use of the notion of a fallacy." (Frankena, 1995, p. 475) Intuition is a matter of "seeing" or perceiving; it is not a matter of logic and syllogisms. According to Frankena, based on the way Moore argues his case, the NF is logically posterior to intuitionism and can only be employed decisively when the intuitionist case against naturalism has been decisively made and won by the intuitionists. It is a logical means of critiquing one's opponent's arguments after that opponent's methodology has been conclusively shown to be wrong. Moore is trying to assume too much in jumping from an intuited sense of 'good' to a logical critique of the methodology of his opponents based on the assumed rightness of his own largely unproven thesis. Since Moore invokes the idea that one has merely to see good in order to recognise it, Frankena maintains that the question, in terms of Moore's argumentation, comes down to one of two possibilities. Either some definitists are blind to the good that others naturally intuit, or intuitionists such as Moore think they are "seeing" something that isn't really as transparently obvious as they believe it to be. Frankena points out that with this argument alone there is no way to prove the intuitionists' claims about the good that they "see." (Frankena, 1995, pp. 465-477)

Frankena's critique was quite simply at its heart the idea that Moore's argumentation is only valid as regards the NF if one already embraces intuitionism.

In time, Moore realised how flawed the *Principia Ethica* was, especially the idea of the Naturalistic Fallacy. Baldwin, says this of Moore's later thoughts regarding the *Principia*:

...he soon realised that his presentation of the main thesis of PE – that there is a fallacy, 'the naturalistic fallacy', in almost all previous ethical theories – was wretchedly confused, and it was probably because he was never confident that he could remove these confusions that he returned so little to the subject...In 1912 he published his little book *Ethics*; Moore later preferred this to PE ("it seems to me to be much clearer and far less full of confusions and invalid arguments' – PGEM p. 27). (Baldwin, 1990, p. 67-68)

Baldwin goes on to say that Moore's perception of his own failures in the *Principia Ethica*, especially as regards the NF, caused his later work to be much less interesting and much more cautious. From that point forward, he wrote no large monographs such as *Principia Ethica*, although he wrote numerous papers. He seems to have become hesitant to be as bold in his assertions as he was in his youth.

2.9 *Appraising the 'Open Question Argument'*

The OQA is described above (2.3). It should be noted that even those who would today "breathe new life back into the open question argument" acknowledge that "the received view is that the OQA is a failure," (Altman, 2004, p. 395) and that it is, in its standard form, 'dead.'" (Altman, 2004, p. 407) This is largely because the OQA is trivial. It is trivial because of what it does to value argumentation. It renders all value claims either true, but trivial, because they themselves are analytical, or else it renders them dubious by way of a systematic doubting of synthetic statements regarding the 'good.' If they are analytical, then they are essentially synonyms or definitions of some sort. If they are synthetic, they are not the same as 'good' and, therefore to be doubted. As with the

NF, Moore's framing of his presuppositions tends to force his reader to agree with his conclusion. If the reader will not agree that 'good' is a simple non-natural property, then the reader finds her pronouncements of 'good' simply ruled "open to question." The OQA appears driven by a pre-commitment to the belief that only analytical statements can be true in the business of identifying the 'good.'

In retrospect, as with Hume's 'is-ought,' the phrase *Open Question Argument* came to have a meaning apart from that of its author's intent. Those who would use a philosopher's work to say something which that philosopher did not actually say tend to credit the philosopher with having put forth an incipient understanding at a level of latency of which the philosopher was somehow unaware. Those who offer their own interpretations of a philosopher's work praise the perceptiveness of the original work at the same time:

Properly understood, the open question argument is Moore's positive argument for the nonnaturalness of "good"-and it is a very powerful argument. Ironically, Moore himself may not have grasped perfectly in 1903 how the argument worked and what it proved. (Regan, 2003, p. 657)

This is reasoning similar to that which takes Hume's connection of sentiment to ethical decision making and derives the fact-value divide from it. If one lays claim to seeing a line of thought of which the philosopher was unaware, one can then enlist the original philosopher as an ally, when, in fact, one is saying something quite a bit different from what that philosopher said. There is nothing wrong with developing a workable trajectory from another's thought; but when this happens posthumously, there is a tendency to identify the new line of reasoning with the original philosopher. The irony is that this tendency creates an environment where there is question as to whether Hume was a

Humean (Millgram, 1995, pp. 75-86), or Moore was a Moorean (Baumann, 2008, pp. 181-196).

2.10 *Conclusion: The Consequences of Moore's Linguistic Approach to Good*

Undoubtedly *Principia Ethica* made Moore's reputation. He is clearly a key figure in 20th century moral theory. When Moore's book appeared, it broke forth with unique forcefulness. Moore was seen as claiming that almost all other philosophers before him had been guilty of a fallacy. Although he enjoyed great popularity for a time, *Principia Ethica* was eventually seen, even by Moore, (Moore in Schilpp, 1952, p. 582) to be wrong in many of its assertions, such that Donald Regan says of him:

G. E. Moore's position in the moral philosophy canon is paradoxical. On the one hand, he is widely regarded as the most influential moral philosopher of the twentieth century. On the other hand, his most characteristic doctrines are now more often ridiculed than defended or even discussed seriously. (Regan, 2003, p. 651)

The basic thesis of this dissertation begins with the axiom: "Human life is a great good; because human life is a great good, all humans should work for the well-being of themselves and others." With Moore, it is actually difficult to say where he would stand regarding this claim. His approach to ethics throws a person back upon an intuited and undefined sense of the 'good.' His arguments in *Principia Ethica* are much less broad and much more precisely focused than Hume's are in the *Treatise*. He is not making assertions about the relationship of facts to values, rather he is engaged in a discussion about the meaning of 'good' and whether or not 'good' can be defined. At an ideological level, he might be opposed to the project undertaken here, inasmuch as the good for humans is to be identified naturalistically on the basis of what they need in order to thrive; however, Moore seems more concerned with semantics and the usage of the concept of 'good' than with such concrete issues as real human needs. When he engages

science and naturalistic ethical reasoning his stated understanding of what is ‘natural’ is much more broad than what is meant by that term herein. His account of how science might evaluate the ‘good’ on the basis of what is normal in nature is a caricature both of science and of ethical Naturalism. (§ 27, pp. 42-43) Frankena’s mention of enthymemes is pertinent here. Moore has failed to reckon with the fact that naturalistic philosophers usually have an unexpressed proposition which holds that the healthy or optimal functioning of a valued thing or an organism is a desirable state. This is Aristotle’s notion of an *entelechy* (*DA*, II, 4, 415a, 25 – 415b, 2 and *Physica*, II, 8, 199b, 15-18) being the *telos* to look towards in order to assess the well-being of an organism. Moore seems not to have considered the possibility of such an understanding in his account of naturalistic thought.

Mill had been one of those Moore sought to refute at first (§14, and §38), because Moore rejected hedonism. At the end of the *Principia Ethica*, if the reader is paying attention, it will become obvious that Moore has brought a flavour of hedonism along with utilitarian thought into his own work, such that refined pleasures for refined minds are now the greatest good:

By far the most valuable things, which we know or can imagine, are certain states of consciousness, which may be roughly described as the pleasures of human intercourse and the enjoyment of beautiful objects. No one, probably, who has asked himself the question, has ever doubted that personal affection and the appreciation of what is beautiful in Art or Nature, are good in themselves; nor, if we consider strictly what things are worth having *purely for their own sakes*, does it appear probable that any one will think that anything else has *nearly* so great a value as the things which are included under these two heads. (§113, p. 188)

Baldwin speaks of Moore as a “refined hedonist” (Baldwin, 1990, p. 131) of a somewhat elitist variety (Baldwin, 1990, p. 133).

One gets the impression from the *Principia* that Moore believed that he had 'good' all sorted out. Consequently, he didn't undertake getting into the nitty-gritty of wrongful and hurtful words and actions. He didn't endeavour to really wade into the more distasteful business of separating ethical from unethical behaviours. He had a sense of things being right and fitting as a consequence of his having solved the puzzle of what is meant by 'good.' He could put forward a concept, a notion of 'good' that was definitional and bypass the unpleasant business of looking at the ways in which human beings hurt one another and the prevention thereof. His discussion of the 'good' is one that is esoteric and removed from the usual business of ethics. Thus, Baldwin speaks of Moore's "lack of concern for the social and political dimensions of ethics." (Baldwin, 1990, p. 133) Ethics under Moore becomes a parlour topic for refined folk.

What Moore did well was to set a new standard of clarity in philosophical writing. His disdain for the obscure and convoluted language that he found in the field led him to lay his arguments out very starkly. He brought a lucidity and a precision to philosophical writing, which was welcomed by all who read his work:

Nevertheless, Moore did help to bring about a revolution, if not in philosophy, at any rate in the philosophical climate, and at the same time a marked heightening in standards of philosophical workmanship. He was not a man driven by pathological anxieties about the cosmos or by a theological concern for the place of man in the scheme of things. Philosophy as he practiced it does not yield solace to bruised spirits; and it offers no apocalyptic vision of the universe, or a unified system of principles that provide categorical answers to every query... But his passion was inclined toward the affirmation of clearly articulated and indisputable truths, however modest these might be, rather than toward the acceptance of dubious if not impenetrably obscure delineations of the world's allegedly all-embracing "unity." (Nagel, 1960, p. 812)

If his philosophical and ethical thought was not truly profound, his style and clarity were refreshing.

'Good' in Moore is admittedly something real; it is declared to be an object of knowledge, but 'good' itself it is so elusive and difficult to pin down as to be quite mysterious. Despite his disavowals of intuition, his claims about 'good' essentially reduce down to a form of intuitionism. Moore's focus as a moral philosopher is not on the traditional pursuit of the good life or upon the identification of the *summum bonum*. Rather, as has been said here, Moore places 'good' into two categories: (1) its meaning and (2) those things which it describes. This act of separating 'good' into these categories appears to have had surprisingly far reaching consequences. No longer would ethics be primarily about identifying the good life. It would now be about the meaning of the designation of things, acts, and persons as 'good.' It is a semantical and linguistic turn in the field of ethics. Moore's *Principia Ethica* appears to have been the primary catalyst which began a trajectory in ethics, which for a time changed the field significantly. With his emphasis on the analytic/synthetic division as it applies to ethics, he almost single-handedly created a new branch of philosophy, inasmuch as meta-ethics after Moore becomes a subdivision of ethics and arguably a philosophical field unto itself. By means of this device, Moore rejected naturalism, hedonism, and metaphysics. The rejection of naturalism and metaphysics, which Moore initially appeared to have done quite convincingly, set the stage for various forms of non-cognitivism in ethics, including ethical emotivism.

The result is that for better or worse, twentieth century British ethical theory is unintelligible without reference to PE (*Principia Ethica*); its history until 1960 or so being, in brief, that although Moore was taken to have refuted 'ethical naturalism', Moore's own brand of 'ethical non-naturalism' was thought to make unacceptable metaphysical and epistemological demands; so the only recourse was to abandon belief in an objective moral reality and accept an emotivist, prescriptivist or otherwise anti-realist, account of ethical values." (Baldwin, NY 1990, p. 66)

Sadly, it seems that Moore's work has the effect of making the very term 'good' meaningless, thus laying the groundwork for ethical emotivism, ethical non-cognitivism, contemporary ethical scepticism, and moral nihilism.

If the thriving of others is one's objective, then there is nothing in *Principia Ethica* which proves that the sciences and the disciplines cannot inform human understanding as regards what is necessary for the thriving of human life. My thesis claims that the thriving of self and others is a worthy *telos* in itself. The work of Moore does not in any way negate the possibility of forming an ethical system with human-design as its basis. Even if Moore's concerns about naturalistic argumentation are taken as weighty, he has essentially stated by his argumentation that 'good' is indefinable and that it cannot be framed in terms that are independent of ethics. At its core, the claims of this thesis begin with an axiom which is certainly not independent of ethics. If all that Moore said in the *Principia Ethica* is correct, it poses no obstacle to my project. He has ruled out a naturalistic attempt to define 'good,' which is not what is being attempted here. I am making the synthetic claim that human life and flourishing is a good. I can make that claim even if all Moore has said is correct. The disagreement between Moore and myself would be on the question as to whether or not the 'good' is as nebulous and abstract as *Principia Ethica* makes it. The weight of philosophical opinion across time would seem to favour the idea that it is not.

3.0 CHAPTER III: THE ETHICAL THEORY OF JOHN L. MACKIE

The identification of ethical principles based on a commitment to human well-being and anchored in the nature of the human organism and in the meeting of its needs is the current project. It is a project which presupposes that there is a degree of objective value, which may be identified and agreed upon by those who acknowledge at an axiomatic level that human life is a great good. The claim is that people ought to work for the well-being of both themselves and others. Both the axiom and the ethical system which derives from it are contradicted at the most basic level by the thought of the late Australian philosopher J. L. Mackie. For that reason he will now be considered.

Mackie's thesis states: "There are no objective values." (Mackie, 1977, p. 15) He said this was a second order moral assertion. Mackie stated that first order moral assertions are assertions about the rightness or wrongness of a particular action or of a particular kind of action. First order ethical judgements "offer distinctions between good and bad characters or dispositions," or they "propound some broad principle" from which one deduces this sort of judgment. He said that second order moral statements "assert what is going on when people make first order statements." (Mackie, 1977, p 9)

In the preface to his *Ethics: Inventing Right and Wrong*,⁹ Mackie made a statement, which from one point of view seems very pessimistic, but which was consistent with his convictions. He said:

I have drawn freely on the ideas both of contemporary writers and such classical moral philosophers as Plato, Aristotle, Hobbes, Hume, Kant, and Sidgwick. But perhaps the truest teachers of moral philosophy are the outlaws and thieves who, as Locke says, keep faith and rules of justice with one another, but practise these rules of convenience without which they cannot hold together, with no pretence of

⁹ From here on all page references in this chapter are to Mackie's *Ethics: Inventing Right and Wrong* unless otherwise stated.

receiving them as innate laws of nature. I hope that the explanation of this paradox will become clearer in the course of this book. (Mackie, 1977, p. 10-11)¹

Great philosophers and religious systems notwithstanding, Mackie considered the idea of objective rights and wrongs to be a product of human construction, convention, and convenience.

Mackie wastes no time in spelling out his primary thesis about the spurious nature of objective values. He says this about “moral goodness” as well as about “moral values or disvalues--rightness and wrongness, duty, obligation, an action's being rotten and contemptible, and so on.” (p. 15) He goes on to say:

...moral scepticism would seem not so much pernicious as absurd. How could anyone deny that there is a difference between a kind action and a cruel one, or that a coward and a brave man behave differently in the face of danger? Of course, this is undeniable; but it is not to the point. The kinds of behaviour to which moral values and disvalues are ascribed are indeed part of the furniture of the world, and so are the natural, descriptive, differences between them; but not, perhaps, their differences in value. It is a hard fact that cruel actions differ from kind ones, and hence that we can learn, as in fact we all do, to distinguish them fairly well in practice, and to use the words 'cruel' and 'kind' with fairly clear descriptive meanings; but is it an equally hard fact that actions which are cruel in such a descriptive sense are to be condemned? The present issue is with regard to the objectivity specifically of value, not with regard to the objectivity of those natural, factual, differences on the basis of which differing values are assigned. (pp. 16-17)

Here the reader can see that Mackie admits that there are substantive differences between the sorts of actions which are judged to be either virtuous or evil. In fact, he says it would be absurd to think otherwise. These behaviours and actions are real enough. They are, in fact, “part of the furniture of the world.” What he questions is this: “...is it an equally hard fact that actions which are cruel in such a descriptive sense are to be condemned?”

When he is speaking of the “queerness” of moral values, he poses much the same question: “What is the connection between the natural fact that an action is a piece of deliberate cruelty--say, causing pain just for fun--and the moral fact that it is wrong?” (p.

41) As opposed to behaviours and actions themselves, which are capable of being described in ways that may appear to be evaluative, Mackie is speaking to the standards by which such actions and behaviours are judged to be wrong or right. He is stating that nothing in reality corresponds to moral values. As he puts it at the end of these remarks: “The present issue is with regard to the objectivity specifically of value, not with regard to the objectivity of those natural, factual, differences on the basis of which differing values are assigned.” (p. 17)

Mackie’s point is that there is not an empirically verifiable source of judgement as regards the condemnation or validation of actions. He is emphasizing the intangible nature of human standards of right and wrong. He asks how one proves or disproves that which seemingly has no identifiable locus. He questions where absolute standards of right and wrong reside. He says:

If there were something in the fabric of the world that validated certain kinds of concern, then it would be possible to acquire these simply by finding something out, by letting one’s thinking be controlled by how things were. (p. 22)

He sees no objectively verifiable moral or ethical “plumbline” against which to measure actual deeds done in this world. He goes on to state: “Of course if there were objective values they would presumably belong to *kinds* of things or actions or states of affairs, so that the judgements that reported them would be universalizable.” (p. 23) There are no empirical phenomena-based criteria whereby to identify right and wrong; this is one of the reasons why Mackie believes such values have no real existence. Where are they? In what realm does one find such objective standards of right and wrong? Should we really believe that something which has no confirmable existence is real? Those are the questions that Mackie was asking.

3.1

Mackie's 'Error Theory'

Picking up on Hare's emphasis upon prescriptivity, (Hare, 1952, and Hare, 1963) Mackie points out that moral language carries an "intrinsic prescriptivity." (p. 35) This is to say that moral statements are believed to have a built-in causal power to move the one who hears them to action. Unlike the argument from relativity or the argument from queerness, which he addresses near the end of "The Subjectivity of Values," he interweaves the argument of prescriptivity throughout the breadth of the chapter. He speaks of this quality as being "partly descriptive or directive or action guiding" and uses Plato's forms as an example of how they would have to work. (p. 23) Likewise, regarding Moore's emphasis on good being a "non-natural" quality, Mackie says that the term "non-natural" is a good one if it leaves room for "the peculiar, evaluative, prescriptive, intrinsically action-guiding aspects of this supposed quality." (p. 32) Mackie calls attention to the fact that moral terms and language are both descriptive and prescriptive, that they have both a sense of the indicative and of the imperative simultaneously. As he points out this prescriptivity, he makes it clear that he holds it to be ontologically unacceptable to a naturalistic understanding of ethics. He seems to expect his reader to share implicitly his views about the strangeness and the unacceptability of such a quality. Surprisingly, he never clearly spells out why he holds it to be so odd.

Critiquing both non-cognitivism and ethical naturalism, Mackie states: "...each gains much of its plausibility from the felt inadequacy of the other." (p. 32) He points out weaknesses in both approaches (pp. 33-34).

In fact both naturalist and non-cognitive analyses leave out the apparent authority of ethics, the one by excluding the categorically imperative aspect, the other the claim to objective validity or truth. (p. 33)

He makes a distinction between his approach and other analytical ones, (p. 35) emphasizing that his position could rightly be called an “error theory,” the error being the assumption of moral objectivity in the moral language that people regularly employ, which is joined with its built-in motivational or action-guiding nature. He specifically calls attention to this “error.” The term “error theory” belongs to Mackie; he coined it. In the words of Richard Joyce, Mackie did so to emphasise the fact that he was an “atheist about morality, not an agnostic.” (Joyce, 2009) Mackie stated that “although most people in making moral judgements implicitly claim, among other things, to be pointing to something objectively prescriptive, these claims are all false.” (p. 35) Acknowledging that since a theory such as his is counter-intuitive for most and that it not only goes against the grain of history and human thought but also against “what is sometimes called common sense.” (p. 35) Mackie states that it is, therefore, in need of very strong argumentation. He supplements what he has said about the presumed objectively prescriptive nature of everyday moral claims with two types of argument. They are “the argument from relativity” and “the argument from queerness,” (p. 35), which with his claims about the “built-in” action-enjoining aspects of ordinary moral language combine to make up his “error theory.”

3.2

The Argument from Relativity

The argument from relativity, simply stated, declares that the variations in ethical standards from one culture or era to the next, as well as differences of this sort between groups and classes within a community comprised of different cohorts of people, supports the idea of “second order subjectivism.” (p. 36). He states that the field of ethics works differently from the fields of history, biology, and cosmology. In the first three,

variations and disagreements are due to “speculative inferences or explanatory hypotheses based on inadequate evidence.” (p. 36) Such explanations pose no threat to the idea that something objectively real is under consideration by those who hold these differing views and interpretations of the data. In ethics, however, Mackie claims that the points of variance are best explained by the preferences which differing peoples bring with them when addressing ethical questions, which he says flow out of their prior cultural preferences and commitments. Ethics is different because the variances in moral codes place in question the objectivity of moral claims. When one identifies the sources of variation and disagreement, there is not a sense that something objective is being variously described, but rather that the moral claims themselves are subjective and originate with differing peoples, whose customs and beliefs arise, not out of the physical world, but out of human thought and practice (p. 36). Thus, Mackie’s claim is that the study of moral codes amongst different groups works with data that has a very different origin than the data employed in other fields:

The causal connection seems to be...that people approve of monogamy because they participate in a monogamous way of life rather than that they participate in a monogamous way of life because they approve of monogamy. (p. 36)

He makes these assertions as his proposal for what best explains the variations in moral codes. He makes it clear that he is aware of the counter arguments to what he says, but he says that such explanations of variation are “very far from constituting the whole of what is actually affirmed as basic in ordinary moral thought.” (p. 37) He concludes this argument with a strong statement:

...people judge that some things are good or right, and others are bad or wrong, not because--or at any rate not only because--they exemplify some general principle for which widespread implicit acceptance could be claimed, but because something about those things arouses certain responses immediately in them,

though they would arouse radically and irresolvably different responses in others.
(p. 37-38)

3.3

The Argument from 'Queerness'

Immediately, on the heels of the argument from relativity, he brings the argument from queerness. It is an argument in two parts, "one metaphysical, the other epistemological." (p. 38) In what is probably the most famous and well known statement in the entire book, he states:

If there were objective values, then they would be entities or qualities or relations of a very strange sort, utterly different from anything else in the universe. Correspondingly, if we were aware of them, it would have to be by some special faculty of moral perception or intuition, utterly different from our ordinary ways of knowing everything else. (p. 38)

Mackie here throws down the gauntlet of what he seems to perceive as his strongest argument of all. Having just concluded the argument from relativity, he states: "Even more important, however, and certainly more generally applicable, is the argument from queerness." (p. 38) In this argument, Mackie is stating that an objective value, if one exists, must be unique and *sui generis*. Its existence is ontologically suspect because of how singularly unique it would have to be. It is metaphysically suspect, in Mackie's estimation, because it would have some sort of built-in action-enjoining quality. Mackie's point is that if an object or thing is entirely different from all other objects or things in the human experience; and if its existence is very hard or perhaps even impossible to verify, beyond human claims to knowing or perceiving it, then there is surely warrant for questioning whether it exists at all. He cannot conceive of how such an entity would be verified or substantiated. It would, in Mackie's view, demand the postulation of a human faculty for detecting objective values that has itself gone hitherto undetected. He says,

...if we were aware of them, it would have to be by some special faculty of moral perception or intuition, utterly different from our ordinary ways of knowing everything else. (p. 38)

Although moral intuitionism was very much out of vogue when Mackie wrote, he stated that it simply “makes unpalatably plain what other forms of objectivism wrap up.”

(p. 38) Mackie shows how incredibly weak he believes this approach to ethics to be:

Of course the suggestion that moral judgements are made or moral problems solved by just sitting down and having an ethical intuition is a travesty of actual moral thinking. But, however complex the real process, it will require (if it is to yield authoritatively prescriptive conclusions) some input of this distinctive sort, either premisses or forms of argument or both. (p. 38)

This is what John Mackie believed would have to be the means whereby one laid hold of objective values or standards of right and wrong in a given situation, if they actually existed. Most moral realists might object to the language of “sitting down and having an ethical intuition,” but that is Mackie’s conception of how the process would have to work.

When we ask the awkward question, how we can be aware of this authoritative prescriptivity, of the truth of these distinctively ethical premisses or of the cogency of this distinctively ethical pattern of reasoning, none of our ordinary accounts of sensory perception or introspection or the framing and confirming of explanatory hypotheses or inference or logical construction or conceptual analysis, or any combination of these, will provide a satisfactory answer; 'a special sort of intuition' is a lame answer, but it is the one to which the clear-headed objectivist is compelled to resort. (p. 39)

This is the “epistemological issue” he spoke of earlier. What sort of a human capacity or faculty would allow one to detect these values? What sorts of things are they that they escape all sensual detection? They are not empirically verifiable; therefore, they are not only suspect for Mackie, but they are not real. The problematic nature of such entities is then compounded by their intrinsic prescriptivity. When considering objective values, one is contemplating entities for which the senses cannot account and which somehow exercise motivational power over the human will.

3.4

The Subjectivity of Values in Brief

To sum up, then, Mackie argues that objective moral values (OMV's) do not exist, because he believes that (a) the observable variation and relativity of moral opinion testifies to their nonexistence; (b) their property of 'objective prescriptivity' makes them metaphysically peculiar; and (c) there is no adequate account available of how we could know or be aware of such things.

3.5

A Response to Mackie's Claims

Mackie is an opponent whose brevity, clarity, and logical force cannot help but be appreciated and admired, even by those who disagree completely with his conclusions. He is doubtless one of the most clear thinking philosophers to have written in recent times. Due to the limitations of space and the restraints imposed by his naturalistic presuppositions, the argument from relativity and the two arguments from queerness are all that will be significantly addressed herein.

Ethics: Inventing Right and Wrong begins with glimpses of a morality that is seemingly a matter of pragmatic usefulness for the strong (pp. 10-11) and ends with human beings "who through mental or physical defect are never, at any time in their lives, independent active participants in the cooperation, competition, and conflict of normal life." (Mackie, p. 194) Such human beings are more often than not minimized and marginalized. Inclusions of them in a system of justice and morals are declared by Mackie to be "gratuitous extensions of morality." (p. 194) Although John Mackie was brilliant, his thought, when consistently applied, like that of Nietzsche, with whom he is often compared, (Pigden, 2007, pp. 441-455; Smith, 2000, p. 15; Leiter, 2001, p. 67) gives greater weight and significance to the strong and minimizes the weak. The

statistical realities (morbidity wise) regarding the likelihood of one's experiencing a debilitating "mental or physical defect" of some sort across the lifespan are quite high. It would appear that, from a simply egoistic perspective, it is wise to give place to the weak in one's thoughts. Mackie has indicated that his ethical thought has room for egoistic reasoning, (p. 173 and 200) but, in constructing his system of morality *sans* objective moral values, he has failed to reckon with his own and others' tendencies towards morbidity. The central axiom of the ethic that I am defending is: "Human life is a great good; because human life is a great good, all humans should work for the well-being of themselves and others." Acceptance of this axiom thereby means that the subscriber to this way of doing ethics agrees that all human life has intrinsic worth. Clearly Mackie did not, at a theoretical level, hold all of human life in the same regard. In this he differs from me, but nevertheless, adherence to the ethical understandings being proposed here does not rule out cooperating toward shared ethical ends with an adherent of Mackie's view.

It must not escape the notice of the reader of *Ethics: Inventing Right and Wrong* that although Mackie wants to dismantle ethics and deny that it has a base in anything objectively real, he then wants to bring forward reasons for being ethical and make his own suggestions about what such ethics would look like. Having denied a second order grounding for first order moral claims, Mackie nevertheless wants to go on making first order claims. If, at base, there is nothing real here, if it is all an "invention," one cannot help but wonder why he feels the need to do this. Mackie's apparent need to go on moralizing, after having repudiated the basis for doing so, implies that there may be more going on when people speak in terms of assumed ethical understandings than Mackie is willing to acknowledge.

3.6

Answering the Argument from Relativity

In his argument from relativity, J.L. Mackie differentiates the fields of history, biology, and cosmology from the field of ethics. His point is that the variations in perceptions and understandings found in the first three fields are due to deficiencies in the reasoning employed, the hypotheses advanced, and the evidence brought forward to arrive at an interpretation. However, in the field of ethics Mackie claims that variations are not due to these factors, but to the culture or system into which one is acculturated, that one's values and perceptions are coloured by one's own culture. In other words, in the field of ethics, variations aren't due to the interpretation of evidence and data; but rather, the normal causal flow of valuation is reversed, and one's values actually come from one's own culture.

3.6.1

Mackie Cannot Account for Moral Progress

Before looking directly and critically at these claims, two things should be considered. Firstly, Mackie is surely correct that sometimes things do work as he has described. Sometimes people's values do come from acculturation. There is no denying this. However, it would be absurd to claim that this is how moral codes in general develop; otherwise, there would be no way to gauge moral progress in a culture, and the argument from relativity would collapse into standard cultural relativism, which is not what Mackie has in mind. As well, if there were but one trans-cultural value (not a "principle" but an actual value) that all peoples shared, it would substantively weaken this idea that right and wrong are culturally generated. As will be shown in chapter IV, there appear to be numbers of moral standards which people everywhere do hold in common, and it is doubtful that Mackie's theory can account for why this is so.

3.6.2

Mackie's Presuppositions

Secondly, it may be helpful to consider what Mackie has already told his readers. He has made it plain that his argument for the non-existence of objective moral values is made from a specific vantage point. He speaks from post-Enlightenment modernity, with an especially strong commitment to scientific ways of knowing as his frame of reference (Mackie, 1949, p.78 and 80). This is a viewpoint that perceives reality through a thoroughly naturalistic lens. The modern view, with its emphasis on science as the means whereby reality is to be understood, presupposes the wrongness of numerous ancient ways of looking at human beings. It takes as a given the non-existence of purported entities which are beyond its ability to detect. This is undeniably the perspective from which Mackie approaches ethics:

It would make a radical difference to our *metaphysics* if we had to find room for objective values--perhaps something like Plato's Forms--somewhere in our picture of the world. It would similarly make a difference to our epistemology if it had to explain how such objective values are or can be known, and to our philosophical psychology if we had to allow such knowledge, or Kant's pure practical reason, to direct choices and actions. (pp. 24-25)

Mackie clearly tells the reader that neither his metaphysics nor his epistemology allow for the existence of objective moral values. His usage of Plato's forms as an example of what OMV's would have to resemble signals his readers just how unlikely he finds them to be. Surely the forms are, to most modern minds, an artefact of the philosophy of a pre-modern, pre-scientific age. Mackie's bald statement regarding his own convictions (p. 15) indicates that he has intellectual commitments which colour his interpretation of data in the field of ethics.

If one embraces Mackie's viewpoint, which starts with the claim that there are no objective moral values, and holds to metaphysical and epistemological views which

assume their non-existence, then one has quite limited categories for explaining the diversity of moral practices amongst peoples of different times and places. Mackie's presupposition regarding the non-existence of moral values therefore influence the way he regards the field of ethics. Some of the difference which he perceives between the nature of history, biology, and cosmology versus the nature of ethics cannot help but stem from his own viewpoint. When one holds beforehand that certain fields are working with hard data, while other fields are dealing with non-entities or "oddball entities" (Horgan and Timmons, 1990-91, p. 449) such as moral values, it necessarily affects how one views the evidence. Mackie has told his readers that the very existence of OMV's would require an altering of both his metaphysics and his epistemology. He has stated that he has no categories, as regards what is "real" for such entities. Therefore, if there are such things as OMV's, Mackie is predisposed to doubt any evidence for their existence. This makes a bit suspect the claim that he is presenting, presumably from an impartial standpoint, the best explanation of the diversity of values amongst differing groups of people across time and space. How could OMV's, should they actually exist, be given any weight in this process of inference if they are regarded as a myth from the outset? If we were to personify OMV's, Mackie's approach to them, and that of those who share his pre-commitments, has something in common with the judge who states, "We'll give you a fair trial before we hang you."

3.6.3 *Differences in Norms vs. Differences in Basic Moral Values*

What of the claims which Mackie makes here and elsewhere about the diversity of moral values amongst different peoples, classes, cultures, and times? Certainly there is a wealth of examples, both from the ancient world and from the present, which can be

marshalled to demonstrate diversity. This is so well documented as to be commonplace. Mackie acknowledges that a common rejoinder to this point is the observation that there are general basic moral principles which are transcultural and trans-temporal and which underlie the moral reasoning of all societies (p. 37). His response to this is to state that it only partially answers his point regarding the relativity of values, and, in so doing, it pushes OMV's into a rather narrow place, in effect shrinking them and making the validity of moral judgments out of those principles to be both derivative and contingent. If OMV's are derivative and contingent then Mackie has a point, but perhaps there are some aspects of evaluation as regards differing moral practices which he hasn't considered, and which make it less likely that there is nothing objective about moral values.

Differences in norms do not necessarily indicate differences regarding basic moral values. A philosopher or ethicist looking at the data regarding what Mackie calls "disagreement about moral codes" (p. 36) may naturally make assumptions which a trained anthropologist has to guard against. One of the difficulties in evaluating differences in moral practices between differing peoples and times is that of trying to see things from their perspective. E.E. Evans-Pritchard describes what he calls the "If I were a horse Fallacy." He cautions: "It is all too easy, when translating the conceptions of the simpler peoples into our own, to transplant our thoughts into theirs." (Evans-Pritchard, 1965, pp. 24, 43, and 109) Some think that they can project themselves into another's circumstances and view the world from their vantage point. When they do so, they inevitably end up committing this fallacy because there are cultural factors which they fail to take into consideration. Some of the things persons of another culture may be

dealing with may not be motivated by a difference in basic moral values, but in their understanding of the facts. From outside of their culture it is often difficult to understand how they conceive of what it is that they are doing. This understanding makes the issue of disagreement about moral codes less simple than it may first appear. In fact, anthropologists warn against this tendency. John Cook cites the work of Boas in this regard and refers to this anthropological hazard as “The Projection error”:

We already have a clue to this in Boas's insights about the comparability of ethnic phenomena, such as his remark, quoted in chapter 5, that the ethnic phenomena found in several cultures are often treated by anthropologists as the same, when in truth "the sameness of the ethnic phenomena is more superficial than essential, more apparent than real." What I am suggesting here is the following. When anthropologists believe that they have found evidence which supports their doctrine, they are making the mistake that I have called the Projection Error, that is, they have *mistakenly* thought that the conduct which is condemned in our culture is the *same* conduct that is condoned in some other. (Cook, 1999, p. 89)

Getting down to a bedrock account of what motivates the moral codes of other peoples is more difficult than it may at first appear. Although the reports that come back to academicians through anthropological research are often, ethically speaking, “thick,” it is notoriously difficult to discern what motivates the differences that are observed in other people’s ethical norms. Frequently, when an anthropologist digs for understanding, what is found is basic agreement about what is morally obligatory, but a disagreement at the factual level (Brandt, 1959, p. 101-102). This is to say that differing understandings about the world, human persons, and reality can create different normative practices amongst people who otherwise share basic moral understandings. At issue here is how a person in another culture conceives, ethically speaking, of what they are doing. The rationale behind the ethical behaviours of other peoples often seems strange to Western observers until the exigencies of life in the culture under consideration are taken into consideration. Then, when the national peoples give their own accounts of what motivates their actions,

their behaviours often cease to be quite as puzzling and counter-intuitive as they had been at first.

Aboriginal and tribal peoples often have perceptions regarding the welfare of their people which drive behaviours that at first may seem to indicate the presence of a different moral code from that with which the outside observer is familiar. Issues having to do with group survival, which academic researchers unfamiliar with the challenges of life in that environment have never experienced, are often found to be what lie behind barbaric and seemingly inhumane practices. Concerns unique to the tribal context press upon tribal leaders, causing them to think in terms of the welfare of the larger group. Oftentimes these concerns are combined with situations where resources are limited, and factual information may be faulty and inaccurate. Steven Lukes cautions against drawing the wrong conclusions from practices arising in such situations. He states that we are not:

...licensed to conclude that their indifference to or approval of actions we condemn betokens an alternative morality. What they suggest, rather, is that when conditions become dire enough, the scope for moral judgment and behaviour can be eclipsed by the struggle to survive in a war of all against all. (Lukes, 2008, p. 79)

So-called moral codes which come into play in these situations may merely be practices believed to ensure group survival and, therefore, are handed down from one generation to another.

...it is not clear why accepting the fact of enculturation – acknowledging the role of culture in influencing belief and behaviour – must commit one to any relativist conclusions, even the supposedly “simple” empirical doctrine of descriptive cultural relativism. It is certainly true that every culture develops patterns of normative expectation about emotion, thought and action which help to structure the formative experiences of each person in a given culture-bearing group. Moreover an upbringing in accordance with these normative expectations will profoundly influence the character of even the most fundamental desires and purposes likely to be manifested in human action. But these facts do not prove anything about the correctness of either descriptive or meta-ethical relativism. (Moody-Adams, 2002, p. 56)

3.6.4 *Insights from Anthropology Regarding Cultural Relativism*

In addition to the difficulty of discerning the moral motivations of persons from other cultures and the tendency towards the Projectionist Error, there is another hazard which the researcher of other cultures must take into consideration. Mackie touches upon this error when he speaks of those who retreat from moral rules or codes to basic moral principles behind them:

To take this line the moral objectivist has to say that it is only in these principles that the objective moral character attaches immediately to its descriptively specified ground or subject: other moral judgements are objectively valid or true, but only derivatively and contingently--if things had been otherwise, quite different sorts of actions would have been right. (p. 37)

Notice his last words there: "if things had been otherwise, quite different sorts of actions would have been right." He is saying that those who argue this way are engaging in a malleable and shape-shifting sort of claim to moral objectivity. This kind of thought then lends itself towards a relativistic sort of ethics and comes back upon the moral objectivist in ways that undermine their own objectivism and tend towards relativism. What Mackie says here is one possible trajectory that this sort of reasoning can and does take. He has, however, omitted an alternative way of looking at the data. John Cook maintains that one needs to be already inclined towards moral relativism in order to interpret the data in the fashion which Mackie has described adherents of this position doing, which is not to say that Mackie is so inclined, but that some anthropologists are:

These are all obvious examples of one culture condoning or viewing with indifference the very same conduct or activities or practices that another culture morally condemns. But do such cases constitute evidence that obliges us to embrace moral relativism? If they do, then anyone who contemplates the examples just cited should think: "So there *are* different moralities!" And yet this is not, in fact, what we would think--at least not if we haven't already embraced moral relativism. The reason, of course, is that we think of people who beat their wives, for example, as callous or cruel. We are not about to dignify wife-beaters

as having "a morality of their own." Nor do we think of Sicilians as having "a different morality" because they condone raping women to force them into unwanted marriages. We do not, that is, think of those Sicilian rapists as being concerned to do the right thing; we think of them as selfishly manipulating women, and we are ready to applaud any woman who refuses to be thus manipulated. (Cook, 1999, p. 86.)

3.6.4.1 *The Possible Risks of Assuming the Validity of Moral Relativism*

Cook declares that parents in Thailand selling their daughters into prostitution or whatever other abhorrent practices we may observe in other cultures and times are not so much commentaries on the relativity of morals as they are examples of "man's inhumanity to man." (Cook, 1999, p. 87) He believes that the language used by people when they speak of others having "a different morality" is an indicator that they themselves have a commitment to the notion of moral relativism. He marshals numerous examples which place the one evaluating a situation in a spot where conduct which is morally condemned in one's own culture is, in another culture, "either regarded as a duty or regarded with indifference." (Cook, 1999, p. 83) He then asks if we truly believe these things are "other moralities" or if they are, in fact, evils. One example Cook employs is the practice in some Arab countries of a young woman who has been raped being killed by her own family as a matter of family honour. He says:

We regard these killings as morally wrong, and efforts have been undertaken by Europeans to rescue potential victims. Here, then, we have a case in which the same conduct is regarded as a duty in one culture and morally condemned in another. But is this an example of different moralities? How is that to be decided?
(Cook, 1999, p. 84)

Cook says that to just dismiss this as an encounter with a "different morality" is to treat it as though it were something as trivial as people in a country which is not our own driving on the other side of the road from us. He says if we proceed to treat it as such, we will have to allow that:

...the Arabs in question have an obligation to kill certain of their female relatives, for they say they are obliged to, and act accordingly. Having allowed this, we will be forced to conclude that they have a morality different from ours, for we do not think that 'restoring the family's honour' justifies killing someone. (Cook, 1999, p.84)

Cook claims that if we assume the relativist's view of morality, then when we come upon ethical conundrums such as this, we will think that we have found proof of different peoples having differing moralities. According to Cook, for us to do so would beg the question, because we are "supposed to be able to find evidence for relativism without first assuming that it is true." (Cook, 1999, p. 84) It should be noted that the sort of moral relativists that Cook is speaking of here are researchers within the field of anthropology. They are social scientists and not philosophers. Cook gives an example of where the moral relativism of such anthropologists leads:

Suppose we had an Arab friend who came to us in anguish over the fact that his parents had ordered him to carry out an honour killing of his younger sister. Would we say to him, "She's unmarried and pregnant, so it's your duty to kill her"? If moral relativists are right, this is what we would say, for we would know that our friend has the duty to kill his sister. We would know this because we know what his community says and does in such situations. But of course we would not say that! ...It must be, then, that our ordinary understanding of morality is not the same as the relativists'. The latter think that to discover what a person's moral obligations are we need only observe what members of his or her culture typically say their obligations are and whether they act accordingly. One can, obviously, learn much in this way, but there is also much that this procedure may fail to detect. (Cook, 1999, p. 85)

He says that such relativist thinking fails to detect what lies behind the moral reasoning of others. It is blind to what Cook calls "self-serving rationalizations" and disregards the possibility that people in other cultures can be morally compromised, even ruled by fear or hatred. Thus, it fails to think critically about the possible motivations behind what it perceives as "other moralities." In some situations, culturally dominant tyrants can set forth the supposed "moral code" of the group. As Wijsbek has remarked, "More often

than not, the official version of a culture is just the version of the cultural officials.”

(Wijsbek and Moody-Adams, 1999, p. 427) Returning to the young Arab man whom he has used as his example, Cook says,

...we can lead our troubled friend through several lines of inquiry, one or another of which may enable him to see the practice of "honour killings" in a new light. Perhaps he will come to regard the notion of "family honour" as a bizarre anachronism and so come to think it grotesque to place the "honour" of one's family above the life of one's sister. This will not involve--as a relativist would think--his merely switching allegiance from one set of rules (or principles) to another. It will be more like a man's coming to see in a new light the macho attitude that he and his fellow countrymen grew up with--coming to see machismo as a ludicrous sort of preening and strutting. My point is that if we are not already relativists, we are likely to understand that morality involves much more than the relativists' account of it suggests. (Cook, 1999, p. 85)

Researchers from developed countries looking on practices such as so-called female circumcision in a detached manner and, in some cases, condemning the language which would call it “genital mutilation” and proposing that we refer to it as “genital modification,” (Shweder, 2000, p. 215, 216, and 221) would show, to someone reasoning as Cook does, that they have a pre-commitment to moral relativism, which allows a dispassionate response to such disturbing practices. One can try to rebut this claim by attempting to reduce negative responses to such practices to examples of “the Yuck Factor,” or one can give thought to one’s own ethical sensitivity or lack thereof. If there are such things as OMV’s, then such dispassionate and detached observations and responses on the part of an observer are indicators that something vital and important to healthy ethical thought and reasoning has been weakened and perhaps even deadened by means of that observer’s relativism. Such detached responses would be along the lines of what Blackburn calls “the (moral) defect of indifference to things that merit passion.” (Blackburn, 1985, p. 6)

Cook's line of thought suggests that what Mackie has described as "disagreements about moral codes" may not really speak very much to the issue of whether or not OMV's actually exist. Such a perspective on differences in so-called moral codes fails to account for the possibility of bullying, coercion, fear, manipulation, control exercised over others, and other such expressions of the human race's tendency towards cruelty. It is possible that much of what is referred to as "moral codes" may, in fact, be codified expressions of the abuses of oppressive regimes. Cook's perspective suggests an ethics which flows out of a belief in OMV's which are not, contra Mackie, (p. 106) invented, but rather discovered; otherwise, one has no solid basis on which to condemn such abusive practices. Although Mackie's extremely consistent way of thinking likely shies away from such an approach to moral values, Cook's reasoning does not necessarily imply religious or metaphysical entailments. Some atheists share Cook's perspective. Kai Nielsen, an atheist philosopher, speaks in the same fashion as Cook the anthropologist:

It is more reasonable to believe such elemental things [as wife-beating and child abuse] to be evil than to believe any sceptical theory that tells us we cannot know or reasonably believe any of these things to be evil...I firmly believe that this is bedrock and right and that anyone who does not believe it cannot have probed deeply enough into the grounds of his moral beliefs. (Nielsen, 1990, p. 10-11)

Nielsen to the contrary, Mackie has definitely probed deeply into the grounds of his moral beliefs. He has done so with a thoroughness and consistency matched by few modern philosophers. Having done so, he undoubtedly rejects this argument because of the door it leaves open for a non-scientific description of the world. Be that as it may, the idea that much of the diversity of moral codes which one observes in the world is an expression of the maxim *Homo homini lupus* (man is a wolf to man) seems to be neither

an incredible nor a religious claim necessarily. In fact, from any standpoint which is reluctant to accept relativist ethics in one fashion or another, it appears to be the conclusion which most fits the facts.

3.6.5 *Pedagogical Entailments of Mackie's Failure to Account for Ethical Progress*

Before leaving the argument from relativity and moving on to the argument from queerness, consider the question of growth and progress in ethical standards within a given culture. If one believes, with Mackie, that societal moral standards are a matter of enculturation and of what people are taught to approve and disapprove, then how, from a Mackian point of view, might one speak in a non-arbitrary manner of moral progress? How could a Mackian advocate for change in societal standards of right and wrong? Conversely, how might s/he oppose cruelty and degradation? If there are no OMV's, if moral codes are relative to cultures, then how can a society be said to be progressing from the barbarous to the more humane? Perhaps by Mackie's advocacy of certain forms of egoism and rule utilitarianism, (p. 169-200) it could be said that a particular people were moving toward a society where they would experience greater well-being. However, advocacy of the cultural changes which such a move would require is, in Mackian terms, as inert, non-objective, and weak, as Bertrand Russell's opposition to bullfighting (p. 34). Mackie has denied such efforts any true objectivity (p. 35). Mackie's system of thought has a problem here. It lacks a certain robustness, and does not fit with the world as humans actually experience it.

If Mackie's theory is weak as regards discerning moral progress, then it is also weak as regards pedagogy. How does one give ethical instruction to the young out of such subjectivity? Take instruction of children about the abolition of slavery as an

example. How does a Mackian proclaim the triumph of good over evil in human practice without an ethical plumbline? Utilitarianism and egoism are insufficient concepts to communicate to the young what an ethical triumph and what a leap forward abolition really was for Western society. These concepts say nothing of human dignity and equality, nor of why it is fundamentally wrong to oppress and subjugate others on the basis of race. There is an ethical “fecundity” to pedagogical practices rooted in ancient wisdom, whereas there is an ethical “sterility” to ethics without OMV’s. The argument from relativity when applied to the question of societal moral progress and subsequently taken to its logical pedagogical conclusion is flaccid and sterile as regards both ethical evaluation and moral motivation.

3.7 *Answering the Argument from Queerness*

In framing the argument from queerness, Mackie has said: “If there were objective values, then they would be entities or qualities or relations of a very strange sort, utterly different from anything else in the universe.”(p. 38) He goes on to state: “Correspondingly, if we were aware of them, it would have to be by some special faculty of moral perception or intuition, utterly different from our ordinary ways of knowing everything else.” (p. 38) These are his metaphysical and epistemological concerns simply and briefly framed. The claim of epistemological queerness will be addressed first herein. Mackie continues on to say:

When we ask the awkward question, how we can be aware of this authoritative prescriptivity, of the truth of these distinctively ethical premisses or of the cogency of this distinctively ethical pattern of reasoning, none of our ordinary accounts of sensory perception or introspection or the framing and confirming of explanatory hypotheses or inference or logical construction or conceptual analysis, or any combination of these, will provide a satisfactory answer; 'a special sort of intuition' is a lame answer, but it is the one to which the clear-headed objectivist is compelled to resort. (p. 38-39)

Mackie is speaking, in epistemological terms, from a frame of reference which has become something of its own orthodoxy. He appears to be invoking the concept, supposedly advanced by the nominalist William of Ockham, (Thorburn, 1918, pp. 345-353) which has come to be referred to as “Occam’s Razor.” It essentially states, in its Latin form, “*Entia non sunt multiplicanda praeter necessitatem,*” that is, “One ought not to multiply entities beyond necessity.” Interestingly, John Stuart Mill, in commenting on the limits which one ought to place on the usage of this maxim said this:

It is folly, to complicate research by multiplying-the objects of inquiry; but we know too little of the ultimate constitution of the Universe, to assume that it cannot be far more complex than it seems, or than we have any actual reason to suppose. (Thorburn, 1918, pp. 345-353)

That statement, which has proven to be somewhat prescient scientifically speaking, is apt here. What was originally a dictum regarding the wise usage of logic and reasoning has, in recent years, taken on an almost ontological weight and significance of its own, such that Mill’s point has been lost sight of by those who would use Occam’s Razor to argue for strictly materialistic explanations of all reality.

Historically, the other way of understanding Occam’s Razor, as to its intent, whether or not William of Ockham is its originator, is, in the words of Isaac Newton:

...to admit no more causes of natural things than such as are both true and sufficient to explain the appearances. To this purpose the philosophers say that Nature does nothing in vain, and more is in vain when less will serve; for Nature is pleased with simplicity, and affects not the pomp of superfluous causes. (Ray, 2008, p.8)

Li and Vitanyi put the same idea just a bit differently:

...given a body of data concerning some phenomenon under investigation, we want to select the most plausible hypothesis from among all appropriate hypotheses, or predict future data. “Occam’s Razor” tells us that, all other things being equal, the simplest explanation is the most likely one. (Vitanyi and Li, 2001, p. 136)

This raises the question of what is the simplest explanation of the human sense of right and wrong. Is it really the idea that there is no right and wrong and that the non-empirically verifiable nature of moral values means that they, in fact, do not exist? That means that most all the human race, for most all of its recorded history, has been labouring under a commonly experienced misperception. Mackie was very aware of how counterintuitive this claim was, and therefore knew he would need to build a very strong and persuasive case for his theory (p. 35). The claim that human beings, in most places and in most times, have erroneously believed in the existence of objective moral values seems quite complex, whereas the claim that the nature of the moral values, which most people take for granted, may be quite difficult to pin down seems less so. The former statement is a grand assertion, whereas the latter is a humble one. The first claim is made from a position which asserts possession of an insight which has eluded most of humankind's wisest teachers and philosophers. The latter claim seems more in the spirit of Occam's Razor and, thus, more reasonable. Given the increasingly complex picture of the universe emerging in the sciences the latter claim seems the wiser.

3.7.1 *The Limitations of Science as Regards Identifying Objective Reality*

As Mill cautioned might be the case, reality has tended, across time, to be more complex than was previously believed. Roy Bhaskar's version of Critical Realism states that there is a complex and stratified world with multiple perspectives through which it can be seen. There are many lenses through which one may look at the world, and each lens sees something that is undeniably real. These lenses are coherent, but the totality of the real is not fully comprehended by any one of them (Bhaskar, 1986, p. 92). Elsewhere he uses the term "ontological depth" to describe this stratification (Bhaskar, 1998, p. 16).

In such a world, one might expect entities which frustrate empirical efforts at explanation and detection.

Michael Polanyi, a philosopher of science, addresses this complexity at the level of epistemology, referring to what he calls “tacit knowledge.” Amartya Sen declares in his forward to Polanyi’s *The Tacit Dimension*, that it is “deeply philosophical” (p. vii) and that Polanyi therein makes “a robust use of ideas.” (p. x) The “basic insight” of the book according to Sen is that “we know more than we can tell.” (Polanyi, 2009, p. 4) That we know more than we can tell seems a modest claim which is confirmed by human experience. Polanyi calls attention to the paralyzing effect of moving from the fluid aspects of human cognition and behaviour to focus on the particulars. He gives an example: “By concentrating attention on his fingers, a pianist can temporarily paralyze his movement. We can make ourselves lose sight of a pattern or a physiognomy by examining its several parts under sufficient magnification...” (Polanyi, 2009, p. 18) He goes on to say,

But the damage done by the specification of particulars may be irremediable. Meticulous detailing may obscure beyond recall a subject like history, literature, or philosophy. Speaking more generally, the belief that, since particulars are more tangible, their knowledge offers a true conception of things is fundamentally mistaken. (Polanyi, 2009, p. 19)

As regards a pianist there is something about the blending of talent, skill, style, the actual piece played, and music theory which is empirically intangible and for which a scientific explanation is an unsatisfying sort of reductionism. Bernard Williams has famously stated: “reflection can destroy knowledge.” (Williams, 1985, p. 148) This is Polanyi’s point, and it opposes the reduction of all things human to scientific terms and categories. Questioning the legitimacy of the putative moral knowledge, which appears to be shared by most human beings from their earliest memory is of doubtful value. Why should

humans engage in this sort of scepticism simply because such knowledge has not been somehow legitimized by the sciences? As Gadamer has said, “It is obviously unthinkable to defer morality until modern science has progressed enough to provide a new basis for it.” (Gadamer, 2006, p. 280)

When seeking to understand how things work and what is real, there is a justifiable desire to avoid the multiplication of entities spoken of in the formulation of Occam’s Razor. However, not all true knowledge is arrived at by reduction of entities to their component parts. Moral knowledge appears to be largely tacit knowledge. It is not deductively proven or justified by some process of reduction; rather, it appears to be part of the normal functioning of the human organism. Trying to trace it to some organic or empirically verifiable source appears to be analogous to dissecting a living patient in order to try to find their soul. Without addressing the mind/body problem, both lay people and many scientists tend to share a common perception that there is more than mere stimulus-response activity going on in the human personality. For most people, biological explanations of the totality of human experience are not satisfactory in themselves. Polanyi’s claim that we know more than we can tell rings true with human experience, whereas the idea that we have invented right and wrong does not. One can be metaphysically and epistemologically sophisticated, knowledgeable, and learned, and yet be humble about one’s own deductive abilities and about the human capacity to fully explain reality as it is experienced by human beings.

3.7.2 *The Inseparability of Fact and Value*

As to metaphysical queerness, Mackie states, “If there were objective values, then they would be entities or qualities or relations of a very strange sort, utterly different from anything else in the universe.” (p. 38) What apparently makes them so strange in

Mackie's estimation is that they have this "built-in" feature of intrinsic or authoritative prescriptivity, which is to say that they have an inherent motivational power which other entities do not have.

An objective good would be sought by anyone who was acquainted with it, not because of any contingent fact that this person, or every person, is so constituted that he desires this end, but just because the end has to-be-pursuedness somehow built into it. Similarly, if there were objective principles of right and wrong, any wrong (possible) course of action would have not-to-be-doneness somehow built into it. (p. 40)

Here Mackie assumes the agreement of his readers as regards OMV's. It seems hard to avoid the conclusion that Mackie has begged the question to some degree, as regards metaphysical queerness based in intrinsic prescriptivity. As Jean Hampton has asked,

What exactly is this inherent "authoritative prescriptivity" that makes the objects or properties supposedly possessing it too queer to be believed? And what exactly does Mackie believe are the characteristics of those objects or properties that are "natural" or "real"? (Hampton, 1998, p. 22)

As Hampton points out, Mackie "never conclusively demonstrates that moral prescriptivity is unnatural." She goes on to say that it is likely the usage of "the term 'value' to describe the component within ethics that is supposed to be irreconcilable with science." This signals the reader that the fact/value distinction is being invoked (Hampton, 1998, p. 22). Hampton demonstrates that value-laden language is a part of the sciences.

Designating a state of affairs as "factual" reveals a valuing process, apart from which it would not have that status. Hampton points out that in the sciences and especially in biology, such language is descriptive, whereas in ethics it is prescriptive. It is prescriptivity rather than value itself which Mackie finds unacceptable (Hampton, 1998, p. 23-24). Hampton proceeds to show that "we also use terms in which the evaluation and the description seem thoroughly entangled." Such terms as "cowardly, mean-minded, manipulative, or cheerful" are some of the examples Hampton gives of this fusion of

evaluation and description, reminding the reader of Putnam's assertion of the unavoidable "entanglement of fact and value." (Hampton, 1998, p. 24-25)

3.7.2.1 *Mackie's Inability to Avoid Value-Laden Terminology*

Even John Mackie himself cannot escape the reality of which Hampton speaks. In stating his argument from queerness itself, he says:

Another way of bringing out this queerness is to ask, about anything that is supposed to have some objective moral quality, how this is linked with its natural features. What is the connection between the natural fact that an action is a piece of deliberate cruelty--say, causing pain just for fun--and the moral fact that it is wrong? It cannot be an entailment, a logical or semantic necessity. Yet it is not merely that the two features occur together. The wrongness must somehow be "consequential" or 'supervenient'; it is wrong because it is a piece of deliberate cruelty. But just what *in the world* is signified by this 'because'? ... How much simpler and more comprehensible the situation would be if we could replace the moral quality with some sort of subjective response which could be causally related to the detection of the natural features on which the supposed quality is said to be consequential. (p. 41)

It is not mere quibbling over phraseology to say that the separation made here is not quite right. To say that an action is "a piece of deliberate cruelty," is not merely a statement of natural fact. The word "cruelty" by definition denotes malicious intent. As well, it can be rightly asked, is the statement that someone is "causing pain for fun" merely a report of a natural fact? The question analytically denotes harmful intent or malice. As Mackie gives these examples in order to make a divorce between actions and the morality of those actions, he himself does so with evaluative language. He cannot escape the human situation where description and evaluation are intertwined in reality. One cannot explain what is meant by "cruelty" or "causing pain for fun" in a value free manner. No matter how unemotional the language is that may be employed in one's description of acts such as these, it is not possible to communicate the nature of the case being described without

valuation entering into the picture. Fact and value do indeed appear to be inextricably entangled.

In a different vein, it seems sensible to ask whether most reasonable and prudent human beings take reports of rape or of murder to be simple statements of natural facts or to be statements with built-in moral meanings? Perhaps the distinction Mackie tries to make harkens back to the positivists and non-cognitivists and their reports of moral statements as mere reports of one's approval or disapproval of an action, such as "Boo lying!" or "Yay truth-telling." Mackie clearly has not gone far enough here with his example. To say, "The man is dead." is a statement of natural fact, whereas to say, "The man was murdered." is not. It already has the prescriptivity which troubles Mackie built into it. Murder is different from death by natural causes. The very term contains a moral judgment. If Mackie is right and moral values are not part of the fabric of the world, they nevertheless have an annoying habit of behaving as though they were. The example is further flawed in what it leaves unsaid. Why exactly can't there be a relationship between moral and non-moral facts? Mackie has not established why this must be so. The fact of the morally freighted language Mackie employs in his own example would tend to prove that such a relationship is quite inescapable.

3.7.2.2 *Mackie's Ethics Fails the Test of Practical Living*

Mackie is commending an ethical vantage point which is oddly detached and theoretical. Suppose someone slaps you across the face without provocation. Most people would think you were justified to say that person did something wrong. Intentionally inflicting pain on others without provocation seems, to normally functioning and rational human beings, to be *prima facie* wrong. Suppose you objected to the face slapper's

action, and he replied, “Hold on now, what is the connection between my slapping your face for fun and you stating that it is wrong of me to do so? I don’t think the two are related. My slapping you is just a natural fact with no moral implications.” Facing slapping aside, who is being irrational in such an exchange? You would have warrant to think that a person who answered you this way was mentally unstable. Real life doesn’t conveniently separate into natural facts and moral facts in the way Mackie presents. One cannot hold consciousness and judgement in suspension so that one may analyse the component parts of an interchange between human beings and try to discern what’s really going on. This kind of thing only transpires in the minds of those who are involved in meta-ethical speculation. The truth is that when human beings act in ways which they instinctively know to be wrong, they don’t give meta-ethical defences of their behaviour. Rather, they try to justify what they have done by saying, “It was all right for me to slap your face because...” This is more along the line of what actually happens. In the real world there is continuity and connectedness between what Mackie calls natural facts and what he calls moral facts. To be what he wants them to be, natural facts would have to be inert, possessing no moral meaning or significance. The existence of such facts, where human beings and human relationships are concerned, is near impossible. Even in trivial or banal statements regarding human relationships, there are ethical implications, because to be human is to be a sort of creature with ethical sensibilities. The human is set on edge, outraged, grieved, contented, gladdened and even excited for ethical reasons. It may treat a reported state of affairs as a simple declaration of natural facts, but ordinarily it will only do so if there are no moral concerns raised anywhere in the framing of the report. Human nature tends to rejoice when it sees justice and the accomplishment of what it

views as a good, and it tends to be outraged and grieved by what it perceives as injustice and wrong.

A dispathic response to morally freighted reports or what is referred to as a “flat affect” is not healthy or normal. If it persists, it is often taken to be a possible indicator of depression, (Shenal, Harrison, and Demaree, 2003, p. 37) trauma, (Morrison, Frame and Larkin, 1993, p. 336) or even schizophrenia (Kring, Smith, and Neale, 1993 and also Gur, et al. , 2006). A person who is alert to and aware of the moral implications of reported states of affairs is said to be “sensitive.” This means, by way of usage, that that person has a right response to justice and injustice. To “do ethics” from the frame of reference Mackie sets forth in *The Subjectivity of Values* (the first chapter of *Ethics: Inventing Right and Wrong*) would necessitate an atomistic or nominalist approach to human life. It would require a constant attending to particulars and a disregard for universals. The practitioner of such an ethics would be prone, were they able to be consistent with their own thought, towards a flat affect at times and circumstances when other human beings would be emotionally responsive to a moral state of affairs. This raises the issues of consistency. Mackie himself appears not to have been able to live with his own verdict on right and wrong. Having deconstructed traditional moral understandings to his own satisfaction, he then set out to frame an entirely naturalistic ethics. In so doing, he had to construct reasons and means for ethical living. When he had finished, his ethics looked quite similar to a number of ethical strategies which not only allowed for OMV’s, but which simply assumed them.

3.7.3 *Should We Find Intrinsic Prescriptivity Problematic?*

Mackie raises the issue of intrinsic prescriptivity of which he speaks in his argument from queerness; it is presumably the primary thing which causes him to regard

OMV's as metaphysically queer, but the issue itself is, beginning at page 23, interwoven throughout the whole of *The Subjectivity of Values*. Mackie speaks to it repeatedly prior to his setting forth the argument from queerness.

I have earlier addressed Hume and the claim that Hume is the originator of the idea that one cannot derive values from facts or 'ought statements' from 'is' statements. It was herein shown that what Hume said is often either misunderstood or misrepresented. He said that there is a third element besides 'is' and 'ought' which enters the picture, that element being sentiment. In the main I found no problem with the combination of facts and sentiments as the place where moral motivation usually originates. There does appear to be a connectedness between rationality, will, and the passions in human beings.

Human animals are moral animals in that we possess a capacity and propensity unique among all animals: we not only have desires, beliefs and feelings (which have strong moral qualities) but also the ability and disposition to form strong evaluations about our desires, beliefs, and feelings that hold the potential to transform them. (Smith, 2003, p. 8-9)

Scientism and overstated forms of Hume's thought have the effect of reducing human beings to rationality and will alone. I hold that a head (brain/mind) and a heart (passions – wherever one believes they reside) rightly related will produce moral motivation. This equates to Hume's "moral sense." Therefore, I find nothing peculiar about intrinsic prescriptivity. It would seem apparent that if certain kinds of statements don't elicit a behavioural response of some sort, then something is awry in either the psychological makeup or the cognitive processes of the person hearing such statements. Mackie finds the concept of intrinsically prescriptive OMV's queer because of his scientific presuppositions and he expects others to do the same. A subjective and personal conviction that an entity is queer, which one does not fully unpack or explain, except by

way of contrast with other entities, is a weak argument against the existence of such an entity.

Clearly, not everyone shares Mackie's conviction that such entities are "queer" or even suspect. Contrasting a declarative or indicative statement with a prescriptive or imperative statement, Roger Trigg states:

Ethical statements typically guide action in a way that many statements do not. To recognise that an action is wrong, I have to commit myself to trying to avoid it. I do not have to commit myself to posting a letter if I recognise that an object is a pillar-box. While I can be indifferent to many states of affairs which might be talked about, my use of moral language logically precludes any indifference. Its action-guiding force is part of its meaning. (Trigg, 1973, p. 28)

Trigg points out that Wittgenstein was well aware of this difference and called attention to the fact that religious language works much the same way as well (Trigg, 1973, p. 28). Neither of those philosophers, both writing before the publication of *Ethics: Inventing Right and Wrong*, has the discomfort that Mackie does with the intrinsic prescriptivity which they see in moral statements. The question of course is whether or not they should.

3.7.3.1 *The Eclipse of Reductionist Physicalism*

The burden of proof is on Mackie to give strong and persuasive arguments about why an entity such as an OMV, which has objective prescriptivity built into it, is metaphysically suspect. However, he never really does so. It appears that OMV's are metaphysically queer for Mackie largely because they do not reduce to something that can be given an empiricist and physicalist explanation. Although the naturalism to which Mackie was committed is and was a large component of Enlightenment thought, the explanatory insufficiency of reductive forms of materialism was already being challenged and called into question before Mackie ever published *The Subjectivity of Values*. In 1975, two years before the release of *Ethics: Inventing Right and Wrong*, Hellman and

Thompson wrote of a growing awareness which was developing in the sciences as regards reductionist naturalism:

Traditionally, physicalism has taken the form of reductionism -- roughly, that all scientific terms can be given explicit definitions in physical terms. Of late there has been a growing awareness, however, that reductionism is an unreasonably strong claim. (Hellman and Thompson, 1975, p. 551)

They went on to say in a footnote,

Doubts have arisen especially in connection with functional explanation in the higher-level sciences (psychology, linguistics, social theory, etc.). Functional predicates may be physically realizable in heterogeneous ways, so as to elude physical definition.

There is a tendency to think that when one speaks from a vantage point of the scientific, one speaks from the cutting edge of human knowledge. However, science itself is in constant flux, with one theory superseding another. Therefore, it is not surprising that the reductionist physicalism, which had previously been seen by some as the only means of getting at the roots of reality, would itself be in the process of eclipse even as Mackie was writing. The awareness of its limitations and the inadequacy that Hellman and Thompson describe has only increased since 1975, such that Jaegwon Kim stated in 1989, concerning reductionisms of all sorts, that they “are now nothing but a museum piece.” (Kim, 1989, p. 31) Although few would argue against the conclusion that the ethical somehow supervenes on the physical, OMV’s with a built-in prescriptivity and incapable of reduction to a physicalist explanation are not necessarily as scientifically suspect as they once were. Quite simply, the realisation has dawned that science cannot explain everything in the way once thought possible. The limitation of the real to the empirically verifiable has proven unsustainable.

3.8 *Mackie's Theory Appears Unworkable for Mackie Himself*

Blackburn points out the fact that Mackie's theory of ethics does not seem to entail the sorts of practical consequences for Mackie that we would suppose it should. Inasmuch as Mackie claims that ethics is working with a faulty and erroneous vocabulary, it's to be expected that he suggest or propose new terminology which avoids the same mistake. Surprisingly, not only does Mackie fail to do so, but he goes on in the second part of *Ethics: Inventing Right and Wrong* to discuss the very same topics and subjects as those typically addressed in standard ethical reflection and discourse. Blackburn states somewhat incredulously, "All these are expressed in the old, supposedly infected vocabulary." (Blackburn, 1985, p.2) The reasons which Mackie gives for doing so lead Blackburn to state:

Yet from the standpoint of an error theory it is quite extraordinary that we should have to do any such thing. Why should we have to choose to fall into error? Surely it would be better if we avoided *moral* (erroneous) views altogether, and contented ourselves with some lesser, purged commitments which can be held without making metaphysical mistakes? Let us call these schmoral views, and a view which expresses them a schmoral vocabulary. Then the puzzle is why, in the light of the error theory, Mackie did not at least indicate how a schmoral vocabulary would look, and did not himself go on only to schmoralize, not to moralize. And in my view this is enough of a puzzle to cast doubt back on the original diagnosis of error. (Blackburn, 1985, p. 2)

Not only does Mackie do as Blackburn describes, but elsewhere he acknowledges that his conscience operates in the very same fashion as other people's consciences do:

If we take conscience at its face value and accept as really valid what it asserts, we must say that there is a rational prescriptivity about certain kinds of action in their own right: that they are of this or that kind is in itself a reason for doing them or for refraining from them. There is a to-be-doneness or a not-to-be-doneness involved in that kind of action in itself. If so, there is no need to look beyond this to any supernatural person who commands or forbids such action. Equally the regret, guilt, shame, and fear associated with the consciousness of having done wrong, although normally such feelings only arise in relations with persons, are in this case natural and appropriate: what conscience, taken at its face value, tells us

is that this how one should feel about a wrong action simply in itself. (Mackie, 1982, p. 104-105)

This statement is made in a passage which is critiquing Newman's moral arguments for the existence of God. What is extraordinary is how plainly Mackie declares that he too feels the same intrinsic prescriptivity of moral values pressing upon his conscience as the rest of us. How does Mackie's experience of conscience, "taken at face value," differ from what people who believes in OMV's experience? C. S. Peirce said, "Let us not pretend to doubt in philosophy what we do not doubt in our hearts." (Peirce, 1868, p. 140)

Mackie may give a sophisticated theory about there being an error present in such reasoning elsewhere, but clearly he feels the pull or the magnetism of the good and the repulsion of the forbidden in much the same manner as any other person. It would appear that a life devoid of OMV's is not only practically unworkable for Mackie himself, but that he has no intention of trying to fully flesh out for his readers how such a way of living would actually differ from a life lived under the old error. This suggests that the error theory is primarily a theoretical framework advanced by a professional philosopher to formulate a notion of ethics which accommodates and harmonises with his own naturalistic understandings. John Dewey said that "Philosophy recovers itself when it ceases to be a device for dealing with the problems of philosophers and becomes a method, cultivated by philosophers, for dealing with the problems of men." (Dewey, 1917, p. 65) Mackie speaks as an adherent to a reductionist form of naturalism that only allows for entities which can be given a physicalist description and etiology. His actual approach to ethics, once he advances the error theory, indicates that Mackie finds his own theory unlivable.

Although he is a brilliant clear thinker and writer, there is reason to believe that in terms of praxis, Mackie's ethical theory cannot move from the theoretical to the real world. Given his thoroughness, it seems reasonable to conclude that if he were able, he would set forth the means to put it into practice. It is very surprising that having deconstructed traditional ethical understandings to his own satisfaction, he then goes on to moralise. He admits that, like the rest of us, he feels the prescriptive pull of values upon his own conscience. His commitment to scientific naturalism motivates him to make the claims that he does, and those claims are unconvincing at a common-sense level,¹⁰ largely because they militate against our earliest experience of the world and some of our deepest instincts. His arguments regarding the relativity of values are one possible account of why there might be variation in the moral codes of differing cultures and people groups. If he is right, then moral change for the better in a society is entirely subjective, and there are simply no overarching objective values, no actual moral standards against which to measure a culture. This, if true, would not only have social consequences, but also pedagogical entailments that would weaken our human ability to persuasively instruct the young as regards what constitutes humane and appropriate treatment of others. His arguments from queerness reveal an exceptionally strong and somewhat dated commitment to an empirical and naturalist definition of reality. They do so with a mentally and experientially unsatisfying reductionism. He strongly assumes that his reader will recognise the oddness of, and share his discomfort with, intrinsic prescriptivity. The manner in which he argues against it is nowhere near as compelling as

¹⁰ The "common-sense level" as used here is not the same as what Blackburn refers to as "untutored common-sense." (Blackburn, 1985, p. 11)

such a counter-intuitive claim would need to be in order to have persuasive power.

Mackie's methodology in writing *Ethics: Inventing Right and Wrong* would indicate that he believes what he says is true, but that for him it is trivially true, since it does not seem to require a change in the business of moral reasoning. However, if it is in fact true, then for those who are not as comfortable as he with the practice of cordoning off first order moral reasoning from second order moral underpinnings, it might well precipitate personal crises due to the loss of a sense of objective reality in ethical perceptions and the resultant sense of the arbitrariness and subjectivity of all moral pronouncements. It would likely entail responses ranging from moral apathy to moral recklessness for those unable to comfortably embrace the concept of a world emptied of moral values. Clearly it would engender a loss of meaning in most people's perception of the world. Mackie recognised this and acknowledged that, "the abandonment of a belief in objective values can cause, at least temporarily, a decay of subjective concern and sense of purpose." (p. 34)

My project is the construction of an ethical system based upon the meeting of basic human needs and anchored in the claim, treated as a maxim, that "Human life is a great good; because human life is a great good, all humans should work for the well-being of themselves and others." I do not believe that working towards mutual ethical goals with a thoroughgoing Mackian would require agreement about conceptual ethical frameworks or methodology. Where we would differ most obviously would be at the level of our second order moral understandings. The greatest potential friction between us would come with Mackie's assertion that "our rejection of objective values carries with it the denial that there are any self-subsistent rights." (p. 173) My maxim as regards the goodness of human life and working for its thriving is certainly construable as carrying

the claim of a “right.” It is however, an admittedly synthetic right, acknowledged as regards ourselves and others, and must be embraced or rejected by the person giving consideration to my system. I am not laying claim to its having the status of an objective right. To embrace it would, from one point of view, mean to embrace something similar to what Mackie has called, “objective evaluations relative to standards,” (p. 26) which he will permit. In describing his own view as “a rule utilitarian one,” Mackie states that “any specific development of it would be based on some concept of the flourishing of human life.” (p. 199) The flourishing of human life is at the core of the ethical approach that I am proposing. Therefore, though our convictions and methodology are very different; at the level of first order moral views, where one is addressing the practical and the normative, we would have shared goals in common. The acceptance of ethical standards predicated upon the needs of the human organism would seem to be a reasonable first order basis for working towards flourishing. I would not anticipate any great difficulty working with moral sceptics of the Mackian sort. If Mackie could moralise without a foundation, so to speak, then it would seem they ought to be able to do the same.

Previously a general description of natural law was set forth here (I.3 – I.9). Then it was stated that a number of contemporary philosophers dismiss natural law as unworkable because they believe that naturalist approaches to ethics have been shown to be logically unsound (I.10). Chapters I through III have demonstrated that neither Hume, nor Moore, nor Mackie has successfully refuted ethical naturalism. Therefore, Chapter IV will resume the discussion of natural law in order to set forth the sort of natural law reasoning which I am proposing. That being done, Chapter V will give a sample instantiation of deriving moral values from facts.

4.0 CHAPTER IV: NATURAL LAW REASONING AND ETHICAL INSTRUCTION

The current project differs from most natural law thought in providing ethical content. Typically Natural Lawyers argue theoretically for a particular form of practical reason which will permit one to validly deduce values from the facts of the natural world. They normally do not engage in making any significant moves towards furnishing substantive ethical content. This thesis is intended to demonstrate a means of deriving actual ethical content by way of natural law reasoning. The axiom which I have proposed carries its own implications as regards practical reasoning, but I am moving past mere theoretical claims, by using the *telos* of Well-Being as defined by Bornstein, et. al. (see I.2), in order to deduce actual ethical content. Such content is necessarily minimal. As John Kekes has pointed out, nature underdetermines normativity (Kekes, 1993, p. 78).

This chapter will address the two primary approaches to natural law reasoning which most closely resemble my own (those of Adler and Donnelly), whilst showing how my thought differs from that of John Finnis. As well, it will address the form of pedagogy which I intend to use with teaching ethics using this form of natural law thought.

4.1 *Hart's "Minimum Content of Natural Law"*

In order to frame the understanding of natural law being employed in this thesis, I will now use the work of H.L.A. Hart, who is recognised by many as perhaps the greatest legal philosopher of the last century. He influenced the thought of Rawls, Dworkin, and Finnis, and many others, while proving himself legal positivism's ablest defender. Some might assume, given the understandings of legal positivism, that Hart would have been strongly opposed to natural law and dismissive of its methodology. To assume so would

be a mistake. Some of what Hart has to say about a “minimum content of natural law” will now be considered.

In Hart’s *The Concept of Law*, the ninth chapter, entitled ‘Laws and Morals,’ addresses the relationship between natural law and legal positivism. There Hart states,

Natural Law has, however, not always been associated with belief in a Divine Governor or Lawgiver of the universe, and even where it has been, its characteristic tenets have not been logically dependent on that belief. Both the relevant sense of the word 'natural', which enters into Natural Law, and its general outlook minimizing the difference, so obvious and so important to modern minds, between prescriptive and descriptive laws, have their roots in Greek thought, which was, for this purpose, quite secular. Indeed, the continued reassertion of some form of Natural Law doctrine is due in part to the fact that its appeal is independent of both divine and human authority, and to the fact that despite a terminology, and much metaphysics, which few could now accept, it contains certain elementary truths of importance for the understanding of both morality and law. (Hart, 1997, p. 187-188)

What Hart says is accurate. Thus, natural law holds the potential of having an ethical appeal to those who believe in a purposive and intentional world and universe, behind which stands a will, an intelligence, or a spiritual force of some kind. It also holds an appeal for those who would deny any such metaphysical understanding of reality, yet who believe that naturalistic reasoning holds promise for the practice of ethics.

For the secular pursuit and practice of ethics, natural law addresses the implications of basic natural facts for life and action in this world. Yet when speaking of global ethics, or any sort of a coalition ethic which would unite people from across a wide spectrum, one cannot disregard the fact that many of the world’s inhabitants hold to some sort of a spiritual or metaphysical understanding regarding themselves, others, and this life. What these two very different perspectives, the secular and the spiritual, and all the subsets of these two headings share is the concept of teleology.

4.1.1 *The Widespread Appeal and Usage of Teleological Language*

The reader may have doubts about the claim that a secular approach to natural law may legitimately use the language of teleology. This is due to a misperception which has likely been exacerbated by the recent Intelligent Design controversy. In fact, the language of teleology is very common in the life sciences, so much so that well-know atheist and scientist Michael Ruse has stated, “Design language reigns triumphant in evolutionary biology...it may be more difficult to eliminate the general anthropomorphism of biology than most reformers allow.” Ruse says of Francisco J. Ayala, a contributor to the volume which he is editing,

He is no mushy-thinking metaphysician believing in mysterious forces. But Ayala does think that as a biologist he can and must be a teleologist...Although there may not be a Great Designer in the sky, because of natural selection organisms (unlike inanimate objects) are design-like – the eye is like a telescope and the heart is like a pump. Hence, asking function questions makes sense and advances biological understanding. (Ruse, 1998, p. 17)

Many features and behaviours of organisms meet the requirements of teleological explanation (Ruse, 1998, p. 118-189). Teleological explanations, as explained above, are appropriate in evolutionary theory and are recognised as legitimate by most evolutionary biologists and philosophers of science (Ruse, 1998, p. 191). Philosophers as well as scientists use the term “teleological” in a broader sense, to include explanations that account for the existence of an object in terms of an end-state or goal that they serve (Ruse, 1998, p. 192-193).

The most thorough treatment of the subject of teleology in recent years would appear to be Andrew Woodfield’s *Teleology*. Although he takes issue with what he describes as an “Aristotelian-cum-Wittgensteinian” conception of teleology (Woodfield, 1976, p. 154), and feels that it is a form of externalism, he describes what he calls

“immanent teleology” as the position which states that “...the source of a thing’s end-directed movement is to be found within the nature of the thing itself, not in some external agency.” (Woodfield, 1976, p. 6). Woodfield states that the reason why the Aristotelian conception of teleology “faded out is simply that the new men of science stopped asking teleological questions. To them final causes were scientifically irrelevant.” (Woodfield, 1976, p.8) Mark Perlman states: “By the twentieth century, analytic philosophers were positively allergic to any mention of teleology or teleological function. It was seen as an insidious metaphysical notion that was to be tossed out with the rest of metaphysics.” (Perlman, 2004, p. 4) Nonetheless, surveying the contemporary scene in the 1970’s, Woodfield concluded,

There are plenty of paradigms, especially in biology and the social sciences, which lay great emphasis on the usefulness of teleological explanations. Systems theory is one example. Many people hail it as a new metaphysic which will supersede the worn-out, atomistic and mechanistic paradigms that have dominated for so long. In many respects, its basic concepts and methods hark back to Aristotelianism. (Woodfield, 1976, p. 15)

Thus, it would appear that the suggestion that teleology might be useful across a wide spectrum, including ethics, is not really controversial at all. Perlman goes so far as to claim:

Teleology has certainly made a comeback in philosophical circles in the last thirty years. It went from a suspect or disreputable notion, ready for elimination, to the hottest topic in philosophy of biology, psychology and mind. (Perlman, 2004, p. 46)

4.1.2 *The Ethically Unifying Potential of This Kind of Teleology*

The usage of teleology here has nothing of note in common with teleological ethics or what has, in the wake of Anscombe’s critique of modern moral philosophy (Anscombe, 1981) come to be called ‘Consequentialism’. The concept of teleology employed in natural law is, as Hart explains:

...latent in our identification of certain things as human needs which it is *good* to satisfy and of certain things done to or suffered *by* human beings as *harm* or *injury*. Thus, though it is true that some men may refuse to eat or rest because they wish to die, we think of eating and resting as something more than things which men regularly do or just happen to desire. Food and rest are human needs, even if some refuse them when they are needed. Hence we say not only that it is natural for all men to eat and sleep, but that all men ought to eat and rest sometimes, or that it is naturally good to do these things...The same outlook is present in our conception of the *functions* of bodily organs and the line we draw between these and mere causal properties. We say it is the function of the heart to circulate the blood... (Hart, p. 190-191)

The secular philosopher typically sees this teleology as an outgrowth of how evolution has progressed and of the sort of creatures that human beings are. The person reasoning from a spiritual perspective, whether they reject or accept evolutionary thought, sees this as how things are intended to be and as an aspect of what Mackie has called “the fabric of the universe,” behind which stands a spiritual reality of some sort. Natural law, conditioned by my axiom, holds the promise of appealing to both points of view and permitting them to work for common ethical goals in spite of differing worldviews. It is my contention that in today’s world, natural law holds a latent unifying power, as regards both secular and religious thinkers, which is especially significant and compelling when understood in terms of the design or structure of the human organism and the teleology vis-à-vis human well-being that both secular and religious thought recognise.

There is something behind an appeal to the design or structure of the human organism which makes it significant or important and makes teleology “weighty.”

It will be rightly observed that what makes sense of this mode of thought and expression is something entirely obvious: it is the tacit assumption that the proper end of human activity is survival, and this rests on the simple contingent fact that most men most of the time wish to continue in existence. The actions which we speak of as those which are naturally good to do, are those which are required for survival; the notions of a human need, of harm, and of the *function* of bodily organs or changes rests on the same simple fact. (Hart, 1997, p.191)

The emphasis which Hart places on survival harmonizes with the maxim being proposed in this thesis. Specifically, that maxim is: “Human life is a great good; because human life is a great good, all humans should work for the well-being of themselves and others.” Survival is admittedly a minimal formulation, nowhere near as full as the idea of thriving, but both concepts are obviously pro-human life stances. Hart says that Hobbes and Hume have both “...seen in the modest aim of survival the central indisputable element which gives empirical good sense to the terminology of Natural Law.” (Hart, 1997, p. 191) Hart goes on to show how indispensable this concept is for language, law, and ethics:

For it is not merely that an overwhelming majority of men do wish to live, even at the cost of hideous misery, but that this is reflected in whole structures of our thought and language, in terms of which we describe the world and each other. We could not subtract the general wish to live and leave intact concepts like danger and safety, harm and benefit, need and function, disease and cure; for these are ways of simultaneously describing and appraising things by reference to the contribution they make to survival which is accepted as an aim. (Hart, 1997, p. 192)

Hart says that we must assume regarding our fellow human beings that their aim, “generally speaking, is to live.” (Hart, 1997, p. 192) Thus, the drive towards survival and the implicit understanding that survival is a *telos* or goal at which human intention naturally aims is inescapable. It is but a short step from there to the recognition and approval of that same intention in others. If people naturally incline in this direction, then they clearly hold life to be a great good. If the value of life is acknowledged, then embracing the maxim which I have proposed is but a question of degree. As Hart says,

Reflection on some very obvious generalizations – indeed truisms – concerning human nature and the world in which men live, show that as long as these hold good, there are certain rules of conduct which any social organization must contain if it is to be viable. Such rules do in fact constitute a common element in the law and conventional morality of all societies which have progressed to the point where these are distinguished as different forms of social control. With them are found, both in law and morals, much that is peculiar to a particular society and much that may seem arbitrary or a mere matter of choice. Such universally

recognized principles of conduct which have a basis in elementary truths concerning human beings, their natural environment, and aims, may be considered the *minimum content* of Natural Law, in contrast with the more grandiose and more challengeable constructions which have often been proffered under that name. (Hart, 1997, p. 192-193)

In speaking of these truisms from which flow “rules of conduct” without which a society will not be viable, Hart is addressing the primary conception of natural law being employed herein. It is not unlike what he has called “the *minimum content* of Natural Law.”

4.2 *The Minimalism of Hart’s Telos*

That being said, survival is too minimalistic a formulation of my intent; and Aristotle’s “flourishing” (*eudaimonia*) is more what I have in mind, but before flourishing can be addressed, the value and importance of working for the perpetuation and the good of human life must be agreed upon. In his May 2003 Oxford Hart Lecture, Richard Epstein said this:

I know of no theory of human behaviour from psychology, anthropology, sociology, or economics, that assumes that the forces of self-interest exhaust themselves when continued existence is assured...why not push the entire apparatus one step further and develop a set of rules that allows for a maximum flourishing of all individuals instead of their minimal survival, just one step above subsistence level? Why frame the task of organising the legal rules of a society in terms of minimums? Abandon the use of the term ‘survival’ and substitute in its place the term ‘flourishing,’ and all of a sudden we have a system of natural law that at least in some general ways looks at, or is measured by, the global consequences of different kinds of legal and social arrangements. (Epstein, 2005, p. 228)

Hart was a formative influence on Epstein, and Epstein expresses his respect for Hart, but also his conviction that Hart stops short of where he might have gone. I share Epstein’s convictions in this regard (though not his tendency towards consequentialism), but hold that Hart has given a good basic formulation of how natural law thinking progresses, even if his application of it is minimalistic.

MacIntyre has critiqued Hart's formulation of natural law (Hart, 1961) and of natural right (Hart, 1955) as well. He has pointed out (MacIntyre, 2000, pp. 91-115) the conditional nature of these formulations and stated that he believes they are insufficient for the formation of a compelling natural ethic. MacIntyre states that such formulations "deny us any substantive moral content in our conclusions." (MacIntyre, 2000, p. 97) He then proceeds to cite systems which invoke Hart and to show how (*e.g.*) Lloyd L. Weinreb, carrying Hart's thought to one of its possible logical conclusions is "curtly dismissive about the ontological claims of the foundation of law in nature and human nature advanced either by Greek philosophers or Christian theologians." (MacIntyre, 2000, p. 101) MacIntyre believes that minimalist modern formulations of natural law deprive it of one of its main purposes: "a shared and public standard, by appeal to which the claims of particular systems of positive law to the allegiance could be evaluated." (MacIntyre, 2000, p. 103) His criticism is not unwarranted; however, Hart's formulation of natural law itself may not be where the problem really lies. Rather, I maintain that his formulation of legal positivism overshadows his description of natural law and thus conceals its potential usefulness. Per Finnis, I would claim that Hart's usage of natural law is descriptive rather than justificatory and, therefore, provides an "incomplete scrutiny of the resources of practical reason." (Finnis, 2008) Further, I hold that my axiom, combined with my proposed methodology, avoids possible shortcomings of Hart's minimal formulation of natural law.

I don't believe that natural lawyers should feel the need to defend natural law against Hart. It seems clear that he did not mean "the minimum content of *the* natural law," but the "minimum content of positive law," which, inasmuch as law is a human

phenomenon, must address human beings and their needs. Hart realised and acknowledged that this was especially the province of natural law. Thus, for Hart, the minimum content of positive law begins with natural law.

The simple truisms we have discussed not only disclose the core of good sense in the doctrine of natural law. They are of vital importance for the understanding of law and morals, and they explain why the definition of the basic forms of these in purely formal terms, without reference to any specific content or social needs, has proved so inadequate. (Hart, 1997, p. 199)

For Hart the “ought” of positive law without reference to human beings and their needs is an insufficient formulation of law. However, he was unwilling to embrace certain forms of natural law. He wanted to highlight central tenets of natural law, tenets that he claimed didn’t have necessary metaphysical entailments, which some might find unacceptable. By so doing he spoke to the core of natural law thought, which both its secular and religious versions share. Hart does not appear to have been telling natural lawyers their business, but rather acknowledging positive law’s dependence upon natural law foundations. In so doing he argued against and dismissed certain understandings not essential to natural law and unacceptable to advocates of purely secular legal thought. If I read Hart correctly, he claims that compelling and adequate positive law relies upon natural law, at least upon its core content. Natural law does not itself consist of moral rules or positive law, but it works together with human reasoning in order to give rise to them. To reverse this and look at it from the opposite direction, it may be said that in legal philosophy, penumbral concepts (or rights) are held to emanate or flow from positive law. Hart is acknowledging that as legal penumbra have a source, so also positive law has a source. Prior to the rulings of the justices, and/or the corporate rulings of the *polis*, there is a core of natural law from which positive law flows. For Hart the minimum content of positive law is basic natural law, albeit in its weakest sense. This

core content of natural law grounds and gives meaning to all law. This is a claim that natural lawyers need not defend against.

4.3 *Locating This Proposal in the Field of Natural Law*

4.3.1 *Finnis, Grisez, and Boyle*

John Finnis is without question the best known proponent of natural law in the fields of moral and legal philosophy today. His work has been largely responsible for natural law having any widely recognised presence at all in current discussion and debate. Veatch states that the warming trend in legal, political, and moral philosophy towards the previously “utterly discredited” idea of natural law “apparently has been wrought by Professor Finnis almost singlehandedly.” (Veatch, 1981, p. 251) Weinreb states that Finnis “has developed the most substantial and serious contemporary theory to which the label of natural law attaches.” (Weinreb, 1987, p. 108) Any contemporary theory of natural law must therefore address Finnis.

Finnis has acknowledged his indebtedness to Germain Grisez in his approach to natural law (Finnis, 1980, p. vii). What has come to be known as “the new natural law” has been a project that they both, with assistance from some other writers (most notably Joseph M. Boyle, Jr.), have been developing for over four decades. Jean Porter says that their work is “a radical reinterpretation of the traditional doctrine of the natural law.” (Porter, 1990, p. 17) Although their writing spans four decades, an attempt will be made here to give a brief summation of its major points.

4.3.1.1 *The First Principle of Practical Reason*

The foundation of the Finnis/Grisez approach is epistemological in nature. It is their epistemology which gives justification for the moral perception which they hold to

be latently present in all human beings. They build upon a particular understanding of self-evidence which they call the “First Principle of Practical Reason” (hereafter referred to as the FPPR), which is the Thomistic dictum that “Good is to be done and pursued, and evil is to be avoided.” This is simply Aquinas’ statement of the Aristotelian meaning of ‘good’ (NE, Bk. I, 1094b, 3). Grisez and Finnis call attention the fact that Aquinas says that this principle stands in the same relationship to practical reason (as regards both actions and motivations) that the law of non-contradiction stands to apprehension (S.T. I-II, Q. 94, Art. 2). Thus it is “pre-moral” and self-evident (Grisez, 1965, pp. 169-176 and Finnis, 1980, p. 34).

Grisez notes that Aquinas claims a “unified knowledge” between ethical subjects and predicates, such that there is no need of middle terms to connect them. Further, he holds that there are both objective and subjective aspects of self-evidence. The objective aspect is expressed in the understanding that the predicate of a self-evident principle belongs to the intelligibility (*ratio*) of the subject. The subjective aspect is expressed in the understanding that this intelligibility is not only knowable but known (Grisez, 1965, p. 173). For Grisez this makes self-evident knowledge underivable. He says that for contemporary philosophers steeped in the analytic/synthetic distinction what Aquinas means may be hard to follow:

...the modern reader is likely to wonder: “Are Aquinas's self-evident principles analytic or synthetic?” Of course, there is no answer to this question in Aquinas's terms. He does not accept the dichotomy between mind and material reality that is implicit in the analytic-synthetic distinction. Nor does he merely insert another bin between the two, as Kant did when he invented the synthetic a priori. Rather, Aquinas proceeds on the supposition that meanings derive from things known and that experienced things themselves contain a certain degree of intelligible necessity. (Grisez, 1965, p. 173)

Grisez' explains that "intelligible necessity" (or "intelligibility") speaks of "an aspect of a partly known and still further knowable object." (Grisez, 1965, p. 174) For instance, given the FPPR, one comes to understand through life experience that health is a thing worth pursuing. The pre-moral and self-evident awareness of the good as desirable is turned upon one's own body and its physical condition; practical knowledge results. When that occurs one does not know all that there is to know about health and about which conditions will work to promote it, but one does have substantive practical knowledge about health's desirability, which furnishes inclination/motivation towards acting for one's health. This understanding appears to be a unique form of ethical realism.

4.3.1.2 *The Seven Self-Evident Goods*

Building upon their understanding of self-evidence, the Finnis/Grisez methodology begins with an emphasis on the human capacity for choices. They believe that human beings are free and not determined (Grisez, Boyle, and Finnis, 1987, p. 100 – *GBF hereafter*). In response to attempts to label their work, they deny that their theory is either teleological or deontological (GBF, p. 101). Further clarifying their reasoning process, they state that they accord factual status to the Naturalistic Fallacy or the "fact-value divide," as understood by analytic philosophers (GBF, pp. 101-102). They move forward, identifying the goods which they claim practical reason recognises and which "correspond to the inherent complexities of human nature" (GBF, p. 107). They list seven basic or self-evident goods. The first three are "substantive" inasmuch as they exist prior to our choosing them. They are (1) "Life itself – its maintenance and transmission," (2) "Knowledge and aesthetic experience," and (3) "Excellence in work and play," summed up as "life, knowledge, and skilled performance." The remaining four are "reflexive,"

because “the instantiation of these goods includes the choices by which one acts for them.” As well, the four reflexive goods are all said to be “various forms of harmony”:
(4) “harmony between and among individuals,” (5) “inner peace,” (6) intra-personal wholeness and stability (not the authors’ terms), and (7) spiritual peace or harmony.
(GBF, p. 107-108) Explaining the core of their theory, they reason that although we cannot know values by way of facts, we nonetheless have substantial knowledge of things which are goods. Our free choices are governed by our desire to secure those goods.

For example, among goods are winning and being healthy...In entering a contest or going to the doctor, one’s purpose of winning or regaining health only PARTICIPATES in the goods of winning and health, in which one is interested more generally. (GBF, p. 103)

Their claim for this list of goods is that it is both exhaustive and irreducible. It is exhaustive inasmuch as it is held to encompass all the basic goods, and it is irreducible inasmuch as no one good can be reduced down to or equated to another good. Thus, in his own explanation of the practical reasoning which must accompany the recognition of the seven goods, Finnis enumerates a principle of incommensurability, which serves as a bulwark against consequentialism, yet explains how and why the moral agent will find a particular good especially compelling when making a moral decision. (Finnis, 1980, pp. 118-120) Both Aristotle and Aquinas held to the notion of self-evident goods, but neither developed such a comprehensive list of goods. Indeed, it is hard to imagine either a good which supplements GBF’s list or one which has been omitted. Despite its complexity their theory is well thought out and persuasive.

4.3.1.3 *GBF’s Epistemological Departure from Traditional Natural Law Thought*

What is especially new and different in this variety of natural law is the epistemological explanation which Finnis, Grisez, and Boyle give of how the goods

which they have enumerated are known. It is largely this which has gained their particular theory of natural law the attention and recognition which it has received in the field of moral philosophy. They are believed to have avoided perceived pitfalls associated with previous natural law reasoning, inasmuch as their theory clearly does not attempt to derive values from facts. Finnis sums up their claims succinctly:

...the first principles of natural law, which specify the basic forms of good and evil and which can be adequately grasped by anyone of the age of reason (and not just by metaphysicians), are *per se nota* (self-evident) and indemonstrable. They are not inferred from speculative principles. They are not inferred from facts. They are not inferred from metaphysical propositions about human nature, or about the nature of good and evil, or about 'the function of a human being', nor are they inferred from a teleological conception of nature or any other conception of nature. They are not inferred or derived from anything. They are underived (though not innate). (Finnis, 1980, pp. 33-34)

This is to say that Grisez, Boyle, and Finnis hold that knowledge of these self-evident goods is neither rationalistic (innate) nor empiricist (sense-dependent), but rather, latent within all people, needing only life experience in order to be realised. In claiming that these goods are self-evident to practical reason, these authors make a claim that sounds much like intuitionism, although they reject that label. They affirm that values indeed cannot be derived from facts and that practical reason simply "recognises" the goods which they have listed. By correlating these goods with the inherent complexities of human nature, they appear to be making claims regarding the means by which human beings have access to these "primary principles" or basic goods, which bear some resemblance to Kant's epistemology:

No knowledge can take place in us, no conjunction or unity of one kind of knowledge with another, without the unity of consciousness which precedes all data of intuition, and without reference to which no representation of objects is possible. This pure, original, and unchangeable consciousness I shall call *transcendental apperception*. That it deserves such a name may be seen from the fact that even the purest objective unity, namely, that of concepts *a priori* (space

and time), is possible only by a reference of all intuitions to it.

(Kant, CPR, Book I, Chapter II, Section 2, 3)

Kant stated that, “although all our knowledge begins with experience, it does not follow that it arises from experience.” (Kant, CPR, Supplement IV, Introduction, I) This is not the only way in which the “the new natural law” bears resemblance to Kantian reasoning. Others have recognised its similarities to the thought of Kant, such that Weinreb refers to it as “deontological natural law.” (Weinreb, 1987, pp. 8, and 97-126) In setting forth the elements of the practical reasoning which this system entails, Finnis himself draws parallels between the seventh point of GBF’s practical reasoning process, which he calls “Respect For Every Basic Value in Every Act,” and Kant’s Categorical Imperative (Finnis, 1980, p. 122).

4.3.1.4

The First Principle of Morality

Grisez and Finnis have each put forth their own versions of a maxim which is in some ways reminiscent of Kant’s first formulation of the Categorical Imperative:

In voluntarily acting for human goods and avoiding what is opposed to them, one ought to choose and otherwise will those and only those possibilities whose willing is compatible with integral human fulfilment. (Grisez, 1996, p. 245)

and also:

...in all one’s deliberating and acting, one ought to choose and in other ways will those and only those possibilities, the willing of which is compatible with integral human fulfilment... This is the master principle of morality... (Finnis, 2002, p. 28)

Grisez and Finnis hold that a truly moral will is one that has this as its ideal objective.

What Finnis refers to as “the master principle of morality,” Grisez calls “the first principle of morality.” (Grisez, 1983, p. 184) For the sake of brevity this maxim

regarding “integral human fulfilment” will from this point on (in keeping with Grisez) be

referred to as the FPM. 'Integral human fulfilment' is a rational apprehension of the good for all people:

This formulation can be misunderstood. 'Integral human fulfilment' does not refer to individualistic self-fulfilment, but to the good of all persons and communities. All the goods in which any person can share can also fulfil others, and individuals can share in goods such as friendship only with others. (Finnis, Boyle, Grisez, 1987, p. 283)

With the addition of the FPM to their theory these philosophers move beyond Kant's "good will" (Groundwork, 393, 1) and Categorical Imperative (Groundwork, 421, 52) to principles with definite content. The Categorical Imperative has no specific moral content, whereas the FPM in the setting of GBF's theory is potentially robust and content rich. It provides the moral agent with actual ends towards which to work. The concept itself speaks indirectly of human nature, but interestingly, it is not *grounded* in human nature. Rather, GBF's focus, like Kant's, is on a particular form of practical reasoning, one which makes it possible for the normally functioning human intellect to recognise the good, thereby providing a rational basis for moral thought and action. The moral agent, already equipped with the FPPR, acknowledges and embraces the FPM and then makes her way through life. The seven goods provide an incipient framework of normativity for the mind and will, which are guided by the FPM. When the moral agent makes good choices she reasons after this fashion. When she makes poor choices, she deviates from this way of reasoning. Poor ethical choices are the consequence of moral reasoning which strays from this process and is thus not fully rational.

4.3.2 *The Natural Law Implications of GBF's Rejection of Teleology*

The openness to natural law which Finnis, *et. al.* have made possible in contemporary ethics is appreciated by all natural lawyers. Be that as it may, Finnis'

statement in the above cited quote that he, Grisez, and Boyle reject any “teleological conception of nature or any other conception of nature” is a departure from historical natural law thought as it is commonly understood, one not from the periphery, but from the core of the tradition. Hitherto, the concept of deriving normativity from the natural world was essential to natural law theory. Indeed, it is understood to be denoted in its very name. These philosophers retain the moniker “natural law,” but what they propose is a complex and ingenious synthesis of both Thomistic and Kant-like reasoning. Finnis maintains that their thought is in keeping with Aquinas. He holds that Aquinas placed right practical reason (*prudentia*) first and then affirmed that what it teaches harmonises with the natural world. Finnis states in a footnote in his *Aquinas: Moral, Political, and Legal Theory* “ that Aquinas’ moral arguments never run from ‘natural’ to ‘therefore reasonable and right,’ but always from ‘reasonable and right’ to ‘therefore natural’.” (Finnis, 1998, p. 153) There is not space here to properly address this claim.

Undoubtedly, Finnis himself, despite his undisputed grasp of the corpus of Aquinas’ writings, would acknowledge that this is not the common perception of Aquinas’ moral reasoning process. A.S. McGrade in a review, which is laudatory of Finnis, nonetheless states that “Finnis’ Aquinas looks very different from any Aquinas with whom most readers will be familiar.” (McGrade, 1999, p. 126) The portrayal of Aquinas’ approach to ethics which Finnis sets forth is one where the emphasis falls almost entirely on practical reasoning. This results in a form of natural law hitherto unknown. Veatch, while commending Finnis and extolling his accomplishments cannot help but remark somewhat incredulously: “he perceives no reason why he should not simply disclaim all attempts to

establish a basis for moral laws in nature while insisting that his ethics are of natural law.” (Veatch, 1981, p. 253)

Grisez, Boyle, and Finnis embrace the Fact-Value divide, and because deriving prescriptivity from human nature is an ethically naturalistic strategy, employ quite different means for addressing good than did natural lawyers of the past. Rather than working from human nature as such, they work from the standpoint of self-evident truth and a categorical moral imperative (the FPM). This move makes them quite different from Aristotle and Aquinas, the two best known natural law philosophers in history. This is not to say that they distort or misrepresent Aquinas when they use him as the source of the FPM, but that they emphasize a particular aspect of his philosophy, leaving much that he said which accords with naturalism unengaged. Shifting the focus of natural law onto autonomous human rationality and away from human nature is clearly a departure from historical natural law thought.

4.3.2.1 *The Absence of the Notion of Flourishing from GBF's Theory*

Although one cannot help but acknowledge the thoroughness and cohesiveness of the Grisez, Finnis, and Boyle model of natural law, it is a hybrid and, perhaps, worthy of its own classification in ethical and legal theory. It is no longer *merely* natural law.

Weinreb was quoted above as stating that the new natural law is a form of deontology.

Shelly Kagan says: “Unfortunately, although the term ‘deontology’ is widely used in contemporary moral philosophy, there is nothing like a standard or received definition of the term.” (Kagan, 1998, p. 73) Weinreb’s labelling of GBF above (4.3.1.3) is accurate if one uses deontology to mean “duty-based,” rather than “non-consequentialist.” The duty in GBF is the FPM. Where GBF especially differs from the approach which I am proposing is in the particular way it makes use of practical reason together with its

enumeration of the seven self-evident goods. Unlike typical natural law reasoning, which has given human flourishing as the basis for making ethical decisions, GBF's goods are ends in themselves. That is to say that the seven goods of GBF are not means towards flourishing (*eudaimonia*). GBF's strategy, in effect, makes practical reason ethically autonomous in a manner similar to Kantian thought, majoring on the ordering principles which intellect and volition apply to experience and practice. The seven self-evident goods encompass all possible instantiations of flourishing. From the perspective of GBF these seven goods are the ultimate reasons for ethical and legal decision making. Thus, the concept of flourishing which natural law has utilized from of old is, on GBF's account, fully contained within this list of goods. One need not aim at flourishing itself. There is no flourishing beyond these goods. My ethical theory retains flourishing, defined in terms of meeting the basic needs of the human organism as its *telos* or end. Were I to embrace GBF's strategy, I would be forced to exchange flourishing based upon human needs for GBF's list of goods. As inclusive as their list is, when it comes to ethical reasoning for everyday people, I do not believe a list of comprehensive and incommensurable goods is as compelling as the simpler and more easily understood goal of human well-being.

4.3.2.2 *GBF is Pedagogically Unwieldy and "Top-Heavy" with Theory*

Imagine trying to teach teenagers about human sexuality from the standpoint of Grisez and Finnis. One must first communicate the FPPR to explain their natural tendency to seek their own good. Then the FPM must be unpacked and the breadth of meaning contained in the term 'integral human fulfilment' explained. Lastly, the seven basic goods must be enumerated, and the students must be made to understand that they are incommensurable. When one has done all this, one has given the students a

framework for moral reasoning and one directive, the FPM. The students have been steeped in a rich but complex theory and given no specific content vis-à-vis their own sexuality and health.

Now imagine setting before teenagers the entelechies of fully developed masculine or feminine sexuality. Imagine helping them to see that certain behaviours in their teen years will work towards the realisation of the entelechy of their own sexuality and physical/social maturation, whilst others will tend to prevent them from realising that potential. Pedagogically speaking there is no theory involved in what they are being taught. These students have been given common sense ethical prescriptivity with substantive content and clear objectives, all anchored in ordinary human development. In Grisez' terms they have realised something of the 'intelligibility' of their own sexual health. This is how my theory functions.

Grisez, Boyle, and Finnis have two potential sources of difficulty with their theory. With regard to the weak points of GBF, the first is rather obvious: the incommensurability of the seven goods will naturally create dilemmas as regards decision making when multiple goods are in view. Any explanation of how to select one good over another is undermined by the fact that they are incommensurable. Secondly, the sheer complexity of their theory renders it a bit too abstract for everyday decision making. From the standpoint of epistemology, it is an excellent justification of the existence of readily available and accessible self-evidence for moral agents, but from the standpoint of praxis it is really far too theoretical for the philosophical or ethical layman.

4.4 *Help from Hume: "Utility" of a Different Kind*

Philippa Foot has stated: "A moral principle must have a background, and it must

be a background of a particular kind.” (Foot, 1954, pp. 109-110) Historically, the background for natural law has been human well-being. At issue is the good of human beings, not the apparent or situational good, but the actual good. At an axiomatic level, dealing from what are believed to be first principles of reason, both in human society and in the lives of individuals, natural law begins with what helps or harms people. This is the reason why natural law lacks in specificity of prescriptive content. It is a framework. It is in a sense “skeletal” in nature. It must be fleshed out in light of situational contingencies. It must, as regards actual praxis, be supplemented by both a theory of the virtues and by positive law in given legal, political, and social contexts. With the good for human beings as its *telos*, natural law thought approaches the ethical arena, and natural lawyers engage with the specifics of an ethical situation from a perspective which looks primarily at what is to the overall benefit or detriment of human beings. It is not a calculus as in consequentialism. Such reasoning is perceived as an unwarranted reduction of ethical decision making to a matter of numbers and formulae. Neither is natural law regulative after the manner of positive law and casuistry, although it does provide a coherent foundation for both. It is a frame of reference which sees the human as valuable and the well-being of humans as the only possible beginning point for law or ethics.

Hart states that no less a perceived opponent of natural law and ethical naturalism than David Hume realised this (Hart, 1997, p. 191). Hume’s usage of sentiment could potentially result in highly subjective and individualised morality. In order to avoid this, Hume was forced to use human nature and the good for humans. He spoke of “utility” in doing so, but interestingly, he did not describe utility in typically utilitarian or consequentialist terms:

In all determinations of morality, this circumstance of public utility is ever principally in view; and wherever disputes arise, either in philosophy or common life, concerning the bounds of duty, the question cannot, by any means, be decided with greater certainty, than by ascertaining, on any side, the true interests of mankind. If any false opinion, embraced from appearances, has been found to prevail; as soon as farther experience and sounder reasoning have given us juster notions of human affairs, we retract our first sentiment, and adjust anew the boundaries of moral good and evil. (Hume, 1963, p. 180)

The “true interests of mankind” is a very different concept from “the greatest good for the greatest number.” Hart’s assessment of Hume is correct inasmuch as Hume is in pursuit of moral criteria that speak to the actual good of human beings.

If we examine the *particular* laws, by which justice is directed, and property determined; we shall still be presented with the same conclusion. The good of mankind is the only object of all these laws and regulations. (Hume, 1963, p. 192)

This of course raises the question of how the good of mankind is to be determined. Hume does not answer that question, but he clearly states that the good of mankind is what lies behind the prescriptions of the law. He specifically states that familiarity with human nature and human circumstances are what must drive the utility of which he speaks:

We may conclude, therefore, that, in order to establish laws for the regulation of property, we must be acquainted with the nature and situation of man; must reject appearances, which may be false, though specious; and must search for those rules, which are, on the whole, most useful and *beneficial*. (Hume, 1963, p. 195)

This is a utility of a different sort than that of Bentham. Hume claimed that natural lawyers are always ultimately forced to justify their moral principles in terms of what is truly good for human beings:

Examine the writers on the laws of nature; and you will always find, that, whatever principles they set out with, they are sure to terminate here at last, and to assign, as the ultimate reason for every rule which they establish, the convenience and necessities of mankind. A concession thus extorted, in opposition to systems, has more authority than if it had been made in prosecution of them. (Hume, 1963, p. 195)

He goes on to state: “The safety of the people is the supreme law: All other particular laws are subordinate to it, and dependent on it.” (Hume, 1963, p. 196) In fact, long before Philippa Foot ever wrote of the clasping and unclasping of hands and the facing to certain points on the compass and refusing to face toward others as hypothetical examples of groundless or arbitrary prescriptivity (Foot, 1958-1959, pp. 84-94), Hume wrote at length in the same vein. He draws his contrast between what he calls superstition (groundless prescriptions) and justice (grounded prescriptions) to a close in this fashion:

But there is this material difference between *superstition* and *justice*, that the former is frivolous, useless, and burdensome; the latter is absolutely requisite to the well-being of mankind and existence of society. (Hume, 1963, p. 199)

This is clearly a conception of a non-arbitrary justice existing apart from pronouncements of justices and courts. Hume’s assertion harmonises with Foot’s well known claim: “It is surely clear that moral virtues must be connected with human good and harm, and that it is quite impossible to call anything you like good or harm.” (Foot, 1958-1959, p. 94)

4.4.1 *The Inescapable Telos of Human Well-Being*

Whether it is the sentimentalism of Hume and his philosophical descendants; the rationalism of Kant, and those who follow in his train (e.g. How exactly, on Kant’s own terms, does one conclude that people are always to be treated as ends in themselves?); (Paton, 1972, p. 91) or even the legal positivism of Hart, no theory of ethics or moral laws has practical coherence and persuasiveness, apart from addressing the true good of human beings. There is simply nothing quite so ethically “magnetic” (per Stevenson) as that which is good for human beings. In some systems this is acknowledged, and, in some (witness Kant), it is implicit and unacknowledged; but in reality this dimension cannot be entirely omitted from any real world ethical theory without rendering it arbitrary. Natural

law carries ethically “magnetic” power inasmuch as it grounds prescriptivity in what is appropriate and desirable for human beings.

4.4.2 *Attractionally Imperative*

Sidgwick contrasted the right and the good by stating that if the modern notion of “right” is replaced by the ancient notion of “good” at the foundation of ethics, then the moral ideal will no longer be imperative but attractive (Sidgwick, 1907, p. 105). Though intended as a criticism of natural law, this is fairly accurate. The natural lawyer would state unapologetically that Sidgwick is correct in the sense that natural law provides a moral ideal which is non-arbitrary and which simply makes sense in terms of human flourishing. In this sense it is rationally compelling rather than merely authoritative. However, it may be argued that an attractive and rationally compelling moral ideal carries an imperative force of its own.

Natural law is not the terminus point of the moral reasoning process. Positive law built upon the foundation of natural law is made more compelling in its assertion of imperatives, inasmuch as it is thereby shown to be non-arbitrary and eminently reasonable. Natural law augments the imperative by means of the indicative. The right has the backing of the good. d’Entreves speaks of this need vis-à-vis natural law and its place in jurisprudence, and he declares that its claim was: “...not based on force, but on reason. It was an appeal to the intrinsic dignity of the law, rather than to its power of compulsion.” (d’Entreves, 1955, p. 18) Regarding the legal institution of law, Bebhinn Donnelly remarks that:

...if what is sought is, in the first place, substantive norms that will by their moral character, instil in law a moral authority (that extends beyond any innate morality that legal authority may have), then the institution must be transcended.

(Donnelly, 2007, p. 122)

She sees natural law as the form of law which transcends institutional law.

Speaking symbolically, natural law is what Lady Justice must possess before she can make use of the scales in her left hand. Inescapably, what is in the best interest of human beings must be known before meaningful adjudication can transpire. She must know the good before she can meaningfully weigh evidence and testimony. The sword of Justice is capricious without the scales, and the scales are useless unless justice first has some notion of what befits human beings. Without knowledge of what is truly good for human beings, Lady Justice is not only blindfolded, but she is blind.

4.5 *Right Desire as a Source of Real Knowledge*

I have stated how my thought differs from that of Finnis. One of the two contemporary natural lawyers whom I have the most in common with is Mortimer Adler. Like Grisez, Finnis, and Boyle, Adler made use of the notion of self-evident truth. His usage of self-evident truth consists of two components. The first is a categorical prescription or injunction with Aristotelian and Thomistic roots: “We ought to desire (seek and acquire) that which is really good for us.” The second is said to be a statement of fact about human nature:

Man has a potentiality or capacity for knowing that tends toward or seeks fulfilment through the acquirement of knowledge. In other words, the facts about human nature are such that, if we are correct in our grasp of them, we can say that man needs knowledge, and that knowledge is really good for man. (Adler, 1981, p. 79)

He states that if his categorical prescription is true, and if his statement of fact is also correct, then

...the prescriptive conclusion, that everyone ought to want and seek knowledge, not only follows from the premises, but is also true – true by conforming to right desire as set forth in the categorical prescription that we ought to want and seek that which is really good for us (i.e. that which by nature we need). (Adler, 1981, pp. 79-80)

Adler challenges the reader to try to think that we ought not to desire our true good or that we ought to desire that which is bad for us, stating: “We acknowledge a truth as self-evident as soon as we acknowledge the impossibility of thinking its opposite.” (Adler, 1981, p. 80) This does not constitute a proof of self-evidence; rather it is a demonstration of its compelling nature. That which is *per se nota* by definition cannot be proven. One does not set out to prove the axiomatic (Aristotle, Physics, Book II, Ch. 1. 193a, 1-8). First principles must either be accepted or rejected. This is not to say that such beliefs are without warrant or arbitrary. They are held to be so clear and apparent that the purpose of proofs or demonstrations is satisfied merely by stating them. As Aristotle put it: “scientific knowledge through demonstration is impossible unless a man knows the primary (Gk. πρῶτα - “before anything else”) immediate premisses (Gk. ἀρχὰς - “elementary principles”).”¹¹ (Posterior Analytics, Bk. 2, Chapter 17, 99b 20-21) The reason why Adler suggests attempting to think the opposite of what he has claimed is simply to highlight its axiomatic status. He is justifying rather than proving his claim.

Adler goes on to say that given the above realisation about desiring what is really good for us as human beings:

We simply cannot think that we ought to desire that which is really bad for us or that we ought not to desire that which is really good for us. Without knowing in advance which things are in fact really good or bad for us, we do know at once that “ought to desire” is inseparable in its meaning from the meaning of “really good,” just as we know at once that the parts of a physical whole are always less than the whole. It is impossible to think the opposite just as it is impossible for us to think that we ought to desire that which is really bad for us (Adler, 1981, p. 81)

These understandings provide a simple, straightforward, practical reasoning process which is easily understood.

¹¹ Paolo Biondi’s recent translation of this text (2004) accords with my rendering of the Greek.

4.5.1

Truth of Another Kind

Unlike myself Adler accepts the fact/value divide (Adler, 1981, pp. 66-71). Citing Hobbes and Spinoza on desire, Hume on the powerlessness of facts to validate value judgments, and the non-cognitivists as regards the inability of an ought or ought-not statement to be true, he says that the only way to escape the sceptical conclusion that prescriptive statements are not descriptions of reality is by “expanding our understanding of truth.” (Adler, 1981, pp. 73-74) To do so we must go back to antiquity and specifically to Plato and Aristotle. He states that Aristotle, following Plato, formulated the understanding of truth which has prevailed in the West, and to which the non-cognitivists appeal. Adler says of Aristotle:

Recognizing that the descriptive mode of truth did not apply to prescriptive statements or injunctions (which he called "practical" because they are regulative of human action), Aristotle proposed another mode of truth appropriate to practical judgments.

That mode of truth, he said, consists in the conformity of such judgments with right desire, as the other mode of truth consists in the correspondence of our descriptions of reality with the reality that they claim to describe.

Unfortunately, Aristotle did not explain what he meant by right desire. We are, therefore, on our own in pushing the inquiry farther.

What is right desire? It would appear that the answer must be that right desire consists in desiring what we ought to desire, as wrong desire consists in desiring what we ought not to desire. (Adler, 1981, pp. 74-75)

Adler is referring to the *Nicomachean Ethics*, Book VI, Chapter II, 17-30, where

Aristotle states,

Now there are three elements in the soul which control action and truth: sense perception, intelligence, and desire. Of these, sense perception does not initiate any action. We can see this from the fact that animals have sense perception but have no share in action. What affirmation and negation are in the realm of thought, pursuit and avoidance are in the realm of desire. Therefore, since moral virtue is a characteristic involving choice, and since choice is a deliberate desire, it follows that, if the choice is to be good, the reasoning must be true and the desire correct; that is reasoning must affirm what desire pursues. This then is the kind of thought and the kind of truth that is practical and concerned with action. On the other hand, in the kind of thought involved in theoretical knowledge and

not in action or production, the good and the bad state are, respectively, truth and falsehood; in fact, the attainment of truth is the function of the intellectual faculty as a whole. But in intellectual activity concerned with action, the good state is truth in harmony with correct desire.

Aristotle is postulating two types of knowing which affect action. One is intellect and the other is desire. Intellectual knowing is all that is necessary when addressing that which is purely theoretical. Its truth consists in agreement with or correspondence to reality. It is all that is needed when judging the truth or falsity of a descriptive statement. However, the type of knowledge or knowing which action demands is of a different sort. It is a knowledge comprised of both intellection and desire. Its truth consists of agreement with right desire, rather than simple conformity with reality. Aristotle continues: "Therefore, choice is either intelligence motivated by desire or desire operating through thought, and it is as a combination of these two that man is a starting point of action." (1139b, 5) He goes on to say that the virtue of intellect and of desire is that which permits each of them to be as truthful as possible (1139b, 13). This is Adler's answer to the fact/value divide. Reason cannot derive values from fact, but reason in tandem with right desire or right passion is able to do so. If the only kind of truth is the agreement of the mind with reality, then, for Adler, there is no bridging the is-ought gap. Adler claims that there is a type of truth which is not descriptive, but prescriptive, and that such truth is accessed by joining reason with right desire. He says that in antiquity and in the Middle Ages this was recognised, but that "Almost all modern philosophers are totally unaware of it." (Adler, 1985, p. 121) Although I differ with Adler regarding "is-ought" I agree with him about the power of right desire.

4.5.1.1 *Right Desire and Moral Truth*

One might wonder about Aristotle's failure to flesh out the notion of right desire

more fully, but Adler suggests that he was dealing with an audience that held it to be basic. He says that it must have been part of the “accepted wisdom of the day, shared by students in the Academy and the Lyceum.” (Adler, 1978, p. 159) This fits both with Socrates and Plato (e.g. Meno 77b-78b), and it also coincides with a practice which Aristotle has of making reference to an assumed concept of right desire in a man of high moral standards (*NE*, Book III, Chap. 4; Book X, Chap. V, 1176a, 15-22). This accords with Plato’s Socrates declaring to Adeimantus:

You remember that passion or spirit appeared at first sight to be a kind of desire, but now we should say quite the contrary; for in the conflict of the soul spirit is arrayed on the side of the rational principle.

Adeimantus concurs, and so Socrates continues:

But a further question arises: Is passion different from reason also, or only a kind of reason; in which latter case, instead of three principles in the soul, there will only be two, the rational and the concupiscent; or rather, as the State was composed of three classes, traders, auxiliaries, counsellors, so may there not be in the individual soul a third element which is passion or spirit, and when not corrupted by bad education is the natural auxiliary of reason?

A bit further along he says:

And we may once more appeal to the words of Homer, which have been already quoted by us, ‘He smote his breast, and thus rebuked his soul;’ for in this verse Homer has clearly supposed the power which reasons about the better and worse to be different from the unreasoning anger which is rebuked by it. (Jowett, ed., Plato, 1960, pp. 131-132)

Later in the *Republic*, (Book IX) Socrates proposes a three-headed conception of human personality in which the head of a man is reason, the head of a lion is passion, and the many-headed hydra is desire. He tells Glaucon:

The maintainer of justice, on the other hand, is trying to strengthen the man; he is nourishing the gentle principle within him, and making an alliance with the lion heart, in order that he may be able to keep down the many-headed hydra, and bring all into unity with each other and with themselves. Thus in every point of view, whether in relation to pleasure, honour, or advantage, the just man is right, and the unjust wrong. (Plato, 1960, p. 284)

Simone Weil commented concerning this quote from Book IX, “The wise man should use his passion to tame his desires.” (Weil, 1978, p. 176)

In just these few passages from the *Republic*, passion is (1) on the side of the rational principle; (2) conjectured to be a type of reason; (3) set against unreasoning anger (a righteous indignation at one’s own wrongful desires); and (4) allied with the rational element of the human person. Thus, Adler’s claim that in the Academy and Lyceum the concept of practical reason, comprised of both passion (right desire) and intellect was common, would appear warranted.

4.5.2 *Reuniting Reason and Passion in Ethical Reasoning*

Before the correlation of right desire with human needs is addressed some observations about reason’s relationship to passion are necessary. What follows is not an appeal for sentimentalism, but rather a consideration of how sterile and incomplete an approach to reality reason alone supplies. The joining of passion and reason is especially significant in my proposed pedagogy; thus there is a pedagogical emphasis to what follows here.

Human beings have been rightly understood to be rational animals (Aristotle, *Nicomachean Ethics*, 1098a, 1-5). The ancients believed that the human capacity for reason was the one significant attribute that set human beings apart from other animals. Reason, as spoken of by the ancients meant more than it does in today’s vernacular. Reason took in the whole person, including both intellect and emotion (Kreeft, 2004, p. 187). The ancient concept of reason might perhaps be better rendered by the word “cognition” in the current vernacular. As experienced by human beings in real life, reason is never fully separate from emotion, at least not for long. Viewers of the early Star Trek

television series recognised the oddness of Mr. Spock's purely intellectual approach to life. There are intellectually brilliant humans who can reason logically, but who are lacking normal passion and feelings. It is understood that such people have a deficiency. Anhedonia, apathy, and emotional deficit are typically indicators of mental or emotional dysfunction, and signs of psychopathology (Nicholi, Jr., 1988, pp. 269-270; Glover, 1992, pp. 643-668; and Favrod et. al., 2010, pp. 171-179). Therefore, it is decidedly odd that when addressing ethics, a field heavily associated with human actions, which flow from both reason and passion, contemporary moral philosophers tend to disregard passion and appeal primarily to reason. They appeal to the "Vulcan" rather than the human, treating ethical discourse as a matter of pure logic, speaking almost entirely in terms of thought. This may, in part, account for the discussion of emotionally freighted and extreme questions, such as whether or not torturing babies is truly evil, bandied about in contemporary ethics. Thomson says that such questions are overheated and tiresome, "One feels one's lapels are being clutched," yet she maintains that such questions are useful for supplying "places where facts mesh directly with strong moral judgments to the effect that a person ought or ought not do a thing." (Thomson, 1990, pp. 17-20) They tend to force passions into a field that at times appears to disregard them. Motivation itself is often examined today in very intellectual and theoretical ways, forgetting the common sense of Hume's statement: "Our sense of duty always follows the common and natural course of our passions." (*Treatise* 3.2.2.18). One need not embrace sentimentalism to perceive passion's role in ethics.

Aristotle stated that "it is a mark of virtue or excellence to feel pleasure and pain at the right objects and in the right ways." (Aristotle, NE, 1121a, 2-3) Emotions

appropriate to the circumstances and experiences of life are typically regarded as significant in human societies. Certain feelings are held to be praiseworthy, while the absence of same are at times held to be a form of depravity. For example, a person who experiences feelings of fondness, devotion, and loyalty when their country's national anthem is played or its flag displayed is generally regarded as experiencing something healthy and normal. Thus, the well known lines by Sir Walter Scott:

Breathes there a man, with soul so dead,
Who never to himself hath said,
This is my own, my native land!"

(Scott, 1940, p. 640)

Such a person need not be naïve or idealistic. They may, in fact, have a complex love of country which does not blind them to its shortcomings, wrongdoings, and injustices. The ancient notion of *arête* (*areth*), often insufficiently translated as "virtue," dates back to the time of Homer and carries just such a sense of love of country demonstrated by valour (Marrou, 1964, pp. 32, 37, 55, and 78). Conversely, when, for instance, a parent fails to show what is regarded as normal affection toward a child and neglects that child due to apathy or indifference, or worse yet when a parent physically harms a child out of frustration, anger, or malice, such a lack of normal or natural affection is regarded as criminal in that parent. At a more mundane level, it is generally regarded as more desirable for a man to bring his wife flowers out of love than out of duty.¹² It is thought best that a parent comfort and care for their child because of love for that child. There are times when duty functions as a motivational "safety net," but affections and passions in harmony with duty seem to create the greatest sense of pleasure and satisfaction in an ethical agent. One ordinarily need not tell healthy, high functioning human beings of their

¹² Along these lines see especially Michael Stocker, "The Schizophrenia of Modern Ethical Theories", pp. 462-463.

duty toward their beloved or their child. At a basic level we know that there is such a thing as right passion. Failure to include the passions in moral philosophy creates impractical ethical strategies with too much head and not enough heart.

In a living organism, when one capacity is focused on to the neglect of other companion capacities, an unrealistic and incomplete picture of the organism emerges. Consider human locomotion. Human movement and travel is primarily associated with walking, and rightly so, but failure to address the role of the inner ear regarding balance or the role of sight regarding its ability to inform the body and brain of what lies ahead would obviously be a mistake. An incomplete model of how a capacity works will result in both an incomplete analysis of it as well as an incomplete prescription for its better functioning. There is something quite incongruous about rational/emotional human beings discussing ethical matters in an emotionally detached fashion. Though he may go too far, Hume is quite right to associate sentiment with moral reasoning.

As with reason, so with passion: it may be rightly or wrongly aligned with reality. As fallacious thought is possible so also misplaced passion. Logic is largely focused on matters of truth and falsehood, whereas passion or desire is focused on matters of good and evil. As was seen above, Aristotle referred to right and wrong desire, and Socrates pointed out that perceived goods and evils may be real or merely apparent. In ethical matters, truth and good coalesce, as do falsehood and evil. Thus, in ethics, logic alone is insufficient and gives a flattened picture of the world, just as looking through only one side of a pair of binoculars gives a two-dimensional picture of reality, causing what Nietzsche calls a “narrowing of perspectives.” (Nietzsche, 1955, p. 96). The attempts made by some moral philosophers to ground good or goods in formulas which appeal

almost entirely to logic fail to address the whole person. Passion is treated as ethereal and philosophically flimsy and passionate reasoning is “airy fairy” and possibly connected with naïve realism.

I believe that the complexity of many contemporary ethical systems arises out of the attempt to make thought and logic do more, *vis-à-vis* motivation, than they are really capable of doing. The ‘is-ought’ concern flows out of the enlightenment thought process which wants to avoid religion and “do” philosophy with the bare minimum of metaphysical entailments. This is understandable for a number of historical reasons, but it inadvertently creates systems which are unwieldy and unnatural. Human beings are creatures with not only thoughts, but feelings, with not only logic, but passions. The passions are not moved by complex ethical theories. What is needed is an approach to ethics which is neither contrived nor artificial and which includes both passion and logic. It needs to be easily taught and understood and capable of crossing over the boundaries of cultures and faiths. My strategy makes use of the passions in a straightforward ethical pedagogy which is intentionally minimal in its usage of theory, at least as far as the student is concerned.

4.5.2.1 *Making Use of the Brain’s Internal Imagery*

When Jung wrote of the collective unconscious, many thought that the poor man had gone off into the nether regions of myth and religion and ceased to do science, despite his many assertions that he was still acting as a scientist. The truth is that Jung was not treating religion as religion *per se*, but as an aspect of psychology (Segal, 2003, p. 597). Jung was highlighting the fact that despite the extreme differences in religions, there seems to be a shared sense of moral responsibility that transcends the areas of

thought which divide human beings. Recent research in mind/brain structure has provoked an awakened interest in Jung's idea of archetypes, which sees them as image schemas formed "during human pre-verbal experience." (Merchant, 2009, p. 341) Citing the work of J.M. Knox, Merchant states:

...image schemas are stored in implicit memory as 'internal working models' and that these image schemas provide the scaffolding for more complex and elaborate symbolization through various processes of emergence and self-organization as the individual interacts with its environment. The ongoing significance of intense affectivity will drive this later scaffolding. Consequently, when similar affective experiences occur in adult life they will resonate with the original scaffolding and constellate imagery. However, it needs to be noted that given the implicit level of organization from which the later imagery arises, the imagery will appear *as if* innate and unknown. As such, the imagery can be interpreted as 'archetypal' in the classical Jungian sense even though it has arisen from mind/brain structures which were themselves developmentally produced. (Merchant, 2009, p. 341)

Merchant's point in addressing this is that "the existence of archetypes as Jung conceived them is called into question." (Merchant, 2009, p. 342) His point is that they are not innate, but formed during the period when a child is not yet able to communicate verbally. However, regardless of whether Jung was right or wrong about archetypes being innate, it appears that he was clearly on to something in maintaining that human beings possess a collectively shared symbolic way of understanding. Thus, a theory of ethics which is widely compelling to more than just academicians must appeal to these basic images or symbols which reside in human brains/minds. Imagery and symbolism grab hold of the imagination and the will by means of appeal to the emotions. Ethical theories or strategies which fail to use these inner symbols overlook and thereby pass up their inherent motivational power.

4.5.2.2 *The Motivational Power of Negative Imagery*

What is needed for a practical ethics is the usage of pictures or images which seize the imagination and thereby produce emotional reactions, which, in Merchant's

terms “resonate with the original scaffolding (of the brain) and constellate imagery.”

Some natural law theories, following the lead of Socrates in Book I of the *Republic* (where he speaks about the functions of horses, eyes, and knives), appeal to the idea of the functional purpose of an object or a person. What is problematic about such appeals is that they don’t really produce what might be called a “moral ought.” Drawing upon what MacIntyre calls “functional concepts,” (MacIntyre, 2007, p. 58) they merely produce what could be referred to as a “functional ought.” This sort of ‘ought’ lacks motivational power. Its problem is that it is merely a positive picture of function. From this vantage point an ‘is’ cannot elicit a strong or persuasive ‘ought.’ A simply functional concept seems impotent, or at least extremely weak, for making the move from a fact to a value. The claim being made here is that a negative picture is better suited for producing the emotional response necessary for ethical motivation. What is meant by this? To portray the maximization of the potential of an object, creature, or person makes sense to the intellect, but it doesn’t really touch the passions. However, to visualize the goodness of a thing being what it potentially is and then to see evil or wrong as denigrating, defiling, profaning, cheapening, polluting, or destroying that good (or potential good) is, in fact, emotionally disturbing. It gives rise to morally valuable passion. The inherent power of this can be demonstrated with a few examples. Using a priceless Ming Vase as a spittoon or a urinal is a sample image. Using a Stradivarius as a drum because its body can produce percussive resonance would be a soft form of this sort of imagery, whereas using it as kindling to start a fire would be a more evocatively repugnant form of this type of imagery. Harnessing a beautiful prize thoroughbred racehorse in the prime of its racing career to a cart and then using it to collect garbage on the streets of a city for the rest of

its life is a creaturely image. Enslaving a prima ballerina and forcing her to do back-breaking manual labour gives rise to the Cinderella sort of imagery which most encounter in their childhood. Whether one drives a nail with a beautiful golden candlestick or uses a work of fine art as a dartboard, images of this sort are readily available in abundance. Ethical prohibitions arrived at in this fashion may then be turned and used to assert positive prescriptive statements based upon the nature of a person or thing. Such prescriptivity has been motivationally augmented by the emotive power of the images of denigration, misappropriation, or desecration behind it. This may account in part for why so many of the ancient world's ethical systems consist first of prohibitions or taboos regarding evil before they make positive ethical affirmations.

Such an approach requires a two-step reasoning process. Being told how properly functioning lungs work and comprehending how one should care for one's own respiratory organs is motivationally much weaker than being made to realise the proper functioning of lungs and then being exposed to the long term effects of tobacco usage on healthy lungs. Seeing the diseased lungs of a person with emphysema, observing the long term ravages of COPD, or encountering a man so addicted to nicotine that he is reduced to smoking through a tracheotomy tube is an evocative experience which produces, by means of the impact of visual images upon the hypothalamus and limbic systems of the brain, a passionate, almost visceral "ought not" in the observer.

4.5.2.2.1 *Bringing Potential Loss "Near" to the Student*

Experiences of this kind are not absolutely necessary to bring about such a response. Drama, storytelling, reading a narrative account of someone who did go through such an experience, or even role-playing can be helpful in producing such a sense of "ought-not" in people of all ages. Aristotle speaks about emotions such as

“anger, pity, fear, and the like, with their opposites,” (Rhetoric, Bk. II, Ch. 1, 1378a, 22), and with each of the emotions that he addresses, the perception of nearness or proximity brings about a significant emotional reaction, whereas the perception of distance dulls the impact of that same information. He especially develops this with pity:

Again, we feel pity when the danger is near ourselves. Also we pity those who are like us in age, character, disposition, social standing, or birth; for in all these cases it appears more likely that the same misfortune may befall us also. Here too we have to remember the general principle that what we fear for ourselves excites our pity when it happens to others. Further, since it is when the sufferings of others are close to us that they excite our pity (we cannot remember what disasters happened a hundred centuries ago, nor look forward to what will happen a hundred centuries hereafter, and therefore feel little pity, if any, for such things): it follows that those who heighten the effect of their words with suitable gestures, tones, dress, and dramatic action generally, are especially successful in exciting pity: they thus put the disasters before our eyes, and make them seem close to us, just coming or just past. (Rhetoric, Bk II, Ch. 8, 1386a, 24-35)

Aristotle’s description of this usage of speech, mannerisms, voice inflection, costumes and dramatisation in order to make a disaster seem close is very much to the point.

The perceived distance or proximity of an evil or privation, accomplished by the usage of imagery which portrays the destruction or denigration of a human good has the effect of bringing potential harm “close” to the morally reasoning agent.

In a video presentation, a couple in their thirties speaks honestly of their own heartbreak and unrealised dreams due to infertility caused by sexually transmitted disease. They proceed to relate their pain and loss to the false sense of invulnerability that they felt in their teens or early twenties. Watching such a video is an attention-grabbing and ethically thought-provoking experience. This sort of learning transforms an inert fact or ‘is’ into an active ‘ought.’ Facts which speak, for instance, of prudent sexual behaviours and practices for young adults are easily ignored and disregarded; however, discussing a picture of a child born with a birth defect caused by a sexually transmitted

disease or reading a young mother's description of her baby's suffering from that birth defect brings the potential harm in some sexual behaviours "close" to the one engaged in moral thought. Such a process taps into the images resident in the subconscious and "constellates imagery" which the hearer must then process at more than a merely cognitive level. The wall of moral indifference which positive facts alone cannot scale is, in a sense, breached from within by the triggering of imagery already resident in the brain of the subject being instructed. Natural law reasoning coupled with pedagogy of this sort is key to the teaching/training which I intend to use with this system.

4.5.3 *The Primacy of Human Needs*

Commenting on Aquinas' statement that "The essence of goodness consists in this, that it is in some way desirable," (Summa, QQ5.1) Peter Kreeft points out that Aquinas will go on to demonstrate that "the (objectively) desirable is not the same as the (subjectively) desired; real needs are not identical to felt wants." (Kreeft, 1990, p. 91) This simple and seemingly obvious understanding is key to Adler's strategy for identifying the good for human beings. As was shown above, Adler makes a distinction between descriptive and prescriptive truth. He acknowledges that reason is the means whereby one discerns whether or not a statement conforms with reality, but then, he claims that there is another kind of truth. Whereas the assertions of reason address the more theoretical issues of life, the assertions of right and wrong desire speak to the more practical issues of life. He continues:

We have identified the real good with that which we ought to desire... To say that the truth of the prescriptive or practical judgment, which tells us what we ought to desire, consists in conformity with right desire amounts to saying that a prescription is true if it tells us that we ought to desire what we ought to desire... The only way to get out of this circle is to find some way of identifying what is

really good for us that does not equate it merely with what we ought to desire.
(Adler, 1981, p. 76)

Adler explains that the way to correctly identify right desire is by means of Aristotle's distinction between natural and acquired desires:

The quickest and easiest way to become aware of the validity of this distinction between natural and acquired desires is to employ two words that are in everyone's vocabulary and are in daily use. Let us use the word "needs" for our natural desires, and the word "wants" for the desires we acquire. Translated into these familiar terms, what we have said so far boils down to this: that all human beings have the same specifically human needs, whereas individuals differ from one another with regard to the things they want.

The use of the words "need" and "want" enables us to go further. Our common understanding of needs provides us at once with the insight that there are no wrong or misguided needs. That is just another way of saying that we never need anything that is really bad for us -- something we ought to avoid. We recognize that we can have wrong or misguided wants. That which we want may appear to be good to us at the time, but it may not be really good for us. Our needs are never excessive, as our wants often are...we cannot ever say that we ought or ought not to need something. The words "ought" and "ought not" apply only to wants, never to needs. This means that the natural desires that are our inborn needs enter into the sphere of our voluntary conduct only through the operation of our acquired desires or wants. (Adler, 1981, p. 77)

The statement that "The words 'ought' and 'ought not' apply only to wants, never to needs," seems to limit prescriptivity to acquired desires, but that is not Adler's intent. He means that properly speaking such prescriptive terms should be unnecessary where actual human needs are concerned. Right thinking human beings should know what their actual needs are and should not require having them stated as prescriptions. He goes on to explain that acquired desires confuse us into failing to desire what we ought: "This means that the natural desires that are our inborn needs enter into the sphere of our voluntary conduct only through the operation of our acquired desires or wants." (Adler, 1981, p. 77)

Continuing to explain this distinction, Adler states:

Needs, as Lord Keynes astutely observed, are desires so basic that they exist without regard to what is offered in the marketplace and without an individual's comparing his own condition or possessions with those of others. In contrast,

wants are desires that are induced by what is offered in the marketplace and are augmented and intensified by an individual's comparing what he has with the possessions of others. Needs are absolute; wants are relative.

Needs are desires that may or may not be consciously felt; wants are always consciously felt desires...

Almost all of us want things that we do not need, and fail to want things that we do need.

Needs are always right desires; there can be no "wrong" needs. But there can be wrong or misguided wants. What we want may be something either rightly or wrongly desired, whereas anything we need is something rightly desired.

A man never needs anything that is not really good for him to have. But he certainly can and often does want things that are not really good for him. (Adler, 1977, p. 84)

Thus, by Adler's account, genuine human needs are natural desires, and therefore they are always in the realm of right desire. Wants, on the other hand, arise out of acquired desire. Such desires are not automatically wrong simply because they are acquired; nevertheless, wrong desires are always acquired desires (wants) and never natural desires (needs).

This thought process lends itself well to teaching and instruction. Indeed, it is already in use in some of the stories traditionally told to children. Consider the story of King Midas. He thinks that he wants gold and that gold is all important, but his hunger for gold is an acquired desire, which he confuses with his own true good. His confusion of an apparent good with real goods allows inordinate desire to deprive him of what actually matters most. Too late, he realises the difference between right and wrong desire and the misguided nature of his passion for gold.

Right desires themselves must likely be qualified by something like Aristotle's notion of the mean, (*NE*, 1106a-1109b) so that (e.g.) proper nutrition is seen to stand between the polarities of anorexic self-starvation and gluttonous over-eating, but the concept itself is solid. When a natural desire (need) is either suppressed or overblown, then either right desire (need) has been neglected or what is ordinarily a right desire has

become, by way of over-indulgence, a wrongful desire. Needs that are not continuous and constant (e.g. respiration) are able to be sufficiently satisfied relative to time and circumstance. Once they are satisfied, then more of the same actions which satisfied them arise, not out of legitimate need, but out of want; thus, Adler's distinction stands.

The assertion that human needs supply the content of right desire is integral to my thesis. At the heart of my proposal is the axiom: "Human life is a great good; because human life is a great good, all humans should work for the well-being of themselves and others." It is by the identifying of human needs that my approach makes its way forward. Working for the thriving of ourselves and others requires the inculcation of a basic knowledge of human needs. I make use of Adler's account of Aristotelian reasoning in order to give substance to prescriptivity. On this basis I am claiming that if one knows what people need in order to thrive, then one possesses (albeit latently), by means of reason and right desire, some of the essential ingredients for actual moral knowledge of how to treat oneself and others.

4.6 *In Search of a 'Law Conception of Ethics'*

G.E.M. Anscombe famously calls attention to modern philosophy's loss of "a law conception of ethics." (Anscombe, 1981, p. 30) She attributes this to the loss of the theism which had been "dominant for many centuries and then given up." (Anscombe, 1981, p. 30) Despite being dubious regarding other entities, such as the norms of a society or of nature being able to fill the vacuum left by the withdrawal of "the sea of faith" (Arnold, 1867, p. 113), Anscombe comments on the attempt to look elsewhere (other than to a divine legislator) for a restoration of the law conception of ethics: "This search, I think, has some interest in it." (Anscombe, 1981, p. 38) Inasmuch as her

proposal of laying aside moral philosophy “until we have an adequate philosophy of psychology” (Anscombe, 1981, p. 26) has not discouraged the proliferation of new moral philosophies, it seems appropriate to consider at least one of the other possible sources of moral authority, which she mentioned and then dismissed. My project is not concerned with looking towards the first of them (the norms of society), but rather towards the second (nature). Although my project focuses on nature, it does not treat nature broadly as though “the universe were a legislator,” which Anscombe says “might lead one to eat the weaker according to the laws of nature.” (Anscombe, 1981, p. 38) My focus is upon human nature and its particular needs for flourishing.

4.6.1 *A Teleological Strategy for the Recovery of a ‘Law Conception of Ethics’*

In describing the form of Aristotelian ethics which “dominated the European Middle Ages from the twelfth century onwards,” Alasdair MacIntyre writes of the “fundamental contrast between man-as-he-happens-to-be and man-as-he-could-be-if-he-realised-his-essential-nature.” He says that it was by means of this contrast and the understanding of the latter as the *telos* for humankind that moral philosophy prior to the Enlightenment proceeded (MacIntyre, 2007, pp. 52-53). I am suggesting that a form of this discarded understanding of nature holds the key to the recovery of a law conception of ethics. It is my contention that, although in need of new formulations which can stand up to the scrutiny and challenges of the contemporary philosophical milieu, the seemingly passé natural law perspective which MacIntyre describes is not, in fact, an obsolete artefact of a previous age, but is, as Hart has shown, basic to law, and is, as Anscombe has pointed out, very conspicuous in its absence from the ethical arena. J.L. Mackie was quoted above (1.5) as saying, “...the mere *firm belief* that something is fit to

be pursued, and that such fitness is an objective requirement to act, can be a motive to action without any accompanying passion or desire.” (Mackie, 1980, p. 141) The whole point of natural law reasoning is that certain ends are logically “fit to be pursued,” and that their fitness, as regards the needs of human beings is exactly what requires the moral agent to pursue them. When rightly perceived they can create (per Mackie) both firm beliefs and objective requirements to act. Natural law, augmented by the insights of the various sciences and disciplines which address the needs of the human organism, holds the potential to present standards of normativity to the human will and understanding, grounded in reality, and compelling enough to create ethical motivation.

A contemporary form of what MacIntyre describes, capable of meeting the challenges of Hume, Moore, Mackie and other critics of ethical naturalism is what is being proposed and defended herein. Unlike Adler and Finnis, I am claiming that the natural world does, in fact, contain prescriptivity of a sort and that not only right desire, but also human nature, is key to identifying that prescriptivity. This ancient thought process is clearly visible in Plato, Aristotle, and Aquinas. It has been given a very compelling contemporary form by Bebhinn Donnelly, whose views are the closest to mine of any author I have encountered. Her doctoral thesis was entitled *How Nature Informs the Creation of Law: A New Approach to Teleology* (2002). Based on that thesis, she produced a book in 2007 entitled *A Natural Law Approach to Normativity* (NLAN hereafter). She sees Hume’s challenge as antithetical to traditional natural law thought, and she holds that Hume’s strategy of using sentiment as a “bridge notion” (per MacIntyre) to connect ‘is’ and ‘ought’ is unnecessarily pessimistic regarding the usefulness of facts in moral reasoning. She says, “I argue that Hume’s theory demands

too much from human sentiment and too little from reason.” (Donnelly, 2002, p. iii)

Unlike Finnis and Adler, she does not concede that the ‘is-ought’ gap is insurmountable by reason:

In contrast to Hume, traditional natural law presents a factual, empirical, natural world, full of moral information, the relevance of which is to be discoverable by reason. So, Hume’s claim that without explanation an ‘ought’ cannot be derived from an ‘is’, may be viewed as a fundamental challenge to traditional natural law. (NLAN, p. 7)

She states that Finnis and others who assert that “is-propositions necessarily are non-moral and do not, therefore, entail ought-propositions,” are contentiously presupposing the logical validity of their own views (NLAN, p. 12). She regrets Finnis’ acceptance of the popular interpretation of Hume, saying that it has “led him to divorce reason from fact where the ancients saw no need to.” (Donnelly, 2002, p. 18). She goes on to state:

One cannot dispute or overcome is/ought in the mechanical sense by mechanical analysis but one can attempt to find a solution to the real problem by explaining how moral value might arise from facts despite the apparent inability of facts to inform. (Donnelly, 2002, p. 18)

Before setting forth her own teleological approach to normativity, Donnelly critiques both Hume and Kant, showing that each in turn violates his own rules regarding moral reasoning. This is with a view towards demonstrating how inescapable facts and nature are to the moral enterprise. She shows how, contradicting his own insistence upon sentiment, Hume invokes the reason-based notion of utility and proceeds to derive values from facts (Donnelly, 2002, pp. 13-28), whilst Kant invokes the notion of universalizability by “overstepping the boundaries of *a priori* reasoning.” (Donnelly, 2002, p. 31) Attempting to alternatively reason from sentiment alone and from reason alone, both philosophers are unable to do so. Hume admits the need for utility to supplement sentiment, whereas Kant does not acknowledge his dependence upon the natural world,

yet cannot escape it as the necessary framework in which moral reasoning is done by the one creature known to be capable by its own nature of such moral reasoning. Hume has previously been addressed at length, and much of what Donnelly states of Hume harmonises with what has already been said of him herein. Her treatment of Kant is interesting and helpful as regards the ‘is-ought’ problem and will be addressed briefly before moving on to her ethical theory. It is included here in order to demonstrate how inescapable the facts of the natural world are for moral reasoning, even for reasoning such as that of Kant.

4.6.2 *Kant’s Ethics Implicitly Dependent Upon Human Nature*

Donnelly says that Kant, in his attempt to achieve objectivity in moral reasoning, makes an “illicit move from viewpoint to moral content.” (Donnelly, 2007, p. 30) Kant eschews the natural world, including human nature, in an attempt to reason his way objectively to moral truth, but although he says “to enquire into moral principles these principles need nowhere exist in reality,” (Donnelly, 2002, p. 36) nevertheless, his “formulation of the categorical imperative was the recognition of a simple natural fact – we share the world with others.” (Donnelly, 2002, p. 36) By treating himself and others as rational beings and then using that rationality as the basis for his moral theory, his strategy depends, despite his efforts to the contrary, upon the natural world for its validity. Ethics can only be done in the shared context of human society and culture. Kant’s emphasis on reason alone (which Donnelly calls “reasoning alone” – a uniquely human capacity) fails to acknowledge the importance of human nature to his endeavour:

It is true that everything in nature acts in accordance with laws but not only does man alone have the power to act in accordance with his own idea of laws he also alone has the power to act against the laws of his nature. Man’s nature therefore might, presumptively, be of some significance for morality and rationality. Kant

fails to fully illuminate this concept of man and tries to set for himself a limit that rationality does not require. (Donnelly, 2002, p. 38)

She points out that the “moral content of the categorical imperative is informed by facts observed by the objective viewer and is not conceptually antecedent to those facts, which it then acts upon.” (Donnelly, 2002, p. 39) The primacy of nature and the contingencies of human existence within the natural world cannot be escaped by means of objective reasoning. Nature and human nature as the setting and context of moral philosophy and philosophising are inescapable. Donnelly states: “...when we are asked to make our maxims comply with the categorical imperative we cannot divorce ourselves from what our world tells us that universalizability should demand.” (Donnelly, 2002, p. 45) Thus, unable to do otherwise, Kant implicitly depends upon the ontology which he seeks to omit from his reasoning process:

The limits of Kant’s metaphysics – he was concerned with pure reason and not pure reason in a pure world – undermine the practical utility of his theory. In truth we need to know our nature, in its own pure form, as completely as possible if we are to have any hope of discovering what we should be and how we should act.
(Donnelly, 2002. p. 48)

Donnelly makes clear just how much her strategy accords with the natural law of the ancient world and of the Middle Ages, and how dissimilar it is to that of Grisez, Boyle, Finnis, and others. She regards a basic knowledge of human nature as integral to any viable moral theory.

4.6.3 *Human Nature is the Context of All Moral Inquiry*

As Donnelly moves towards deriving prescriptivity from ontology, she makes the reader aware of just how basic she intends to be in her analysis of human nature. Her epistemological method will begin with that which may seem insignificant, lest anything about what it means to be human be overlooked. She explains her methodology:

...human nature is not merely known by and through ethical inquiries, but is also, at its most basic, the very foundation of all inquiry into man and his actions. The human nature that precedes inquiry, and, must be inquired into, is nature in an a-contextual, fundamental, essential, factual, pre-activity setting. Natural truths at this level may seem so basic as to lack any didactic quality but their significance for normativity should not be overlooked because of an appearance of vacuity.

(Donnelly, 2002, pp. 169-170)

4.6.4 *The Morally Inert Nature of Facts May Actually Give Rise to Philosophy*

Donnelly underlines “the mechanical language used in postulating the problem of ‘is’ and ‘ought’,” explaining that she intends to move from a mere linguistic approach to actually addressing the problem itself. She uses the helpful illustration of someone who, seeking a way to fly, is told, “Man cannot fly.” She points out that such a statement may be in keeping with appearances and received wisdom, but that, in fact, someone seeking to fly and making inquiry about how it might be done is, rather obviously, already aware of the seeming impossibility of so doing. In the same manner, the normative theorist is already aware of the apparent lack of moral information in the empirical world. Donnelly uses the analogy of human beings having transcended or overcome their apparent inability to fly to say that they may also be capable of overcoming their apparent inability to derive values from facts. Since, contrary to appearances, the ability to fly was “inherent somewhere in our capabilities,” (NLAN, p. 122) presumably, the same may be true of the ability to derive values from facts.

If one could readily deduce values from facts in a transparent and obvious manner, then neither in the ancient nor in the modern world would moral philosophy have been of any particular importance. She points out that “if moral knowledge were immediately and obviously visible the task of identifying it would be largely a-philosophical.” (NLAN, p. 121) Donnelly believes that not only were the ancients aware of the seemingly inert status of facts as regards value, but that their awareness of this

problem was, in large measure, that which gave rise to the philosophical enterprise.
(NLAN p. 121)

4.6.5 *Looking Toward Human Nature for Moral Norms*

Donnelly speaks primarily from a Thomistic frame of reference, but without engaging Aquinas' particular religious commitments, which is to say that she draws primarily on his refinements of Aristotelian thought. Regarding the deriving of values from facts, she says:

If it is possible to understand what man *is*, the idea goes, it might somehow also be possible to understand what he *ought* to be. Crucial to the understanding of man, in early theory, was the recognition that he existed alongside other individuals; he is a political animal. An important distinction is implicit in the discussion of the political animal, between:

- (a) man as an individual; and
- (b) man as part of a political community. (NLAN, p. 48)

The emphasis is upon human beings as more than singular entities. They are individuals, but individuals with inborn tendencies and needs for sociality. This speaks not only of their positive natural inclinations, but also of their negative lack of self-sufficiency. Human beings need other human beings. They are not fulfilled by a solitary life. It is in community that they are fully human. This idea is especially developed by Plato in the *Laws* and the *Republic*. Aristotle spoke out of a Platonic frame of reference regarding communities and the state. Donnelly gives a short survey of the Platonic/Aristotelian basis for the idea of man as a political animal and then states:

If there is any normativity contained in the theories discussed thus far it is simply that 'we ought to be what we are'...we ought to form political communities because we are *human* and being human *properly* is what fundamentally we are urged to be. We cannot be human properly the idea goes without acting in accordance with our natural social disposition. Without forming alliances with others the human being is not fully what, by nature, a *human* being really is; the idea goes that we are resisting ourselves if we resist community. (NLAN, p. 53)

This simple concept of actualising our latent humanity is the essence of Donnelly's thought. She cites sociality as her first example of this basic and ancient concept. She says of Aquinas' version of such thought that it is Stoic inasmuch as it addresses the drive for self-preservation, but that his primary debt is "to the Aristotelian and Platonic idea that since the community is part of what fulfils man's being, it may be considered conceptually prior to man as an individual actor." (NLAN, p. 55) Law arises out of the need of individuals to subordinate their own desires to the common happiness of the *Civitas*.

The conceptual question being asked at this juncture is not what ought man *do* as man but what *is* man as a man and therefore what should he *be*? The *Civitas* is natural not in the sense reserved for practical reasoning but because it perfects the essence of man (as social) and is the end of man's factual circumstance (he is not alone). (NLAN, pp. 55-56)

She says that the normative question which arises out of this understanding might have been framed this way: "Can authoritative norms be found *within* man's natural and logical requirement to *be as he is*?" (NLAN, p. 57) Donnelly says that this question has a "strange affinity with Kant on the issue of normativity." (NLAN, p. 57) She quotes from his closing remarks in the *Groundwork of the Metaphysic of Morals* (4:461) in order to show how this is so:

This much only is certain: it is not because law interests us that it has validity for us (for that is heteronomy and dependence of practical reason upon sensibility, namely upon a feeling lying at its basis, in which case it could never be morally lawgiving); instead, the law interests because it is valid for us as human beings, since it arose from our will and intelligence and so from our proper self...

Donnelly comments: "In natural law our interest in moral law is likewise taken to be wholly subservient to and dependent on the validity of the moral law and reason has a fundamental role in establishing that validity." (NLAN, pp. 57-58) She explains that "the 'will' in natural law enables the subjective being to *feel* the lack of his true self." (NLAN,

p. 58) This gives rise to our pursuit of, and desire for, our true *telos*. She then contrasts the Kantian conception with natural law, underlining the fact that “moral validity” does not arise solely from reason in natural law, but “from our ability to use pure reason to reach a proper conception of what our proper self really is.” Thus, “both Kant and the natural lawyers connect ‘what I ought to do,’ to ‘who it is that I am,’ however in natural law “the *essentials* of *what I am* are taken to extend beyond reason itself.” (NLAN, pp. 57-58)

It is undeniable that human beings are constrained in the moral enterprise by the facts of their own humanity. That what we as human beings actually *are* should inform what we *ought* to be and do is eminently reasonable.

Natural law arises logically from our inability to transcend our proper form and become other entities, this is what natural law essentially is about, entities being constrained, being governed by their own nature...The central normative task in the natural law tradition is to determine from an understanding of what human beings are, how these beings ought to live, to identify the human ends and method by which they morally can be attained. (NLAN, pp. 58-59)

The nature of moral decisions is predetermined by the fact that the moral actors who seek to identify the ‘good’ are human actors. Whether one believes that humans were made, that they evolved, or a combination of those ideas (e.g. that they were made by means of evolution), their unique nature dictates the boundaries of their physical, psychological, and social needs. One cannot define what it means to flourish or thrive as a human being without knowing what it means to be human. Donnelly states that perhaps the most compelling reason to “take the traditional natural law scheme further is found in the unique manner by which it connects normativity to human fulfilment,” She declares that in classical natural law, “we only know what fulfils us by knowing *what* we are.” (NLAN, p. 123)

4.6.6

Donnelly's Form of Practical Reasoning

In keeping with the historical role of natural law as a starting point for positive law and normativity, Donnelly says of her strategy, “The objective is not to formulate fully a normative base for law, rather to suggest a method by which the same may be achieved.” (NLAN, p. 123) Towards this end, Donnelly develops four sets of polarities. They are polarities between fact and value, between is and ought:

- (a) Being/Good
- (b) Capacity/Activity
- (c) Subjectivity/Objectivity
- (d) Personal/Political

The items stated first are common facts about human nature: people have (a) being/existence, (b) capacity/abilities, (c) subjectivity/unique personal perspectives, and (d) a personal frame of reference/individuality. The items stated second are the potential “oughts” contained in or corresponding to the facts of human nature: (a) Good is the desirable realisation of the potential of our human existence – being our best selves; (b) Activities are the actual employment, development and maturation of a person’s abilities; (c) The objective is grasped or comprehended from the standpoint of the subjective; and (d) The political (understood as “social” – i.e. the “political animal”) is the actualisation of the individual’s human capacity for sociality. This is to say that one ought to *be* good; one ought to *use* one’s abilities in appropriate activities; one ought to *mature* from a self-centred and entirely subjective standpoint to the place of considering things objectively or impartially; and one ought to *realise* one’s place in a world filled with others.

Unfortunately there is only space to consider the first of Donnelly’s sets of polarities here. In addressing Being/Good, Donnelly sets forth the heart of her own approach to deriving ‘ought’ from ‘is’. She basically says that we must turn our attention

away from our own personal contexts, development, and what we have in fact become, and turn our attention towards our shared human nature (NLAN, pp. 124-132). It is this which contains the key to human good. The proper *telos* of human action derives from and is defined by what it means to be fully human. We can know much of the basic good for all persons, regardless of their particular contexts and trajectories of development, by looking towards what each and all might potentially become by virtue of their humanness. Even as this is affirmed, Donnelly states, “Conflicts between goods may arise and our manner of resolution must be cognisant of the common good of man as part of mankind as well as the individual pursuit of good...the good of the whole (as well as the good of the individual) requires substantial individual autonomy.” (NLAN, p. 141)

It might seem that aligning myself with Donnelly here leaves me open to the following sort of objection: If, per the above, the fact of one’s individuality as a human being (humans are known to be social or political creatures by nature) is the basis for making the value-laden claim that relating to others is normative for humans and therefore that socialising is something which an individual *ought* to do, then that would seem to imply that someone who chooses to live as a hermit is making an immoral lifestyle choice. Does embracing this approach entail the denial of permissible variations on what constitutes the good life? Must the good life be defined exactly the same way for everyone? This is a valid objection to this sort of reasoning.

In response to that question, what is being stated here is that this kind of normativity depends upon that which is known to be desirable and healthy *early experience* in the life of every human person. By advancing this line of thought, I am saying that the good for every human being includes the basic experience, in infancy and

childhood, of relationships, sociality, communication, and family culture. Clearly the lack of these experiences will make for unhealthy development of a child and will work against well-being. What is owed to a developing child in my account of things is a certain measure of human society, a certain experience of what it means to be a “political animal.” I am not claiming that these social experiences are bindingly normative for the developed or mature person. It seems obvious that variables of personality such as introversion or extroversion (let alone being a hermit) affect the degree to which sociality is needed for health in a particular adult individual’s life for health. What is inhumane is to purposely deny a person a need which we know they have, one which is not being met, and one which we have both the power and resources to remedy. If I have regular interaction with someone who is housebound, ill, or incarcerated, and I see that they are “feeling the lack of their true self” as regards sociality, then it is incumbent upon me to be “human” enough to care about them and their loneliness and seek to give them some social interaction, no matter how minimal. Additionally, though this sort of variation in the lives of individuals is acknowledged and accommodated here, that does not lessen the possibility of adults choosing “paths” which are at odds with their own well-being.

Donnelly’s approach speaks to the idea of universalizability, inasmuch as it acknowledges the communal nature of human existence, but it does so in a manner that fears no taint of subjectivity from the personal level. Contingencies may be addressed without fear of allowing them to somehow entail moral relativism or undue personal subjectivity.

Our being establishes the limits of our existence and thus the limits of our good existence also. Good is commensurate with being (in the broadest sense possible) and achieving good in this broad sense can mean nothing other than being what truly makes us human. By knowing what does make us human we might fail to

reach the full prescriptivity of 'ought' (we still have to escape the form) but by virtue of the connection between being and good we are at least prompted to try and reach ought. (Donnelly, 2002, p. 53)

This is an Aristotelian notion. Aristotle differentiates between the potency of merely doing a thing and that of doing it well (*Metaphysics*, IX, Ch. 2, 25-28). Donnelly employs that concept, as further refined by Aquinas, to establish a simple measure of the good for human beings.

If the notion of human 'good' is taken to require that, at the very most, human beings are to be the best form of what they can be then human nature at its boundaries, determines the limits of good existence as well as mere existence. In this very simple way 'good' is commensurate with nature and achieving 'good' in this broad sense can mean nothing other than pursuing our nature to its fullest possible extent in the manner befitting us. (NLAN, p. 126)

Donnelly contrasts the strategy of the new natural law (Finnis, et. al.) with that of the old, saying that the former reflects on actions and seeks to "isolate ends that provide ultimate reasons for action," whereas the latter seeks to "identify essential truths about our being and to demonstrate, theoretically, how they contribute to the human good." (NLAN, p. 126) She favours the latter approach, claiming that it tends to "discern the richness of human fulfilment" more accurately and is capable of examining "whether facts may offer normative guidance." (NLAN, p. 126)

Donnelly lists some facts regarding human nature which obtain in every human life regardless of circumstances. She lists (1) human existence, (2) human existence "alongside other people," (3) the human capacity to interact and communicate with others, (4) habitation of a "natural world" and the fact of dependence upon its sometimes scarce resources for survival, (5) the ability to reason, (6) the possession of sentiment, and (7) the possession of a mind and body which are vulnerable. These are not activities, rather, they are the "the structure within which activity operates." On Donnelly's account

these facts are not yet goods. They have not yet been shown to have any “normative relevance.” (NLAN, p. 127) She states that her objective is to “discern the normative significance of human nature as it is manifest in a pre-contextual setting.”

4.6.6.1 *Donnelly’s Usage of Entelechy*

As yet, in this contrasting of being and good, Donnelly has only addressed being and not the connection between being and good. She explains that the move from enumerating truths about being to identifying the ‘good’ depends upon the acceptance of the principle that she mentioned earlier (see 4.6.5 and 4.6.6 above) “*each thing ought to be what it is.*” There is, of course, a sense in which a thing or being cannot help but be what it is, but her point is that failure to exercise our capacities equates to being “less than *fully* human.”

In natural law ‘oughtness’ arises precisely because human beings are uniquely capable of deliberately seeking to bridge the gap between what they are and what they are as fulfilled, moral beings, between ‘is’ and ‘ought’. (NLAN, p. 128)

One might think that she is referring to the concept of an *ergon* (Aristotle, NE, 1.7), but although from a natural law standpoint there is certainly some usefulness to the idea of identifying a human *ergon*, that is not what Donnelly means. She is referring to the maximization of our overall human potential with regards to the latent capacities which all human beings have. This is a broader notion than that of identifying a uniquely human function such as reason. Nevertheless, Donnelly’s point has affinities and parallels with certain interpretations of Aristotle’s *ergon* concept, especially that of Martha Nussbaum:

Aristotle commends to his reflective audience a life that (1) involves the exercise of all our human capacities, and is thus a truly human life, rather than one which could just as well be led by a plant or a cow, and that (2) is governed and planned in such a way as to give both shared and non-shared capacities their appropriate role – and this means governed and planned by practical reason... We want a life that uses all our capacities. Such a life both includes the exercise of reason and requires rational direction. (Nussbaum, 1985, p. 106)

Donnelly says of her principle that *each thing ought to be what it essentially is*:

It corresponds quite closely to the Thomistic understanding of ‘good’ which denoted the perfective qualities of any aspect of existence that (a) go to making it the kind of entity that it is and (b) the entities naturally seek. ‘Seeking’ in this sense has an idiosyncratic meaning referring not to a conscious desire towards natural ends, rather to a logical tendency, evident in natures, to move from incomplete or latent to more complete or active forms of being. (NLAN, pp. 128)

She maintains that this is a key understanding of her theory especially where human action is concerned. She says that Aquinas notes that we seek fulfilment in our lives whether or not we really know what it is that will perfect us. Donnelly states that this tendency can be challenged as to its normative significance if we ask ‘Why ought we to pursue our fulfilment?’ Any such challenge becomes moot when we recast that question as ‘Why ought we to be what we ought to be?’ (NLAN, p. 129) Lest anyone think this is “an empty tautology,” she lays forth something of a syllogism or at least a logical progression of thought:

1. We are imperfect beings
2. Being imperfect means being less than what we *can be* as human beings.
3. By identifying essential truths about our condition as human beings, it is possible to ascertain what we are/can be in a perfective (albeit highly general) sense.
4. We are naturally normative beings.
5. Therefore, we *ought to be what we essentially are*/ pursue our nature fully.
6. The truths can thus be described as goods. (NLAN, p. 129)

She claims that the human ability to “pursue our ‘good’ is what makes us capable of being moral.” It allows us to reason our way to the conclusion that “we *ought to be the best form of what we are.*” (NLAN, p. 129) This is the heart of her argument. This is how Donnelly says value may be derived from fact. She states that this is both prescription and description, being “an observation of nature’s inherent normativity.” (NLAN, p. 131)

She says this reflects:

the gulf between (a) the necessity in any entity being what it is and (b) the lack of necessity in entities being what they are as fully as possible. The principle looks toward non-contingent essential characteristics to determine the ‘perfective’ qualities of the human form and such qualities *are* identifiable. (NLAN, p. 131)

She does not get into the debate about whether or not there is such a thing as human nature; she merely asserts: “To even admit the possibility of talking about human beings as a discrete form of being is to acknowledge that ‘human’ is something or means something.” (NLAN, p. 131)

4.6.6.2 *Goods Based Upon Realisation of Potential*

Donnelly enumerates a list of goods arrived at by way of her reasoning, which is not unlike the list which Finnis, *et. al*, propose; but whereas they assert that their goods are self-evident, Donnelly’s prescriptivity is grounded in her methodology. The value of this is that Donnelly’s reasons for why each item is truly a good are able to be understood by the general public and can be explained in laymen’s terms. Inasmuch as they are not *per se nota*, they are augmented by evidence and logical argumentation, rather than simply being set forth as self-evidently true. They can, in a sense, be proven, possess a natural appeal to common sense, and pass the tests of experience and practice. Her list of goods or values arises out of the facts about human nature (see above) looked at in terms of *each thing being what it essentially is*:

The following emerge as goods to be aimed at absolutely for they represent, most basically, our fulfilled form as human beings: life, community, individuality, communication, reason, health, sharing, synchronicity with the natural environment, and a feeling of fulfilment. Each of these goods is the normative translation of a pre-contextual basic fact: life is included because we exist, community because we exist with other people, individuality because just as being what we are acknowledges that we are part of another so it must acknowledge that we are autonomous beings, communication and reason are included because we can and therefore, in line with our basic premise, ought to reason and communicate, health is included because it corresponds with our form as physical beings, sharing because it is necessitated by the circumstances of a world of scarce resources necessary for continuance of life, harmony with nature

because that contributes in a distant but fundamental way to making us who we are, and feeling of fulfilment because we do have emotions and their perfect form is not realised if we experience and understand the other goods without feeling their value. The goods are to be pursued because each is essential in order for us to be what we are as fulfilled human beings. (NLAN, p. 130)

4.6.6.3 *Nature in Terms of Potential Maximised*

Donnelly continuously warns against the tendency to use nature as a normative guide in an uncritical manner which might justify what should never be justified simply because it occurs in the natural world. She condemns Aristotle's defence of slavery as an example of this tendency (NLAN, p. 47). Hers is a precise and focused usage of nature, not one such as that which Anscombe cautioned against. Donnelly challenges claims that an unqualified sort of normative naturalism is inevitable once one starts down the philosophical path of natural law. Such portrayals of natural law thought are, on her account, straw men. She points out the absurdity of some of Kelsen's claims, stating that "in his criticism of natural law, Kelsen comes curiously close to stating that human existence is not essentially involved in the existence of a human being." It is a failure to understand natural law, Donnelly maintains, to suggest that in natural law terms "good might be as applicable to death as it is to life." She states that "it cannot sensibly be asked 'how can a (good) dead man live well?'" (NLAN, pp. 131-132 and Donnelly, 2002, pp. 59-64) Such reasoning is, unlike natural law thought, a failure to look at the maximisation of our potential as human beings and simply to state that what is is, by the nature of the case, human; that what is human is therefore normal; and thus, what is normal is good. This is the simplistic claim that the descriptive simply *is* the normative, that facts are unqualifiedly prescriptive. This is a false caricature of natural law. Such a thought process would be the death of ethics. It would eradicate both praise and blame. No serious proponent of natural law past or present has made such a claim. 'Flourishing' or

some similar notion always qualifies the merely factual, and that flourishing is not merely the flourishing of the individual but the flourishing of the individual in a world filled with others whose well-being must also be valued.

4.7 *Conclusion: What I am Claiming About Natural Law*

In situating my proposal in the field of natural law, it can be said that, like Hart, I would maintain that law which is not grounded in human nature and human needs is weak, inadequate, and arbitrary. With Adler, I hold that passion and sentiment both have a role to play in the ethical reasoning process and that right desire joined with right reason makes it possible for people living in a world of facts to recognise and pursue the good. Adler's association of natural desires (per Aristotle) with actual human needs coincides with my emphasis on human needs as the determinant source of what I am claiming to be normative. With Donnelly, I see a world filled with latent prescriptivity if one considers our shared humanity and the possibility of each person reaching their potential as a human being. Thinking in terms of the entelechy of a particular human person does not necessarily entail the usage of sentiment in order to identify the good for the individual. Thus, I hold that sentiment is usually needed in reasoning from facts to values, but maintain that it is not key in all situations.

Where sentiment is indispensable, however, is in teaching. The usage of sentiment, passion, and emotion to help inculcate character, virtue, and critical thinking is of great worth, especially as regards motivation. Using both right desire and the telos of the maximization of human potential for deriving values from facts, it is my intention to ultimately train youth by intentionally connecting emotion with instruction and habituation. My pedagogy will employ the two-step process described above (4.5.2.2 and 4.5.2.2.1), moving from powerful images of loss to positive prescriptivity. This especially

holds promise at the individual level to accomplish what Donnelly describes as enabling the “subjective being to *feel* the lack of his true self.” (NLAN, p. 58). Further, I believe that exposure to this methodology over time can help the individual recognise the threat of the *potential* loss of his true self, and act as a corrective or a restraint to self-destructive behaviours. This is vital during the highly impulsive and oftentimes reckless years of adolescence. My strategy remains as originally described. I begin with the axiom or assertion that “Human life is a great good; because human life is a great good, all humans should work for the well-being of themselves and others.” Using the sciences and social sciences, I intend to identify the physical, socio-emotional, and cognitive needs of human beings and then deduce values from them.

4.7.1 *Practical Application of This Methodology*

The practices and rationale described here are not merely hypothetical conceptions. For eighteen years, I have taught teenagers in US public schools about human sexuality using the sort of fact-based prescriptivity which I have proposed in this paper. I use teleological reasoning as regards the nature of the developing human genital tract to help students understand what sexual behaviours and practices are in their own and others’ best interests and what practices tend toward their own and others’ hurt. I employ teaching which engages the students’ emotions as well as their intellects. Due to the positive reception this methodology has had from both educators and students at the local level, I have, in the past, spoken by invitation to the Maine School Counsellors Association (MESCA), which is the professional organisation for sex educators in the State of Maine. I was invited to explain my methodology and demonstrate how to use it to teach young people to think critically about sexual behaviour and practice. Across the

years, this approach has been well received by professional educators and has had much positive feedback from students and their parents. The next chapter will furnish an example of this type of reasoning from fact to value using the physical human need of reproductive and gestational health.

5.0 CHAPTER V: REPRODUCTIVE AND GESTATIONAL HEALTH

It is my ultimate intention to construct a system of prescriptivity based upon the natural law strategies discussed in this dissertation. The constraints of space limit what can be attempted here. The reader was previously introduced¹³ to *Well-Being: Positive Development across the Life Course*, (Bornstein, et. al., 2003) and Bornstein's three categories of physical, socio-emotional, and cognitive needs. Bornstein maintains that all factors necessary for human well-being fall under one of these three headings. Each category is comprised of numerous specific human needs. One of Bornstein's listed physical needs is reproductive and gestational health. What follows here is the instantiation of my method of connecting human needs to prescriptivity in terms of the physical need of reproductive and gestational health.¹⁴

The approach to ethics being advocated here is one driven by a commitment to the well-being of self and others. I am claiming that knowledge of the physical, socio-emotional, and cognitive needs of human persons is necessary in order to accurately identify that which fosters their well-being. The benefit of practicing an ethic which promotes meeting human needs is that of living in harmony with the actual makeup of ourselves, others, and the world that we inhabit. As has been shown previously herein, the life sciences speak of 'design' when describing living systems because that language best fits with the way human beings experience the functioning of those systems. Addressing the human organism in terms of design is simply consonant with reality as it

¹³ See introduction, section 2

¹⁴ It is my intention that the present thesis will be followed by a later work in which I will more fully address prescriptivity in terms of physical, socio-emotional, and cognitive needs, using natural law reasoning to furnish ethical content in the manner set forth in this chapter.

presents itself to human perception. The usage of teleological language does not necessarily entail “reverse causation.” (Nissen, 1997, p. 195) I am claiming that it is reasonable to believe that we can have substantive knowledge, from a human frame of reference, of what J.L. Mackie calls “the fabric of the universe.” The view advanced here is not one that looks for objective moral values built into “the fabric of the universe.” Rather, it is one which looks to the “fabric of the universe” as being the source from which to “extract” reasonable and wise moral values. This is done by using ‘right desire’ (defined in terms of human needs) and what Donnelly has called the “normative guidance” of facts (NLAN, p. 126). It seems rational and non-controversial to claim that the person who fails to give adequate consideration to the human organism and its needs when making ethical choices runs the risk of living in a manner which ignores the realities of what it means to be a human being living on planet earth. Doing so cannot help but run afoul of reality.

Life experience demonstrates that, across time, most people, ethically speaking, need to see how they or those whom they care about will benefit from a particular course of action in order to remain committed to it. Arbitrary or seemingly arbitrary moral imperatives are not compelling, whereas those which clearly lead to the health and well-being of ourselves and of those we care about are quite compelling. In other words, people want to know why a thing is good for them. As children grow to the point where the simple parental statement, “Because I said so!” no longer prompts obedience, so most adults tend to discount what they perceive as authoritarian and arbitrary. Prescriptivity which is demonstrably anchored in human needs is non-arbitrary. It provides its own motivation because its prescriptions are demonstrable means to achieve well-being.

In Norway, an interesting study of couples with long-term marriages confirmed that those who were in a marriage relationship because they were primarily committed to the state of being married experienced significantly less love and more problems than those whose commitment was primarily to the thriving of the other person. Those who increased their commitment to their partner's well-being over the course of a marriage saw significant growth in "positive emotional exchange and the ability to resolve problems." (Swensen and Trauhau, 1985, p. 944) They stated that their love for each other and their satisfaction with the relationship grew across time. Inasmuch as long term relational expression of human sexuality is still normally associated with some form of marriage in most human cultures, (Yarhouse and Nowacki, 2007, pp. 36-41; Berthmann and Kvasnicka, 2011, pp. 1005-1027; and Therborn, 2006, pp. 593-603) the implications of this study are pertinent to the subject of reproductive and gestational health.

Reproduction and gestation arise out of the exercise of human sexuality. The usage of one's sexuality can be primarily selfish or it can include a commitment to the well-being of one's mate. A person can be solely concerned with the sensate personal pleasure of the moment, or they can be concerned not only with their own pleasure, but also with the long-term pleasure, happiness, and well-being of their partner. The Norwegian study tends to indicate that focusing on one's partner and their well-being pays long-term dividends of relational satisfaction, feelings of loving and being loved, as well as success in the area of interpersonal problem resolution. In short, a commitment to the well-being of one's partner makes for a more fulfilling experience in marriage. As people mature, they typically realise that sexual experience divorced from caring relationships is, in the final analysis, hollow and fleeting, whereas sexual relating in the context of interpersonal

commitment and love tends to be deeply satisfying. Thus, in approaching this topic what is being advocated is an approach to the teaching of human sexuality which attempts to help young people think in terms of their own, and their potential sexual partner's long-term health and well-being. Additionally, regard for the well-being of any new life that may result from the relationship will also be a matter of concern from the outset.

5.1 *The Goodness of Human Sexuality*

One fact is true for all peoples: were it not for sexuality one would never have existed; one would never have known consciousness, pleasure, pain, love or sorrow. It is a given that culture, family, religious faith, and experience all fashion a view of sexuality that affects how a person approaches this topic. Sexuality is the wellspring of family, of tenderness, and of loving affection in marriages. One's sense of human identity is tied to one's sexuality. We know who we are as male or female persons. From the sexual relationship can come both romance and deep companionship between two people. The typical long-term sexual relationship between a woman and a man, normally associated with marriage, usually produces offspring. The result is a nuclear family. Mothers and fathers work to create a secure base for their children, and the home becomes a place of nurture and care as well as affection and sociality. The sense of home as the shelter and refuge of the human psyche and as its source of place, identity, and strength emerges from the experience of family, which has the sexual relationship at its heart.

To speak of the sexual uniqueness of human beings is not to engage in hyperbole. Truly, humans are unique in their sexual capacities amongst the species of the earth:

If we compare human sexuality with that of other species, we are immediately struck by its richness, its vast scope, and the degree to which its potentialities can seemingly be built upon endlessly, implicating the entire human world. Animal

sexuality, by contrast, appears limited, constricted, and pre-defined in a narrow physical sphere. (Padgug, in Parker and Aggleton, 1999, p. 18)

Human sexuality is not merely reproductive, but very wide ranging in its scope, touching upon culture, religion, individual identity, politics, economics, the arts, and many other areas of human society. It is much more than a mere physical reality. It is a reality with far-ranging implications that touch all of human life.

If one acknowledges that human life is a great good, then necessarily sex is a great good inasmuch as it is the source of human life. When something is as inherently powerful in terms of reproduction, affection, companionship, and pleasure as human sexuality is, then it clearly has the potential for healthy and unhealthy usage. Sex can be used either creatively or destructively, generously or selfishly, lovingly or cruelly. The power and potential of human sexuality creates the need for ethical understandings and boundaries regarding its usage.

5.2 *Values: Agreement and Disagreement*

Sexual ethics is a subset of ethics. Learning to think and reason ethically is necessary for ethical reasoning about one's own sexuality. General moral issues such as respecting oneself, respecting others, caring for one's friends, avoiding harm, treating others as you would wish to be treated, and the like are the necessary foundation on which any realistic sexual ethic must be built. Thus, it is held in what follows here that basic ethical instruction must precede specific instruction in sexual morality.

Surprisingly, most of the peoples of our planet can actually agree on a large number of basic understandings and values regarding sexual ethics: "Scholars have pointed out that many societies around the world share common normative attitudes toward sex, including the incest taboo, condemnation of adultery, and a general concern

for regulating sexuality, particularly outside wedlock.” (Widmer, Treas, and Newcomb, 1998, p. 349) A 1998 cross-cultural study of sexual attitudes regarding marital fidelity found: “Across 24 nations, only 4% report that it is not wrong at all for married people to have sex with someone besides their husband or wife.” (Widmer, Treas, and Newcomb, 1998, p. 350) A 2002 study in the journal entitled *Ethnology* refuted what it called “a kind of folklore of professional anthropologists,” which held that in many societies infidelity on the part of the male is considered acceptable (Janowiak, Nell, and Buckmaster, 2002, p. 1). The study went on to demonstrate that statistically there is no empirical verification of that perception and then stated: “For both sexes adultery is an unacceptable act that demands negative consequences that can range from emotional withdrawal to physical confrontation.” (Janowiak, Nell, and Buckmaster, 2002, p. 10)

Varieties of Sexual Experience: An Anthropological Perspective on Human

Sexuality is Susan Frayser’s landmark study of human sexuality, about which it has been stated:

This study is the most comprehensive anthropological investigation ever made into the topic of sex. As such it is essential reading for all scholars interested in human sexual attitudes and behaviours ; and the author is to be commended for her meticulous research, which has produced an empirically excellent study in which data from so many diverse sources have been woven into a clear and enthralling interpretation of cross-cultural sex. (Hicks, 1988, pp. 333-334)

Frayser herself states that, based on her cross-cultural research across human societies, extramarital affairs rank just below incest “as the most strictly prohibited type of sexual relationships.” (Frayser, 1985, p. 20) Apparently the idea of loyalty and fidelity in marriage is not passé nor likely to become so.

There is clearly a sharing of general sexual values at the cross-cultural level, but when the issue of sex education surfaces, there is frequently great disagreement, which reveals strong and conflicting feelings and convictions:

When it comes to opinions about sex, people all too often inhabit different worlds, speak different languages, hold incompatible and widely divergent views. The situation is further complicated by differences compounded by gender, social class, culture and other factors, and by the existence of numerous pressure groups, each with a different agenda, and often each talking at cross-purposes with the others, vying for influence in sex education policy. (Mosher, 1989, p. 5)

Because the points of disagreement are ones about which people are passionate, there is often major discussion, debate, and disagreement over them. Consequently, they lose sight of how many sexual values all people actually hold in common.

Part of what makes sexuality such a heavily debated topic is that it, “extends beyond the level of empirical knowing into the realm of ideology about the nature of man, woman, marriage, family, birth, and life itself.” (Halstead and Reiss, 2003, p. 15) Despite acknowledged areas of debate, I am claiming that although there is indeed significant variation in the attitudes and convictions that people have regarding what is sexually acceptable, at a more basic level, they share a lot of the same values. Anthony Weston states:

Disagreements emerge here, for sure. By and large, though, what’s more remarkable is how much we agree about sexual values. We agree that the pleasures of sex have a lot to do with its value. Most of us would agree that sex is a deeply compelling expression of our natures both physical and spiritual (broadly speaking). We agree that sex also requires personal responsibility. We agree that people ought not to treat each other as objects...responsibility in turn arguably expresses respect. (Weston, 2001, p. 260)

If progress is to be made in addressing reproductive and gestational health in the context of a needs-based ethic, then the reader must mentally hold these two truths in tension.

The small number of sexual values and understandings over which people disagree

generate great debate, oftentimes hiding from general perception the fact that most people agree upon the majority of their sexual values and convictions. The places where most peoples agree must be emphasized; and, though the areas of disagreement must not be trivialized or ignored, they must be temporarily set aside if there is ever going to be any significant forward progress in teaching youth about their own sexuality.

5.3 *Imparting Sexual Principles to Young Children*

In addressing human needs, children will be considered first, inasmuch as life begins with the young, and they are always the most vulnerable. It is a common human understanding to see children as being unable to understand and grasp the issues the way an adult does (Murray, 1988, p. 61). In any country, children are children, and certain actions are in their best interest and others are not; this is especially so as regards their sexuality. At the head of the list would be participation in sexual activity at an inappropriate age:

A child is deemed incapable of offering real consent, and abuse is frequently defined in terms of an exploitation of that very fact. Consider a standard definition of child sexual abuse: ‘The involvement of dependent, developmentally immature children and adolescents in sexually abusive activities they do not fully comprehend, and to which they are unable to give informed consent, or that violate the social taboos of family roles.’ (quoting Schecter and Roberge, 1976, p. 129) ... abusive activities are those which the child involved in them cannot fully comprehend or give informed consent to. And what it is to be a child is to fail, as yet, fully to understand or be able fully to consent to any sexual activity. (Archard, 1998, p. 117-118)

This understanding is not limited to a certain culture or country: “All jurisdictions fix an age of majority below which children are presumed incapable of consent.” (Archard, 1998, p. 116) John Stuart Mill notes that children are rightly judged to be in a place developmentally where they do not yet possess “the maturity of their faculties.” (Mill, 1974, p. 69) When Locke argues against the idea of innate ethical ideas, he places the

child at the head of the list of those who do not know what are taken to be common and, perhaps, self-evident ethical principles (Locke, 1894, p. 113). Although they may never have read Locke, parents from greatly varied backgrounds and cultures would agree with what he says of children. Thus, they teach and inculcate principles into the child, principles which either intentionally or secondarily speak to the exercise of their sexual potential. The child must be taught what a precious, yet potentially painful and destructive, part of their life sexuality is. It has “genuine positive moral value” yet, “it has immense destructive power too.” (Weston, 2001, pp. 257-258)

There is a strong link between the issue of sexuality and the issue of safety and security. Children’s safety and security can definitely be sexually compromised. It would seem self-evident that civilized peoples would naturally desire to protect their children from sexual predators, and, as they grow older, from sexually transmitted diseases (STD’s) and unintended pregnancy. As well, it is fairly basic that loving and nurturing parents will want their child to know how to behave appropriately. Prepubertal children are especially capable of putting themselves in awkward positions because of their unfamiliarity with the sexual dimension of behaviour. Anyone who cares about a young man or a young woman does not want to see him or her used as a means to someone else’s pleasure, but rather treated as a person of value, worthy of respect and of dignity (Etzioni, 2001, pp. 1-2). This necessitates the impartation of a sense of the precious nature of their sexuality and of their own worth. From matters as simple as hygiene to issues of modesty and social comportment, children need instruction regarding their sexuality. Caring for themselves, understanding appropriate sexual deportment, avoiding being sexually preyed upon, and refusing to use others for their own immediate

gratification are just some of the issues youth need to have addressed. An aspect of life as powerful and significant as one's sexual potential needs to have ethical educational parameters and instruction focused upon it.

For those who have not yet entered puberty, most explicit sexual instruction is intended to protect the child from pedophiles and predators, teach modesty, explain their own anatomy, or model healthy relating between the genders. Actual discussion of sexual intercourse and sexual intimacy beyond explaining the "facts of life" is generally not considered age appropriate with children who are not at least on the fringes of pubertal development. The way that movies are rated for age groups reflects this general understanding.

5.4 *Teenage Sexuality: Acting According to Bodily Design*

The process of going through puberty is one which creates a maelstrom of conflicting experiences, thoughts, and impulses. This is true for both sexes.

Central to our argument is the notion that changes in arousal and motivation brought on by pubertal maturation precede the development of regulatory competence in a manner that creates a dysjunction between the adolescent's affective experience and his or her ability to regulate arousal and motivation. (Steinberg, 2006, p. 736)

The cognitive skills that a young person needs in order to regulate self and make appropriate and prudent decisions do not seem to be quite in synchronization with the maturing of their bodies and the new drives and desires they are experiencing.

The behavioural and emotional control necessary for adult social competence requires cognitive abilities, such as effectively weighing long-term consequences of behaviour, as well as the emotional and procedural learning processes necessary to navigate complex social situations in the face of strong emotions or of competing and conflicting feelings. Many adolescents in modern society face several years with physically and sexually mature bodies, activated brain circuits involved in reproductive drives, and related emotional changes but only gradually emerging cognitive control. This has led to a metaphor for early puberty as "starting the engines with an unskilled driver." (Dahl, 2004, p. 17-18)

It is important to understand that this lack is not so much a deficit of information or experience as it is one of prudence. Adolescents tend, even more so than adults, to give greater weight to the wants and desires of the moment than to consideration of the long term consequences of their actions. Indeed, such short-sighted behaviour is taken to be typical of youthful immaturity. Long-term thinking in a teen is taken as a sign that they are “growing up.”

Behavioural data have often made it appear that adolescents are poor decision-makers (i.e. high-rates of participation in dangerous activities, automobile accidents, drug use, and unprotected sex). This led initially to hypotheses that adolescents had poor cognitive skills in decision-making or that information about consequences of risky behavior may have been unclear (Botvin, 1991; Tobler, 1986). In contrast to those hypotheses, however, there is substantial evidence that adolescents engage in dangerous activities *despite* understanding (cognitively) the risks involved (Dahl, 2001; Cauffman, & Steinberg, 1995; Slovic, 1987, 1998, 2000a, 2000b; Benthin, Slovic, Moran, Severson, Mertz, & Gerrard, 1995). In real life situations, adolescents do not simply rationally weigh (in conscious thoughts) the relative risks and consequences of their behavior—their actions are largely influenced by feelings (Steinberg, 2003).

(Cicchetti and Cohen, 2006, p. 723)

Thus, it is apparent that adolescence is a time when young people, to their own detriment, are often impulsive, acting in a way which values temporary and immediate pleasures over long-term health and well-being. Adolescents with precocious sexual development, and less “cognitive complexity” are especially prone to engage in risky behaviours (Orr and Ingersoll, 1995, p. 531). This juncture in development need not cause the educator to lower expectations for making an impact with this age group; rather, it bespeaks the need for training and habituation in practical and realistic ethical reasoning. In societies where teens are exposed to cultures of immediate gratification and not required to assume adult responsibilities, teaching sexually responsible and prudential decision making will

obviously be a great challenge. There will be a need for persuasive pedagogical strategies for teaching them about their own sexuality. Genuis and Genuis state:

Although some practitioners may believe that modifying the sexual behaviour of young people is unrealistic, it should be pointed out that “every successful form of prevention requires change in behaviour.” (Genuis and Genuis, 2004, p. 1108, quote is from Ammann, 2003, p. 1343)

They discourage resignation to the notion that youth cannot be dissuaded from reckless risk taking:

Research confirms that some proactive interventions are able to affect attitudes regarding sexuality and, in many cases, appreciably diminish the likelihood of early sexual debut. (Genuis and Genuis, 2004, p. 1108)

The thought process behind this thesis is one which accords with the optimism expressed by Genuis and Genuis as regards actually helping young people to be less sexually reckless. It is geared towards encouraging young people to postpone sexual activity until they are physically, cognitively, socially, and educationally ready for sexual debut.

The unique intent of this dissertation is to demonstrate how reasoning based on the teleological implications of the design of the human organism and its basic needs should influence moral thought and practice. Thus, what is next considered is the design of the developing human body. The potential for mature sexual experience is latent within each child; the entelechy of that sexuality fully matured is here seen as the child’s obvious good. Pedagogically speaking, my strategy is to set before a student the entelechy of himself or herself as a grown and physically mature adult of moral character whom they would admire and respect and, then, to help them understand that bad decision-making today may keep that adult from ever coming into existence.

Recognising that it isn’t truly possible to habituate virtue in an ordinary school environment, a strongly motivational form of pedagogy is needed in teaching this way if

such teaching isn't to be abortive. In a previous chapter, Hume's focus upon the usage of sentiment in deducing values from facts was considered (*Treatise*, III, i, 2, 1). It was seen that Hume essentially agreed with Aristotle that "thought alone moves nothing" (NE, 1139a, 35) and that Hume held that it is the affective which moves volition. Although Hume is often said to have claimed that it is impossible to derive values from facts, it was seen that his actual claim was that it is impossible to do so without bringing sentiment or passion into the equation. Hume's understanding of the passions differs from Aristotle's "right desire," however, inasmuch as Hume holds that passions have no "representational quality." (*Treatise*, II, iii, 3) The pedagogy which I have proposed intentionally makes use of the passions in order to motivate, a move which is in keeping with Hume's basic thought. However, it has more than a Humean outlook on passion and, in accordance with Aristotle, maintains that there is both right and wrong desire. Employing the identification and use of right and wrong desire, my strategy is to educate adolescents about biological and developmental facts in a manner which intentionally elicits feelings in the learner. The idea is to associate feelings of "ought" with healthy and prudent sexual behaviours and feelings of "ought not" with short-sighted and unwise sexual behaviours. Thus, what follows, though presented here in a manner somewhat technical, is presented elsewhere to adolescents in a simple and straightforward fashion which intentionally associates fact with passion.

5.4.1 *Female Adolescent Sexual Development*

The physical transition from sexual immaturity to sexual maturity is a time of great vulnerability for a female. She is particularly susceptible to infection, injury, and sterility. The starting point of understanding emphasised here is an awareness of the

changes that take place in a young woman's body as she passes through adolescence. The female body is addressed because it has unique vulnerabilities that the male body does not have. Presumably, if males are not just self-gratifying and selfish, they will also care about these female vulnerabilities because they care about female persons.

Table of Tanner Stages of Female Pubertal Development

Stage I - Prepubertal	<u>Breast</u> – Elevation of the papilla or nipple (<i>thelarche</i>). <u>Pubic</u> – Rarely any noticeable change.
Stage II	<u>Breast</u> – Breast budding: elevation of the breast and papilla as a small mound, enlargement of the areolar diameter. <u>Pubic</u> – Beginning of pubic change (<i>pubarche</i>): sparse, lightly pigmented hair begins to grow chiefly along the medial border of the labia majora.
Stage III	<u>Breast</u> – Further enlargement of the breast bud with loss of the contour separation between breast and areola. <u>Pubic</u> – Hair is darker, coarser, and curlier; it spreads to extend over the mons pubis.
Stage IV	<u>Breast</u> – Areola and papilla form a secondary mound above the level of the breast. <u>Pubic</u> – Hair is adult in type and spreads over the <i>mons pubis</i> but not to the medial surface of the thighs.
Stage V	<u>Breast</u> – Papilla or nipple extends as the areola recedes to the general contour of the breast. <u>Pubic</u> – Hair is now in the adult feminine triangular shape, spreading to the medial surface of the thighs.

(This table is mine, but it is based upon Tanner and Marshall, 1969, in Carpenter and Rock, 1992, pp. 49-51)

5.4.1.1 *Factors Contraindicating Sexual Debut*

What is being claimed at the outset of this section is that those in their mid-teens and even some at the latter end of their teen years have not yet reached a place, developmentally speaking, where sexual intercourse is in their own best interest. The statistics come in regularly and remain the same year after year: a disproportionately high percentage of the newly reported cases of STD's are among the young. In fact, although those who are sexually active between 15 and 24 years of age are only 25% of the

population, they account for over 50% of the reported acquired STD's in the U.S.A. each year. Numbers similar to these continue to come in from around the globe for this age group (Weinstock, et. al., 2000, p. 36). This is not coincidental. One might think that they are simply having more sex than older people and therefore at a greater risk of infection, but the picture is more complex than that.

The stereotype of adolescents being nondiscriminate and "highly sexual" is not supported by existing data. Many adolescents have only one partner... Furthermore, sexual intercourse for adolescents often occurs sporadically rather than on a regular basis. (Wasserheit et. al., 1991, p. 103)

and:

Our data suggest rapid STI acquisition soon after sexual initiation and among teens with few lifetime sex partners. Prevalence of any of these STIs was 26% among female adolescents whose age was the same or 1 year greater than their age at sexual initiation and 20% among those who reported only 1 lifetime sex partner. (Forhan et. al., 2009, p. 1509)

One might factor in inexperience, ignorance, and the sense of invulnerability that is often characteristic of youth, but doing so omits what is perhaps the greatest contributing factor to this high rate of infection: "The physiology and anatomy of the vagina have been relatively poorly studied compared to those of other female pelvic organs." (Barnhart and Shalaby, 1998, p. 1) It is only in the last few decades that medical science has begun to understand and fully appreciate the physiology of the vagina (Barnhart and Shalaby, 1998, p. 1). Consequently, there is, by and large, widespread ignorance of the sexual physiology of teenagers, especially the physiology of adolescent women who have yet to reach Tanner Stage V, which signals the attainment of full sexual maturity. The age at which Stage V is attained varies from person to person. As shall be demonstrated here, young women who have not yet attained Tanner Stage V are at a significantly greater risk

of infection from sexually transmitted diseases than those who have reached full sexual maturation.

The usage of Tanner stages for discerning where an adolescent is in their sexual development seems the most reliable measure, since median ages of sexual maturation fluctuate greatly and are influenced by a number of differing factors.

Perhaps the most enduring mystery surrounding human sexual development is its variation: Some individuals complete pubertal development in elementary school, whereas others are still relatively undeveloped when they graduate from high school. (Ellis and Essex, 2007, p. 1)

Median ages of sexual maturation are affected by a number of variables, such as race and nutrition. Two major studies of sexual maturation repeatedly done between 1988 and 1994 (NHES and NHANES) place Tanner's Stage V of breast development somewhere between 16 and 17 years of age for about 30% of the population (Lee, Guo, and Kulin, 2001, Table, p. 84). This means that a significant number of young women are not fully sexually mature until 16 or 17 years of age. The American College of Obstetricians and Gynaecologists groups adolescent women into three categories: "early adolescence, ages 13–15 years; middle adolescence, ages 15–17 years; late adolescence, ages 17–19 years." (Sanfilippo and Lara-Torre, 2009, p. 936) This is an area where one must speak in generalities in order to avoid arbitrarily assigning an age of full sexual development which will not be accurate for many young women. When approaching prescriptivity relative to the design of the body, simply identifying and designating a median age of sexual maturity is arbitrary and inappropriate. If the well-being of young women is the true objective, then they need to be taught to recognise both the indicators of full sexual development and the factors which may predispose some young women to later development than their peers.

It will be demonstrated in what follows that the youthful vaginal tract, though capable of sexual activity, is not, developmentally speaking, fully ready for it. The years in which a young woman passes through the Tanner stages of sexual development are years of change. The shape of her genital organs, their composition, their pH, and their flora are all in a state of flux. Her genitalia will typically change from an immature state, during which the organs may be easily cut or torn during ordinary sexual acts and have great vulnerability to infection, to a mature state, which is physically much more robust and resilient and which is chemically and biologically resistant to disease and infection.

5.4.1.1.1 *Vaginal Acidity, Lactobacilli, Hydrogen Peroxide and Sexually Transmitted Infection*

The sexually and reproductively incomplete state of the pubertal female genital tract which precedes full sexual maturity is likely the primary reason why young women are statistically at such great risk from what would otherwise be normal acts of sexual intercourse. “Although pH levels fall at puberty, adolescence represents a period of hormonal instability, which could affect vaginal pH.” (Brabin, et. al., 2005, p. 483) Vaginal pH is frequently less acidic in younger women who have not yet attained Tanner Stage V than it is in more physically mature women. Consequently, the lactobacilli which typically comprise about 92% of a fully developed woman’s vaginal flora (Hillier, 1998, p. 16) are not sufficiently present in adolescent vaginal secretions. Lactobacilli aid in the production of H₂O₂, otherwise known as hydrogen peroxide (Hillier, 1998, p. 18). The antiseptic nature of hydrogen peroxide is a natural deterrent to infection in the vaginal tract.

Because of the lack of lactobacilli and the subsequent lack of hydrogen peroxide in the vaginal tracts of adolescents, it is primarily young women, ages 15-19 (Segal,

1993, p. 36 and Gaventa, et. al., 1989, p. S30), rather than fully sexually mature women, that develop toxic shock syndrome from high absorbency tampons, diaphragms, and contraceptive sponges (Litt, 1983, pp. 270-274 and Riggs and Noland, 1983, pp. 1747-1748). Additionally, the spermicide NonOxynol-9 may in fact cause women a number of health problems, ranging from genital lesions to increased vulnerability to HIV (Forbes and Heise, 2000, pp. 156-158 and Wilkinson, et. al., 2002, pp. 615-617). It seems that NonOxynol-9 is also inhibitory to the production of lactobacilli (Klebanoff, 1992, p. 19). Given the unique vulnerabilities of the teen genital tract as regards lactobacilli production, teens are at an even greater risk of *escherichia coli* urinary tract infections from using spermicide-coated condoms than are fully sexually mature women. These same factors affect the degree of negative health consequences of bacterial vaginosis (Eschenbach, et. al., 1989, pp. 251-255). BV, a non-sexually transmitted reproductive tract infection (RTI) is caused by “anaerobic microbes that trigger a shift in vaginal flora. This infection affects about 1 in 10 U.S. women of reproductive age” (Harder, 2002, p. 72), and is very prevalent in adolescents (Brabin, 2004, p. 1). In what might be described as an epidemiological “snowball effect,” BV is believed to cause greater susceptibility to other sexually transmitted diseases:

Adolescents have lower oestrogen levels than adults and irregular menstrual cycles persist for varying periods after menarche. In one study, adolescent vaginal pH mean values were inversely related to gynaecological age (years since menarche). Adolescents with high pH levels may be at increased risk of bacterial vaginosis (BV), a common polymicrobial syndrome characterised by high concentrations of aerobes and non-aerobes, absence of lactobacilli, and a high vaginal pH...Presence of BV is thought to increase susceptibility to chlamydia, herpes simplex virus, and HIV infections. An abnormal adolescent pH could indirectly increase susceptibility to genital tract infections. (Brabin, et. al., 2005, p. 483)

The practice of douching is one which has no known health benefits and is often a correlate of sexually transmitted infections, especially that of PID (Miller, et. al., 1999, p. 4).

The risk of douching may be mechanical (i.e., that organisms from the lower tract are forced up through the cervix during douching) or ecological (i.e., that protective hydrogen peroxide-producing lactobacilli are selectively eliminated by douching, which facilitates colonization by pathogenic strains. (Miller, 1999, p. 5) Inasmuch as pre-Tanner Stage V adolescent women are already prone to have a deficit of lactobacilli in their vaginal tracts, any practice which potentially eliminates vaginal lactobacilli naturally poses an even greater threat to them than it would to women who are fully sexually mature. Thus, “douching should be discouraged among adolescent girls and young women.” (Merchant, Kim, and Klerman, 1999, p. 834) In terms my axiom this would especially fall under the category of working for one’s own well-being.

5.4.1.1.2 *Asymptomatic Infection and PID*

Ironically, although young women are at typically at a 100% greater risk than young men of contracting an STD from a single sexual encounter, (Medical Aspects of Human Sexuality, 1991, p. 37; Lindsey, 2000, p. 72; Gordon and Kanstrup, 1992, pp. 29-31) women in general are more likely to be asymptomatic; thus, the diseases they do contract often move to an advanced state of infection before they are detected (Goldman and Hatch, 2000, p. 270; Shaecter and Lederberg, 2004, p. 881; Workowski and Berman, 2010). Quite frequently it is not until a young woman has pelvic inflammatory disease (PID) that she discovers her STD infection (Banikarim and Chacko, 2005, p. 176). This is a destructive, potentially fatal condition which damages her reproductive organs and accounts for much of the sterility young women battle with today (Landry and Turnbull, 1998, p. 2 and Madkan, et. al., 2006, pp. 366-367).

One in five cases of PID occurs among younger women <19 years of age. Although only about half of female adolescents are sexually active, they have the highest age-specific rates of PID among sexually experienced women. The risk of developing PID for a 15-year-old sexually active girl is estimated to be 10 times that of a 24-year-old woman. (Igra, 1998, p.113)

Reporting before Congress in November of 2004, Julie Gerberdering, MD, MPH., director of the Centers for Disease Control stated that “More than 50% of all preventable infertility among women is a result of sexually transmitted diseases (STDs), primarily chlamydial infection and gonorrhea.” (Gerberdering, 2004, p. 1) Gerberdering went on to state:

Untreated chlamydia can cause severe and costly reproductive and other adverse health consequences, including pelvic inflammatory disease (PID), which can lead to infertility. An estimated 10%-40% of women with untreated chlamydia will develop PID. Of those with PID, it is estimated that 20% will become infertile; 18% will experience debilitating, chronic pelvic pain; and 9% will have a life-threatening ectopic pregnancy. Chlamydia may also result in adverse outcomes for babies, including neonatal conjunctivitis and pneumonia.

PID does great damage to a woman’s reproductive organs, sometimes virtually destroying the fimbria, and frequently leaving the fallopian tubes too scarred to permit ova to travel down from the ovaries to the uterus (Banikarim and Chacko, 2005, pp. 175-178). The likelihood of sterility in the wake of PID is such that Mastroianni reminds fellow gynaecologists that “Those who are treating such patients should keep the relationship between acute pelvic inflammatory disease and subsequent infertility in mind, and, when possible, counsel and provide appropriate information in this regard.” (Mastroianni, 1999, p. 123) Some researchers suspect that PID caused by chlamydia may perhaps be *the* cause of ovarian cancer (Carvalho and Carvalho, 2008, pp. 690-693).

5.4.1.1.3 *Risks Associated with Adolescent Pregnancy*

Youthful pregnancy poses some health risks of its own. Although an adolescent woman is capable of conceiving a child, she is at far “greater risk of adverse pregnancy

outcomes, and her child is far more likely to have low birth weight or premature delivery,” (Fraser, Brockert, and Ward, 1995, pp. 1113-1117) Oftentimes the adverse health outcomes associated with teen pregnancy are attributed to low income, poor prenatal care, and “going it alone” without the assistance or support of a committed partner. Without doubt these factors are often present in many instances of teen pregnancy, but they do not sufficiently explain the problems associated with teen pregnancy. In a study that worked with a sampling of youthful pregnancies numbering 3,886,364, (Chen, et. al., 2007, p. 368) the researchers concluded:

Some investigators believed that the adverse outcomes observed in teenage pregnancies might have been attributable to these sociodemographic factors. Some researchers considered that pregnant teenagers were not a high-risk group if good prenatal care was provided. Our findings in white married women with age-appropriate education level, adequate prenatal care and without smoking and alcohol during pregnancy suggested that the increased risk of adverse birth outcomes was less likely to be secondary to socioeconomic factors and prenatal care, and more likely intrinsic to maternal youth. (Chen, et. al., 2007, p. 372)

Based upon the proven developmental, anatomical, and epidemiological threats to adolescent women and to the children which they may conceive, it seems fitting to conclude that these women, given the design of their bodies, should be slow to initiate sexual activity until they have completed Tanner Stage V of their sexual development. Waiting for one’s body to be fully ready for sexual debut is clearly in one’s own best interest. Waiting for one’s body to be ready for pregnancy is not only in one’s own best interest, but in the best interest of one’s potential child or children.

5.4.2 *The Process of Female Sexual Maturation*

Menarche is the term for a girl’s first menstruation, the primary milestone which signals the onset of puberty. During the time following menarche until Tanner Stage V is reached, 60-80% of young women have a condition called “cervical ectopy,” which

means that the thin and vulnerable layers of their cervixes are exposed, increasing their chance of infection (Brabin et. al., 2004, p. 7 also Stanberry and Bernstein, 2000, pp. 109-110). The process of moving through the Tanner Stages of Development [see table above] of sexual maturing is one where the vaginal tract goes from being quite vulnerable to being disease and infection resistant (Gordon and Laufer, 2005, p. 128 and Miller, et. al., 1999, pp. 4-9 & 23). It also moves from being fragile and inclined to crack or bleed during intercourse to being tough, resilient, and capable of great stretching; in time babies may come through this otherwise narrow passage:

During puberty newly elevated oestrogen levels stimulate overall growth as well as epithelial proliferation. Under the influence of oestrogen, the vaginal epithelium increases in thickness with cornification of the superficial cell layers...Multiple metabolic alterations of the epithelium also result from oestrogen exposure. These effect a change in vaginal secretions and pH, providing greater resistance to local infection. (Krasnow and Shapiro, 1992, p. 59)

This means that the young woman's cervical mucous will become thicker with a higher concentration of oestrogen over time, which will help to defend against infection of the uterus (Anderson, 1992, p. 279). As the pH of her vaginal fluids decreases, the normal flora of the vagina becomes composed primarily of lactobacilli, the function of which has already been described above. Lowered pH and the presence of Lactobacilli are believed to have other benefits as well: "Studies also suggest that peroxide-generating *Lactobacillus acidophilus* have viricidal effects on HIV-1, and that a low vaginal pH inhibits CD4 lymphocyte activation and may reduce the number of HIV-1 target cells in the vagina." (Sewankambo, 1997, and Brabin, 2004, p. 9) External changes are accompanied by internal changes which affect the morphology of the developing young woman's body:

Breast budding, oestrogenization of the vaginal mucosa, and lengthening and enlargement of the uterus occur with oestrogen exposure. The physiological vaginal discharge of puberty, leucorrhoea, is the desquamation of epithelial cells and mucus from the oestrogenized mucosa. The pubertal process is accompanied by a growth spurt; both growth hormone and sex steroids appear to contribute to the growth spurt. (Carpenter and Rock, 1992, p. 118)

In the process the young woman's uterus is changing as well:

The prepubertal uterus is tear-drop shaped, with the neck and isthmus accounting for up to two-thirds of the uterine volume; then, with the production of oestrogens, it becomes pear shaped, with the uterine body increasing in length and thickness proportionately more than the cervix. (Schwitzgebel, 2004, slide #12)

It is not until the latter part of the last Tanner Stage of Development that the young woman is physically ready to safely initiate sexual activity. Tanner Stage V is attained late in adolescence and signals the completion of the sexual maturation process.

5.4.2.1 *Wide Age Variances for Attainment of Tanner Stage V*

In the original Marshall and Tanner study from which the Tanner stages got their name, the median age for Stage V in girls was 15.3 years, with a range of 11.8 to 18.9 years (Marshall and Tanner, 1969, table, top of p. 294). Fima Lifshitz, a paediatric endocrinologist states: "The average age of completion of Tanner Stage V breast development is 15.2 years for White girls, 13.5 for Blacks, and 14.7 for Mexican-American girls." (Lifshitz, 2007, p. 275) Therefore, if one seeks to act in accordance with design, the bare minimum that can be affirmed is that, on average, in this field where acting on the basis of averages rather than actualities can be potentially dangerous, it is not advisable for teen-age girls under (roughly) age 15 to be sexually active.¹⁵

A note of additional caution is in order here for a few cohorts of teen girls:

"Gymnasts, ballet dancers, and long distance runners with reduced weights and

¹⁵ For a helpful visual graph of development through the Tanner stages with milestones by Age, see table (Fig. 8.1) in Goldman and Hatch, 2000, page 86.

(calculated) percentages of body fat often experience significant delays in development and menarche, especially if their training began in prepubertal years.” (Carpenter and Rock, 1992, p. 129) Thus, for these young women, wisdom would dictate that initiation of sexual activity later than their peers is probably advisable, since they are unlikely to have reached Tanner Stage Five and attained the sexual toughening associated with it as early as other girls their own age. Determination of where they are in terms of the Tanner stages is easily enough accomplished by a visit to a gynaecologist, and would appear to be in their own best interest.

5.4.3 *Basing Prescriptivity on Facts*

When it comes to the human female genital tract, there are some strong affirmations that can be made simply on the basis of its design. Speaking in terms of anatomy, physiology, and epidemiology, the facts are clear: sexual intercourse is not in the best interest of young women who have not yet completed Tanner Stage V. Thus, if a young woman is going to act in accordance with her body and its design, she should wait to initiate sexual activity until her body is ready for sexual intercourse. The same is true with those desiring to have sexual relations with a sexually immature woman. If a suitor genuinely cares about the well-being of a young woman, that suitor should take her sexual immaturity into consideration and intentionally postpone sexual intercourse until she has completed Tanner stage five.

Hume and Moore might be perceived by some as saying that one cannot draw ethical implications from natural facts, but it seems quite appropriate to do so in light of the design of the youthful female vaginal tract. Mackie states that there are no objective moral values, but our increased knowledge of “the fabric of the universe” vis-à-vis the

composition of immature adolescent female genitalia seems to hold some latent ethical implications regarding potential harm or well-being. Early initiation of sexual activity places the developing adolescent genital tract at risk for injury and infection. Sexual activity poses far less danger when the process of puberty is complete. From a natural law standpoint, “the fabric of the universe” appears to suggest that sexual intercourse is contraindicated for the not yet sexually mature female. To refuse this conclusion on the basis of a philosophical trend places ethics beneath medicine in its ability to see and commend behaviours which make for human flourishing.

On the basis of the axiom I have set forth, if human life is a great good and we ought always to work for its thriving, both in ourselves and in others, then the person who pursues sexual intercourse for a young woman prior to her sexual maturation, be it the young woman herself or a suitor, is not acting with her true best interests at heart. They are putting what they want ahead of what she needs. Their desire is therefore, by Adler’s account of Aristotle, wrong desire. The facts concerning the good of a young woman who has not yet attained Tanner Stage V give normative guidance or direction, per Donnelly, indicating that sexual intercourse ought not to be engaged in until the young woman in question is fully sexually mature.

Women who first had sexual intercourse before age 15 were nearly four times as likely to report a bacterial STD, and more than twice as likely to report PID, as were women who first had sex after age 18. Having more than five lifetime sexual partners also was associated with both having an STD and having PID. (Miller, et. al., 1995, p. 4)

If a young man genuinely cares about a young woman and her well-being, he won’t expose her during this highly vulnerable time in her life to the possibility of STD infections, which may leave her sick or sterile and which may steal away her hopes of

being a mother someday. Neither will he put her at risk for a pregnancy for which her body is not yet fully ready.

5.5 *Male Adolescent Sexual Development*

Young men admittedly do not have the same design vulnerabilities to STD infection as young women, and they have a lesser risk than young women of contracting an STD from one act of sex (Goldman and Hatch, 2000, p. 269 also WHO/Lindsey, ed., 2000, p. 72). A male releases seminal fluid in the sexual act and takes in a minuscule amount (if any) of cervicovaginal secretions, while a female retains the man's seminal discharge in the vaginal vault. By this design, the odds of infection are stacked against the woman. Because of these differences in genitalia, a woman is usually at least twice as likely as a man to contract an STD from one sexual encounter (Lindsey, ed., 2000, p. 72 also *Med Aspect Hum Sex*, 1991, table p. 37). The primary exceptions to this rule are human papilloma virus (HPV) and herpes simplex II (HSV II), because they are spread by skin-to-skin contact rather than by an exchange of fluid. With skin-to-skin diseases, the infection rate is roughly the same between the sexes (Genuis and Genuis, 2004, p. 1107; Corey and Handsfield, 2000, pp. 791-794; Legoff, et. al., 2006, pp. 423-432; and London, 2003, pp. 150-151).

The STD transmission rate is much greater for women:

Data for adolescent males in developing countries is almost non-existent. This reflects the recognition that the burden of morbidity associated with STIs is far higher for females than for males." (Brabin, 2004, p. 11)

Due to the exigencies of tracking childbearing and population growth whilst treating STIs/STDs in developing countries, the needs of adolescent females have been so great as to effectively prevent medical researchers from being able to spend time and resources to properly study the male populations (Brown, Larson, Saraswathi, eds., 2002, p. 39).

5.5.1

Adolescent Male Sexual Vulnerability

Although adolescent males are admittedly at less of a risk of STD infection due to the design of their genitalia, they are nevertheless at risk. They are by no means immune to STD's. Thus, all of the STD risks of a teen female (with the exception of PID) exist for a teen male, albeit at a lesser rate per sexual encounter. The sexual vulnerabilities unique to teen males are of a different sort than those of teen females. Across time males have consistently developed and gone through their own Tanner stages of sexual development later than females (Carpenter and Rock, 1992, pp. 49-51). Historically, young women are more developed and mature than young men of the same age. Regarding psychological and moral reasoning, young men have historically demonstrated less maturity in decision-making than young women their own age.

Cognitive development also differs by gender, with girls developing at earlier ages than boys. The development of moral thinking roughly parallels cognitive development. (Kliegman, et. al., 2007, p. 63)

Although they are certainly capable of critical thinking, failure to think critically about the consequences of their behaviours is considered a hallmark of youthful males. Consequently, they are "more likely to engage in sexually risky behaviour than women are." (Olenick, 1999, p. 47) This tendency alone more than makes up for the differences in genital design. Young men have a disproportionately high level of STD infection due to sexually risky and oftentimes promiscuous behaviours. In fact, one of the sexual minefields that young women have to navigate in order to find a mate is the STD infected population of young men close to their own age (Frost, et. al., 2001, pp. 10-11 and Miller, et. al., 1993, p. 4). Based on the facts of adolescent male sexuality, it is safe to say that, as a rule, adolescent males are behind young women in their development and that a disproportionately high number of them are infected with an STD.

5.5.2 *Tendency Toward Immaturity and Irresponsibility*

When addressing the consequences of a pregnancy which may result from their own sexual behaviours, young men regularly refuse to accept responsibility for them:

Adolescent males seem to have difficulty accepting the responsibilities associated with parenting, and are often very ambivalent in this regard. So at least from the standpoint of the possibility of pregnancy as one outcome of youthful sex young men are generally not ready by way of maturity for parenthood. (Redmond, 1985, p. 341)

It appears that sex as an act which is pleasurable is separated in the minds of young men from sex as the source of life and family. As was mentioned above, young men are usually not as mature as young women of the same age in their thought processes and are desirous of having freedom to engage in sexual behaviours without responsibility for the potential outcomes of intercourse, especially that of parenting.

Such pressures to prematurely take on the adult male role can be overwhelming, especially for adolescents...these males do not want to be "responsible" right now and instead want to have fun. Learning how to carry out responsibilities in relationships, they are still gathering the tools and skills needed to negotiate safer sexual behaviors. (Marcell, Raine, and Eyre, 2003, p. 184)

Michael Ross PhD, MPH, of the World Health Organization's Centre for Health Promotion and Prevention Research states:

Sexual health is not just the absence of disease or dysfunction, but includes the ability to weigh and understand the risks, responsibilities, outcomes, and impacts of sexual behaviour... (Ross, 2002, p. 3)

By Ross' definition, concern for sexual health is quite simply not characteristic of adolescent males, due to their desire to have sexual relationships free of consequences.

5.5.3 *Male STD Infection and Infertility*

Although when they are seeking out sexual encounters many or most young men are apparently not consciously thinking about the bonds of family and becoming parents, presumably most of them do desire to become fathers at some future date. However, their

own behaviours frequently steal away the possibility of parenthood, both from them and from their partners, because statistically speaking their behaviours are largely to blame for the infertility that is plaguing young couples today.

Infertility is caused mostly by sexually transmitted diseases (STDs), and even in well-educated, industrialized countries, such as the United States and Canada, the medical community is failing to stem the tide of STDs which lead to infertility. (Rosenthal, 2002, p. xii)

It is men who practice the most risky sex and men who are the more STD-infected gender; thus, infection leading to adverse health outcomes from adolescent sexual intercourse is disproportionately caused by male behaviours.

Male infertility is frequently attributable to a sexually induced form of epididymitis, a painful infection in the tissue surrounding the testicles. This tends to result in infertility or at least low sperm count (Paavonen and Eggert-Kruse, 1999, pp. 438-440). In the case of their female partners, chlamydia or gonorrhoea contracted from the men leads to pelvic inflammatory disease, which does great damage to their reproductive organs, causing scarring which results in ectopic pregnancies (Cates and Hinman, 1990, pp. 200-201). More often than not, as has been stated above, it is the young men who infect the young women. The infection often results in the female's infertility.

Based on the unique design vulnerabilities of young men, most of which have to do with mental and emotional immaturity, it can be affirmed that young men should be encouraged to refrain from premature sexual debut; their demonstrated trend toward reckless sexual behaviours may lead to STD infection, sterility, and the fathering of children for whom they are not ready to take responsibility. In most developed countries, there are ages at which, based upon maturity concerns, young people are not permitted to

purchase alcoholic beverages. Society has learned that below a certain age the tendency toward dangerous and destructive behaviours whilst under the influence of alcohol warrants restrictions on teens. It would seem reasonable to encourage young men to delay sexual debut for the very same reasons that we restrict their ability to purchase and consume alcohol.

5.6 *Ethical Implications Regarding Adolescents and Sexual Debut*

For the most part, adolescents are neither physically nor developmentally in a place where sexual activity is in their best interest. It is clear that adolescent females who have not yet reached the end of Tanner Stage V are highly vulnerable to STD infection and to complications in childbearing due to their developmental age. It is apparent that young men develop more slowly than young women, and if they become sexually active at an early age, they are disinclined to use their sexuality in a responsible fashion. It would seem appropriate for young women to be carefully taught why it is in the best interest of themselves, their future children, and their ultimate marriage partner for them to wait to initiate sexual activity until they are certain that they have fully completed Tanner Stage V. There is likewise a need to introduce critical thinking skills to young men to assist them in reasoning about the long-term effects of their impulsive behaviours. Early in adolescence they need to learn about the potential injurious effect of premature sexual debut for young women and also for themselves.

5.6.1 *The Need to Teach Youth to Reason Ethically About the Long-Term Effects of Their Behaviours*

If the sexual is ultimately associated with love and marriage, as it seems to be across cultures, (Swensen and Trahaug, 1985, pp. 939-945; Otani, 1991, p. 486; DeMunck, 1996, pp. 698-716; Pimental, 2000, pp. 32-47; and Mody, 2002, pp 223-256)

then premature initiation of sexual involvement is clearly not a fully loving act towards one's partner, especially not toward one's future mate or one's potential future children. If one genuinely loves another, then that would seem to indicate that one should care enough about the other not to risk their health, their dreams, and their future. Young men and women need to be taught to think in terms of sexual expression as a capacity holding potential for great good and pleasure across the lifespan if handled properly during youth. Sexual education which relates the facts of sexuality to long-term ethical thinking should be able to help impress young minds that premature initiation of sexual activity means greatly increased risk of STD infection and its sequelae. It does not seem naïve to believe that youthful minds are able to comprehend that some immediately gratifying actions carry a very high future "price tag." Any thinking young person can understand that certain immediate pleasures hold the potential for future pain and loss disproportionate to their promise of immediate gratification. It is doubtful that the full gamut of possible negative outcomes which might result from premature initiation of sexual intercourse are actually made clear to most teens.

Although research most commonly focuses on the physical consequences of STDs, the psychosexual and psychosocial sequelae of contracting an STD, although difficult to quantitatively measure, should not be underestimated. While infected individuals may experience increased feelings of anger, depression, isolation, rejection, and guilt, research also indicates that STDs may have a long-term negative effect on sexual enjoyment and that infected patients may experience the following: "partial or complete cessation of sexual activity," "a total or partial loss of interest in sex," a "more inhibited and less spontaneous" sex life, or "anxiety related to sexual desirability." (Genuis and Genuis, 2004, p. 1106)

Thomas Nagel has observed in a rather wry conclusion to his musings on sexual perversion: "bad sex is generally better than none at all," and "the alternatives have to be fairly grim before it becomes rational to opt for nothing." (Nagel, 1992, p. 52) If

immediate sexual gratification in the present potentially means “none at all” in the future, and if the consequences of premature sexual debut potentially could force one to involuntarily “opt for nothing” later in life, then being made aware of such a prospect might even be able to get a teenage boy’s attention and cause him to think before he acts.

If one accepts the premise that human beings ought to act in a manner which promotes their own and others’ health and well-being, then teaching teens caution, hesitance, and critical thinking regarding possible negative outcomes of sexual activity is simply logical. Might it be that the morality of previous generations, which seemed arbitrary and prudish in prescribing chastity for young people, was actually anchored in pre-scientific wisdom as regards human sexuality? In an article in the American Journal of Obstetrics and Gynecology entitled: *Managing the sexually transmitted disease pandemic: A time for reevaluation*, it is stated:

serious life-long implications of many STDs, compel the medical profession to face two contrasting options when considering the optimal health and well-being of young people. Practitioners must either accept the high and worsening rates of STDs as inevitable and unavoidable; alternatively, they must consider an approach that focuses on addressing the underlying behaviours that predispose young people to acquiring STDs. Increasing evidence appears to support the adoption of a health-oriented approach that addresses sexual attitudes and behaviours by both educating about STDs and consistently recommending delayed sexual debut and partner reduction (Genuis and Genuis, 2004, p. 1107)

A strategy based on natural law such as is outlined here appears to hold promise for educating youth in such a way that they do indeed delay sexual debut and practice partner reduction.

5.7 *Adult Human Design: A Basis for Monogamous Behaviour*

Moving on from adolescence into the adult world, the design of the human body is such that it can be safely affirmed that human beings as a species are not well-equipped for having multiple sexual partners. What follows here is not a statement regarding

peoples who are polygamous *per se*, but rather a statement made in the context of the developed countries of the West, where polygamy is not an available legal option. The evidence in support of the wisdom of practicing mutual monogamy is overwhelming. Simply put, the more sexual partners a person has, the more potential for infection they have.

Age at first intercourse and lifetime number of sexual partners are the most appropriate measures from the National Survey of Family Growth (1995) for studying lifetime prevalence of bacterial STDs. Indeed, both were significant predictors of infection. Moreover, number of sexual partners demonstrated a clear "dose effect": As the number of sexual partners increased, so did the probability of reporting a bacterial STD. (Miller, et. al., 1999, p. 8)

In one sense, it is simply a matter of mathematics: "Regardless of age, as the number of sexual partners increases, the likelihood of encountering an infected partner also increases." (Miller, et. al., 1999, pp. 4-9; Kost and Forrest, 1992, p. 244; Finer, Darroch, and Singh, 1999, p. 32; Dunne, et. al., 2007, pp. 813-819) This is especially so for women, because throughout the sexually active years of the human lifespan, the female of the species always remains more vulnerable to STD infection than the male:

During sexual behaviours, women have a greater surface area of mucous membranes exposed and more trauma to those exposed mucosal tissues than do men; therefore, women are at greater risk of contracting STDs from infected male partners. (Madkan, et. al., 2006, p. 1)

For both sexes, more sexual partners means more risk of STD infection; the potential for infecting one's future or present spouse; a strong threat of infertility; and the possibility of birth defects in one's children.

5.7.1

Condoms vs. Sexual Fidelity

In contemporary culture, the condom is touted as the answer to the high level of sexually transmitted infections in the human race. One can presumably protect oneself

and one's future prospects for long term love and sexual relating by using a condom. However, within the medical community there has been critique of what is often reported as condom testing for its lack of rigorousness and actual conformity to the usual standards of scientific rigor (Weller, 1993, p. 1635). As well, the Guttmacher Institute, previously the research arm of Planned Parenthood, has acknowledged in their own publications that although condoms have an effectiveness rate of somewhere between 90.7% to 98.6% in preventing pregnancy, (Davis and Weller, 1999, p. 272) the same is not true of HIV.

While the principle is the same in both HIV and pregnancy prevention, important differences prohibit the simple assumption that condoms will perform as well for HIV. First, there are more routes of transmission for HIV. Pregnancy results only from vaginal sex, but HIV can be transmitted through vaginal, oral, and anal routes. Second, conception can only take place during a few days out of a woman's menstrual cycle, while HIV may be transmitted at any time. Third, HIV particles are smaller than sperm cells and may actually leak through condoms. Thus, condom efficacy may be higher for pregnancy than for HIV. (Davis and Weller, 1999, p. 276)

When it comes to diseases which are spread topically through skin-to-skin contact, condoms offer little protection. With human papilloma virus (HPV), for instance, the New England Journal of Medicine published findings showing that "The incidence of genital HPV infection was 37.8 per 100 patient-years at risk among women whose partners used condoms for all instances of intercourse." (Winer, et. al., 2006, p. 2645) One would hardly tout the usefulness of a parachute with a 37.8 failure rate. Condom usage lessens the risk with certain diseases, but offers little protection from others.

In the year 2000, four American governmental agencies, the FDA, the NIH, the CDC, and the U.S. Agency for International Development assembled a panel of "condom experts" to review the evidence for condom effectiveness.

The final report from this meeting concluded that condom use reduces the

risk of pregnancy, HIV transmission, and among men, gonorrhoea. For all other sexually transmitted infections, adequate data were lacking. The report emphasized that “the absence of definitive conclusions reflected inadequacies of the evidence available and should not be interpreted as proof of the adequacy or inadequacy of the condom to reduce the risk of STDs other than HIV transmission in men and women and gonorrhoea in men.” (Steiner and Cates, 2006, p. 2642)

There is nothing inherently wrong with condoms. They are merely tools. They neither make the user immune to STD infection nor relieve the user of the need to reason with prudence and to be virtuous.

The issue of condom usage, no matter its effectiveness or ineffectiveness, is not one with any direct corollaries to the field of ethics. The ethical issue which impinges upon condom usage or non-usage is the decision to either enter into or abstain from sexual intercourse with a given partner at a particular time. If one were taking as a bare minimum of morality Kant’s 2nd formulation of the categorical imperative and seeking to treat human beings as ends in themselves, (Paton, 1972, p. 91) one would not conduct one’s ethical reasoning at the following level: “What sort of precautions against infection should I take?” Rather, the reasoning would proceed at this level: “Am I treating him/her merely as a means to my own gratification or as an end in himself/herself?” Condom usage does not obviate the need for ethical reasoning. Using a condom does not move sexual behaviour from the realm of the ethical to that of amusement and entertainment, although such seems to be the common perception. If one is already bound to another partner by marriage covenant or oath, then usage of a condom with another partner has no bearing on the morality of the act. With or without a condom, the marriage oath is being violated.

If a moral agent who is knowingly infected with an STD pursues sexual relations with another, then whatever rationale that agent may use (condoms or otherwise) to

justify their own course of action, they are nonetheless intentionally subjecting their partner to risk of infection for their own gratification. By so doing, that moral agent shows disregard for the safety and security of that sexual partner. They make that person into a means for selfish pleasure. If a person who is STD free feels that they must wear a condom to have relations with a new partner with whom they have little previous relationship, then given the relatively ineffectual nature of any sort of protection against skin-to-skin sexual infection and the high rate of STD infection worldwide, it is hard to escape the conclusion that such action is reckless and disregards that person's own safety and security. They are treating their own health and well-being in a negligent fashion.

The practice of mutual monogamy appears to be the one sexual course of action most consonant with caring for one's mate or for one's future mate. It only takes one short-sighted marriage partner to wreak havoc on a couple. Tragically, if one marriage partner is indeed committed to their partner's and their own well-being and to the integrity of the marital relationship, that is no guarantee that their spouse will share their commitment. Thus, a person with complete faithfulness and monogamy in their marriage can be infected by their partner, and the likelihood of that happening is directly variable with the number of sexual partners their mate has. In a number of Asian countries, including China, there is a high degree of sexual fidelity on the part of urban wives younger than 45 years old, but they are contracting STD's on an ever increasing basis because of their husbands' involvement with prostitutes or sex workers. Though the husband himself may not have had numerous sexual partners, he exponentially increases the likelihood of infecting his wife with an STD because of the many sexual partners that a "sex worker" has had (Beyrer, 2003, pp. 1303-1305). The facts are:

Thai and Khmer women, like Chinese women, had median and mean lifetime numbers of sex partners of 1 (namely, their spouses), yet 3% to 4% of pregnant women in both countries were HIV-positive within a few years of the epidemic. (Beyrer, 2003, p. 1305)

Obviously, a commitment to monogamy that is held by only one of the partners in a marriage is unsatisfactory. When it comes to moral reasoning, it would seem that even the most callous of people must admit that any other course of action disregards the present and future well-being of one's marital partner.

5.7.2 *Promiscuity Harms the Self and Others*

The late Arthur Ashe, the first African-American tennis professional to achieve national status, died of the opportunistic infections against which AIDS left his body unable to defend itself. His HIV was contracted by means of a blood transfusion. In his memoirs entitled *Days of Grace*, he responded to the boastful claims of incredible levels of promiscuity made by some of the African-American basketball players of his time:

No one should sneer at the idea of sexual abstinence or of self-control under certain conditions. I believe in abstinence from extra-marital affairs. I think such activity is morally wrong, as well as contractually wrong in the context of the vow one takes in marriage. I absolutely believe in the need to refrain from promiscuity. This is a term almost always applied to women and almost never applied to men, but in writing of promiscuity I am thinking above all of men and the double standard by which we have lived for centuries. Nowadays, it is true, some women measure their freedom in the same way: the ability to be sexually promiscuous. I think this is not freedom but one of the fantasies of freedom. Both men and women should recognize that promiscuity is, as often as not, a condition of violence against our own best interests. (Ashe, 1993, p. 274)

That is an astute assessment of promiscuity. It is indeed a “fantasy of freedom” and it is undoubtedly “a condition of violence against our own best interests.” The momentary pleasure of promiscuity ultimately undermines the human desire for love and relationship. When practiced in the context of a marriage, it makes a mockery of the very idea of marriage. In Ashe's case, he was responding to Irving “Magic” Johnson's bragging

about having slept with about 2,000 women while he was a married man and addressing Johnson's betrayal of his wife's trust and the destructive effect it had on his family's sense of unity and security (Ashe, 1993, pp. 269-274). Inasmuch as research cited above by Widmer, Treas, and Newcomb documents that across 24 countries infidelity ranks just below incest according to the level of disapproval given to it, there should be no hesitation to say that a human needs-based ethic can confidently affirm across cultures that marital infidelity violates the principle of seeking the well-being of others. It demonstrates a disregard for one's spouse's well-being and a recklessness regarding one's own well-being. By extension, if one is a parent, it also demonstrates a disregard for one's children's well-being, since it undermines the security of the nuclear family. It is an act of selfishness. Physically, psychologically, relationally, and emotionally, marital infidelity works against the overall health and well-being of a family. With good reason, loyalty and faithfulness are greatly valued character attributes and often are seen as a counterbalance to otherwise difficult personality traits. Those who think in terms of the future and of the outcomes of their behaviours have an abundance of motivational reasons for cultivating marital faithfulness.

5.8 *The Unborn Child: Potential Victim of the Sexual Behaviours of Others*

As regards gestational well-being, there is a carry-over from the previous area of reproductive or sexual health. Sexually transmitted diseases put both mother and child at risk. Both the pregnant mother and her prospective sexual partner ought to take into consideration the fact that their mutual sexual activity is now affecting more than just their own two lives. There is now an innocent third person present who is likely to be affected by their actions (Klein and Remington, 1995, p. 320). For any human being with a tender or active conscience, the sobering and frighteningly grim pain and disability that

an infant can experience due to STDs ought to act as a restraint against irresponsible sexual behaviour. The possible outcomes of STD infection for the infant developing *in utero* are varied and heartbreaking. According to which STD one considers, there is the potential for the following: acquisition of HIV; blindness (both with Gonorrhoea and Syphilis); warts on the infant's vocal chords (HPV); severe mental retardation and brain damage; widespread herpes lesions over the surface of the infant's body; a 50% chance of spontaneous abortion (from Herpes Simplex II); eye infections, blindness and pneumonia (Chlamydia Trachomatis); chronic liver disease; low birth weight; and premature birth (Hepatitis B) (Eng and Butler, 1997, and Lyons, 2006, p. 98).

“Congenital syphilis (CS) is a multiorgan infection that may cause neurologic or musculoskeletal disabilities or death in the fetus or newborn.” (Gust, et. al., 2002, p. e79) It manifests with approximately 31 possible different characteristics, including rashes; bone damage and abnormal development of teeth; blindness and severe pneumonia; scarring of the skin around the mouth, genitalia, and anus; and ultimately death (Walker and Walker, 2007, pp. 198-204, Walker and Walker, 2002, pp. 432-435, O'Reilly, 2007).

Cytomegalovirus (CMV), a member of the herpes family, can be spread by sexual contact and also by other close contact, especially where there is any sort of exposure to another's bodily fluids. CMV is the most common virus transmitted to a pregnant woman's unborn child. In the U.S. alone, it causes one child every hour to become disabled and is the source of permanent disability for about 8000 children each year (Anderson, et. al., 2008, pp. 65-68). “Each year in the United States, about 1 in 500 children are born with or develop disabilities as a result of CMV infection.” (CDC Brochure, No Date) Fowler, Stagno and Pass state:

Congenital cytomegalovirus (CMV) infection remains a major public health problem in the United States because of its frequency and its role as a cause of sensorineural hearing loss, cognitive impairment, cerebral palsy, and visual impairment. Congenital CMV infection is a leading cause of sensorineural hearing loss in children and the leading infectious cause of central nervous system damage in children in the United States. (Fowler, Stagno, and Pass, 2003, p. 1008)

If one knows that one is infected with an STD, then preventive measures are necessary before conceiving a child: “appropriate preconception planning and risk reduction is the only effective intervention.” (Lyons, 2006, p. 98) If a woman who has had multiple sex partners or whose husband has had multiple partners intends to get pregnant, then it would seem self-apparent that she ought to make sure of her status as regards STD’s before doing so. If she discovers that she is unexpectedly pregnant, she ought to make sure that she is tested immediately if she has any reason at all to question whether or not she is infected. If she tests seropositive for any STD’s, she should seek out measures from her gynaecologist to protect her baby against infection (Lyons, 2006, p. 98). Obviously, once she knows she is pregnant, she ought to become more careful about sexual intercourse and potential infection than she may have been previously.

5.9 *Potential Effects of the Use of Substances Upon the Developing Foetus*

Then there is the issue of substances and their effect upon a developing foetus. When a woman is pregnant, caring for the well-being of her baby necessitates not only refraining from abuse of drugs, but abstaining from tobacco, alcohol, and caffeine. It has been proven that cigarette smoking impairs immune function (Arcavi and Benowitz, 2004, pp. 2206-2216); optimal immunity is important for both the mother and her child. However, impaired immune function is only one of the dangers related to smoking:

Maternal smoking has also been shown to have adverse effects on the child's physical health. The most frequently mentioned results of maternal smoking during pregnancy are preterm delivery, low birth weight, increase in respiratory illnesses, delayed fetal growth, and sudden infant death syndrome. Another consequence is delay in neuropsychological development... Maternal smoking during pregnancy has been found to be associated with some impairment in the child's cognitive ability and language skills. Related to this, several investigators have reported an association between maternal smoking and behavior problems in children, such as impulsivity, attentional behavior, and hyperactivity. (Brook, Brook, and Whiteman, 2000, 381)

Smoking is also demonstrably associated with asthma and later obesity in children (Perrin, Bloom, and Gortmaker, 2007, p. 2756).

Alcohol presents another serious risk factor. The risks of alcohol consumption during pregnancy are frightening, and the long term effects of foetal alcohol syndrome are disheartening. In the U.S. it is the most common cause of mental retardation and the leading preventable cause of birth defects (Sokol, Delaney-Black, and Nordstrom, 2003, p. 1211). A survey of the literature as to what is an acceptable amount of alcohol consumption during pregnancy is inconclusive and contradictory. One of the rare pro-consumption studies states that:

...alcohol consumption below four drinks per week does not increase the risk of preterm delivery, while a daily alcohol intake during pregnancy seems to increase the risk of preterm delivery. The alcohol-related risk of preterm delivery is independent of type of alcohol consumed. (Albertsen, et. al., 2004, p. 160)

However, the above mentioned study doesn't specify how many ounces of alcoholic beverage of a particular alcohol content level constitute "a drink." There is warrant to assert that one should be careful about alcohol consumption during pregnancy. It would seem better to err on the side of caution than to risk the health of one's baby.

As for caffeine, the authors of a 2005 Danish study published in the American Journal of Epidemiology state: "We found an elevated risk of foetal death according to

coffee consumption in pregnancy, and the risk increased with increasing number of cups of coffee per day. The association was seen in all age groups.” (Bech, et. al., 2005, p. 5) Although, based on an ever-growing body of research, it appears that moderate coffee consumption poses no demonstrable statistical threat to developing children, it should be affirmed that conscientious mothers-to-be ought to keep their caffeine consumption low (Bracken, et. al., 2003, pp. 456-466).

5.10 *Pre-Natal Nutrition*

This chapter provides an example of how my system of enumerating values based on human needs will proceed. The reader may recall that I said that I ultimately intend to address three areas of Physical Needs, those being (1) nutrition and hydration, (2) safety and security, and (3) reproductive and gestational health. These areas of need build upon one another. Thus, not surprisingly, both the nutrition of the pregnant mother and her developing child as well as their safety and security are basic to gestational health. In the *Journal Environmental Health Perspectives*, in an article entitled “You Are What Your Mother Ate,” M. Nathaniel Mead recently stated:

It is now axiomatic that the *in utero* environment influences prenatal development and may trigger structural and functional changes that can persist for a lifetime. New evidence of the importance of the womb environment for the long-term health of offspring was published in the June 2007 *Journal of Clinical Endocrinology and Metabolism*. The study's findings show for the first time in humans that the diet a mother consumes in late pregnancy can alter the stress response of her offspring, possibly setting the stage for greater susceptibility to cardiovascular problems and other forms of stress-related disease into adulthood. (Mead, 2007, p. 492)

Previously, the nutritional early experience of an unborn developing child was believed to strongly affect the proper formation of the child's body and its normal senses and faculties. Thus, the effects of improper nutrition were usually immediately visible to the

obstetrician assisting with the child's birth by way of size, weight, and morphology. New discoveries in recent years have demonstrated that there is even greater impact of prenatal nutrition or lack thereof than was previously understood. D.J.P. Barker has stated:

Low birth weight is now known to be associated with increased rates of coronary heart disease and the related disorders, stroke, hypertension, and adult-onset diabetes. These associations have been extensively replicated in studies in different countries and are not the result of confounding variables. They extend across the normal range of birthweight and depend on lower birthweights in relation to the duration of gestation rather than the effects of premature birth...A new vision of optimal early human development is emerging, which takes account of health and well-being throughout life. (Barker, 2004, p. 1360)

More than ever before, medical science is discovering just how far reaching the consequences of insufficient nutrition *in utero* are upon the later life of a child.

Many human foetuses have to adapt to a limited supply of nutrients. In doing so they permanently change their structure and metabolism. These programmed changes may be the origins of a number of diseases in later life, including coronary heart disease, hypertension and noninsulin-dependent diabetes...Associations between low birth weight and coronary heart disease, raised blood pressure, and noninsulin-dependent diabetes have been repeatedly demonstrated. (Osmond and Barker, 2000, p. 549)

The negative consequences of insufficient nutrition upon a developing child's later life include hitherto unforeseen correlations between famine and schizophrenia. Studies done in the Netherlands upon the cohort of those born during the Nazi induced "Dutch Hunger Winter" and, in China, of those born in the famine years immediately following the "Great Leap Forward" demonstrate a statistically significant correlation between pregnancies that took place during those famine years and the incidence of schizophrenia later in the lives of those affected (St. Clair, et. al., 2005, pp. 557-562; McCLEllan, Susser, and King, 2006, pp. pp. 582-584; and Neugebauer, 2005, pp. 621-623). Clearly the nutrition that a developing unborn child receives is vitally important, not only for development within the womb, but also for future health and well being. Any person with

ethical integrity will do what they can in order to assure the nutritional health of an unborn child. This applies particularly to the pregnant mother and her partner.

5.11 *Safety and Security and the Developing Infant*

Nothing is more basic to the thriving of human life than the protection of the developing child. The safety and security or lack thereof of the pregnant mother affects her developing child. She needs to avoid exposure to dangerous activities and to toxins that can hurt her or her developing child. This has implications for employment, avocations, and her choice of housing. These are all obvious places where she and her baby can be exposed to dangerous conditions or substances.

One area that is not quite as obvious at first glance is the decision whether or not to remain with an abusive mate. Sadly, abuse during pregnancy is quite common (Gazmararian, et. al., 1996, pp. 1915-1920).

Complications of pregnancy, including low weight gain, anemia, infections, and first and second trimester bleeding, are significantly higher for abused women (Parker, McFarlane, & Soeken, 1994) as are fetal distress (Dye, Tollivert, Lee, & Kenney, 1995) and lower infant birth weight (Bullock & McFarlane, 1989; McFarlane, Parker, & Soeken, 1996a). In addition, abuse during pregnancy is associated with significantly higher maternal rates of depression; suicide attempts; and tobacco, alcohol, and illicit drug use (Amaro, Fried, Cabral, & Zuckerman, 1990; Berenson, Striglich, Wilkinson, & Anderson, 1991; Campbell , Polland, Waller, & Ager, 1992; Martin, English, Clark, Cilenti, & Kupper, 1996; McFarlane, Parker, & Soeken, 1996 b). Abuse can result in homicide. Two studies document homicide to be the leading cause of death by injury for pregnant women (Dannenberg et al., 1995; Fildes, Reed, Jones, Martin, & Barrett, 1992). In one longitudinal study, women abused while pregnant reported more risk factors of homicide as compared to women abused before pregnancy but not during pregnancy (McFarlane, Parker, & Soeken, 1995). (McFarlane and Wiis, 1997, p. 238)

Clearly if one is aware of a pregnant woman in an abusive situation, it is imperative to do what one can to help her escape that situation. Her own well-being and that of her developing child is at stake.

5.12 *Reproductive and Gestational Well-Being: Immediate vs. Future Orientation*

The intention here is to prove that deriving sexual and reproductive ethical values on the basis of how human beings are designed and from a commitment to their physical well-being and flourishing is not only viable but logical. There are, however, numerous tendencies which militate against this sort of an approach to ethics, and they seem to be increasing in developed countries at this time in history. In looking at the potential threats and perils to human well-being associated with sexual activity and gestation, the acceptance of the axiom I have advanced here dictates that one curtail activities that are known to put one's own and others' health at risk and seek to behave in a manner that cultivates health and thriving. Amongst the tendencies of the West which work against reproductive and gestational well-being, perhaps the greatest is the focus on the immediate to the neglect of the long-term.

Living without appropriate regard for the future, as though one must maximize pleasure in the present, seems to be a large part of the thought process of postmodern Western culture. The incredible levels of credit card debt that people today consider normal is symptomatic of a "buy now, pay later" mentality which is short-sighted in the extreme. A short dialogue from the novel Taggart by Louis L'Amour gives a fairly accurate depiction of what a present-oriented thought process looks like:

Consuelo: "Adam talks of tomorrow, but how do I know if tomorrow comes? How do I know what happens? I want to wear pretty dresses I do not make. I want to eat meals I do not cook. I want to get out of bed and not have to think about making the bed. I do not want to think about tomorrow."

Miriam: "Tomorrow comes whether you think about it or not."

Consuelo: "I am fool. I know tomorrow comes, but if today I have what I want...I do not care." (L'Amour, 1959, p. 69)

For those who do not care about tomorrow as long as they have what they want today, thinking in terms of the future well-being of themselves and others is not a process they engage in to the degree that previous generations did. There is a cultural tendency toward living in the moment and maximizing the pleasure of the present without regard for the future. From what has been seen herein, it is clear that if a person lives this way sexually, then it is highly likely that there will be an otherwise unnecessary future harvest of misery in their life and possibly in the lives of those that they love.

When considering reproductive and gestational well-being, all sexually active persons ought to give thought to the two different schools of ancient (egoistic) hedonism. The early Cyrenaic school of Aristippus was concerned with bodily pleasure as the end or *telos* towards which human moral behaviour ought to move (Tsouna, 1998, p. 151). The Cyrenaics weren't concerned with the future; in fact, they tended to refuse to speculate about the future. They were simply concerned to get all the bodily pleasure they could in the here and now (Nash, 1999, p. 348). Although Epicurus agreed with the hedonistic principle that the pleasure of each individual was the highest good, he offered a criticism of the crude, sensual hedonism of the Cyrenaics. He contrasted the pleasures of the body, which tend to be more intense but fleeting, with the pleasures of the mind, which are often less intense but more lasting. He reasoned that if pleasure was the greatest good, then pain was the greatest evil. If an experience would provide a momentary or fleeting bodily pleasure, but in the long run yielded more pain than pleasure, then one was a fool to engage in it. If one could quantify pain and pleasure, any pleasurable activity which ultimately caused more pain than the pleasure it produced was simply not worth

experiencing (Sedley, 2005, pp. 373-374). This speaks volumes to the issue of well-being as regards human sexuality. To indulge in short-lived libidinous pleasures in the present accompanied by a very high likelihood of future pain and suffering of much longer duration for oneself or for those whom one cares about is a reckless and short-sighted way to live. It demonstrates a disregard for the well-being of others and for the self as well. Statistically speaking, the risks in living this way are so high that it isn't rational to do so.

The short sightedness associated here with Cyrenaic thought corresponds to what the late political scientist Edwin Banfield of Harvard called a "present-orientedness." (Banfield, 1991, p. 317) Banfield proposed the idea that contemporary culture in the West, especially since the 1960's, has tended to foster such thought processes. If his thinking is correct, there may, in fact, be a corollary between the tremendous increase of STD's worldwide (Sciarra, 1997, p. 107; Gerbase, Rowley and Mertens, 1998, pp. sm2-sm4; and Agacfidan and Kohl, 1999, pp. 431-435) and this cultural trend:

Other forces have combined with irreligion and democracy to make the predominant style of modern culture ever more present oriented or, if the reader prefers, less future oriented. The rapid growth and spread of affluence, the transfer to the state of most responsibility for providing for the individual's future, the extension of higher education to the masses (education that exalts self, sentiment, and expression while deriding institutions, reason, and subordination to a common good) -- these influences have been powerful in recent decades, and there is every reason to expect them to be so for a long time to come. The sudden and tremendous increase in the number and proportion of young people in the 1960s -young people who had money in their pockets and so were free of all constraints -- dramatically strengthened these forces. As the predominant cultural style becomes ever more hostile toward authority, discipline, and all constriction of individuality, and ever more indulgent toward self-expression, one must expect to see more frequently displayed the traits and conditions associated with present orientedness. Except as children internalize "a stringent morality based on fear and trembling," Bettelheim warns, they will live out their lives on a primitive ego, one

which prefers the experience that gives immediate pleasure, and, although they may acquire bits of knowledge and skill, they will remain essentially uneducated and uneducable. The more present oriented the culture, it seems safe to say, the less stringent will be its morality and the less that morality will be based on fear and trembling. (Banfield, 1991, p. 17)

Those who live this way can only think of what is immediate. The negative consequences of their actions lie in a future that seems too far away to warrant attention. It is not that such a way of living and perception of one's self and one's world are new, but that the widespread nature of such a mindset is a new phenomenon. Locke has, in fact, spoken of this same disposition, though obviously in a different time and place, in his *Some*

Thoughts Concerning Education:

He that has not a mastery over his inclinations, he that knows not how to resist the importunity of present pleasure, or pain, for the sake of what reason tells him, is fit to be done, wants the true principle of virtue and industry, and is in danger never to be good for anything. This temper, therefore, so contrary to unguided nature, is to be got betimes; and this habit, as the true foundation of future ability and happiness, is to be wrought into the mind as early as may be, even from the first dawns of any knowledge or apprehensions in children; and to be confirmed in them by all the care and ways imaginable by those that have the oversight of their education. (Locke, 1892, p. 29)

In the West, at least, this predominant failure to think in terms of the future has had and continues to have disastrous results. If one is going to work for the well-being of oneself and one's partner, then this self-destructive thought process and the behaviours it engenders will have to be seen and perceived as profoundly dangerous. Locke remarks on the need to teach people to think from an early age in terms of more than just the present moment. That has implications for pedagogy and educational policy. What remains to be seen is whether or not those who haven't been trained in this fashion as children can learn to think this way as adults. J.C. Greene in his essay entitled "Huxley to Huxley" notes rather pessimistically that "history affords little assurance that men or women, either

individually or collectively, will choose the general welfare of mankind in preference to immediate personal or national advantage.” (Morris, 2003, p. 366) Perhaps Greene is correct; however, the ethic under consideration here and the long-range thought process being advocated here have bearing not only on “the general welfare of mankind,” but on the individual who is confronted with an ethical decision in the present. The decisions made by persons in the present will undoubtedly affect the future of themselves and those they care about. If they can be brought to this realization and helped to see the potentially self-destructive nature of present-orientedness, they will see that they have a stake in living with a long-range perspective.

Unless this tendency to do damage to one’s own and to others’ future well-being because of a fixation on present and immediate gratification can be acknowledged and addressed on a large scale, human lives and bodies will continue to be ravaged by diseases and injuries caused by short-sighted and callous self-indulgence. Any ethic that seeks to exercise positive influence on human behaviours in this current milieu will only have substantive power and influence if there is governmental, educational, and familial acknowledgment of the need for promoting and teaching a nation’s future citizens long-range reasoning regarding sexual behaviour.

5.13 *The Implications of Human Needs for Reproductive and Gestational Ethics: Some Common Sense Conclusions*

When one takes into account the actual nature of developing adolescent minds and bodies and the physical effects of premature initiation of sexual activity; when one considers the potential negative effects of adultery and promiscuity on people of all ages; and when one understands the actual effects of STD’s, substance abuse, and violence on babies developing *in utero*, then it becomes obvious that the nature of human beings and

the way that they are built commends certain reproductive and gestational ethical understandings and behaviours to any thinking person who seeks to advance human well-being. It was stated at the outset of this work that a human needs-based ethic which advocated human thriving and well-being would have potential for success if a particular axiomatic statement could be accepted as its basis. That axiom states that human life is a great good, and that because it is, all humans should work for the thriving of themselves and others. If one really believes this and, ultimately, if one lives as though this is so, then the values deduced from consideration of what people need in order to thrive become reasonable and compelling.

What is necessary for the thriving of human life? What do human beings need in order to flourish? As the inquirer into these issues makes his or her way forward, the actual design of human bodies indicates very clearly what is necessary for their reproductive and sexual health and well-being. Reflecting on the data, it is clear that certain behaviours are consonant with one's own good and the good of others, whereas other behaviours put well-being in jeopardy. This chapter underscores the idea that people concur about the majority of sexual values across cultures. These values are so clearly stated that, generally, there is widespread agreement regarding what is age-appropriate for young children.

As the ethical researcher moves from the very young to the adolescent, the constitution of developing human bodies indicates that premature sexual debut, that is sexual intercourse before a young woman is finished with the Tanner Stages of Development, puts her at a great risk for numerous diseases. The facts indicate that young men are not psychologically or cognitively ready to initiate sexual activity before they

have attained some degree of emotional maturity above that of the average teen male. The physical facts of sexual and psycho-sexual development suggest that certain ethical values be taught to the young: values based on the design of their bodies and minds which emphasize delaying sexual debut until their bodies are stronger, and they are mature enough to handle the potential consequences of sexual intercourse.

The effects of marital unfaithfulness and of promiscuity upon people of all ages demonstrate that the human body is not well suited for multiple sexual partners. The specifics of the sexual makeup of human beings point toward mutual monogamy as the path most in keeping with the health and well-being of adults.

Regarding pregnancy, the use of potentially harmful substances has been addressed because of the negative outcomes that they produce in the development of babies *in utero*. On the basis of the facts regarding what is necessary for the health and well-being of the mother and her developing child, the process of gestation itself and its inherent vulnerabilities commends courses of action that facilitate natural development and that avoid deleterious substances and situations.

Norms from biology, anatomy, physiology, epidemiology, nutrition, and psychology have all been employed in the argumentation used here. The norms of physical well-being used in the fields of medicine, nutrition, psychology, and the various sciences presuppose connections between fact and value. These differing fields depend upon evaluative premises for the actual definitions of what they claim is constitutive of health. Which is to say that these disciplines all marry value and fact. Given this realisation, it is curious that moral philosophy tends to divorce them. The approach to ethics advocated here is one driven by a commitment to the well-being of ourselves and

others. To be ethically virtuous, by this account, is to seek to foster the well-being of others and ourselves in accordance with the design of the human organism. The person who undertakes to live this way acts in keeping with the way their world is and the way that human beings are. Though some claim that it is not possible to reason from facts to values, from a natural law perspective, in ethics, as in the other disciplines, the design of the natural world and the design of human bodies commends certain reproductive and gestational behaviours as being in keeping with the health and well-being of ourselves and others.

As has been seen here, David Hume has not demonstrated that one cannot reason from fact to value. He has not even laid claim to having done so. He merely called attention to the necessary role of sentiment in the ethical reasoning process. This does not reduce ethics to mere sentiment inasmuch as Hume believes that all human beings share a common nature, making the moral perceptions which tie cognition and sentiment together a universal phenomenon (EPM, 1.172-173). Hume's emphasis upon sentiment in moral reasoning was here seen to be accurate for the most part, posing no real obstacle for natural law reasoning. The degree to which Hume emphasises the emotions in the moral reasoning process appears to have begun the trend toward non-cognitive ethical thought. It is questionable that Hume would approve of where this trajectory has led.

It has been seen here that G.E. Moore was not attempting to address the issue of whether or not values may somehow be deduced from facts, but was primarily concerned with the word 'good' and its definition. Although he opposed naturalistic definitions of good, he did not attempt to forbid or condemn naturalistic ethical thought or reasoning overall. Therefore Moore clearly poses no serious philosophical challenge to the current project. Moore was seen to have set afoot the trend towards doing meta-ethics.

J.L. Mackie, unlike the prior two philosophers, does indeed oppose natural law reasoning, inasmuch as he claims that there are no such things as objective moral values. He opposes any theory which states that there are such entities. Mackie's primary arguments, the argument from relativity and the argument from queerness, were both seen to be answerable and refutable. What casts the most doubt upon Mackie's claims is his own inability to consistently live and act as though they are true. Mackie does a service to natural law in forcing the natural lawyer to make a clear and important

distinction. Natural law does not state that objective moral values have an objective existence comparable to the Platonic forms. Rather, a broad-based approach to natural law is one which sees this world as being value-laden as regards human beings. Natural lawyers do not look for objective moral values inscribed on the “fabric of the universe,” but rather they “extract” moral values from that fabric by considering it in terms of human beings and their specific needs. Nature and human nature are the contexts of human moral philosophy, and the objectivity of the sort of moral values which I am arguing for resides in the type of creatures which human beings are and in what makes for their flourishing.

In Chapter IV, the most popular natural law theory of the present time, that of Grisez, Finnis, and Boyle, was seen to be well-reasoned but quite complex, especially in terms of teaching and practice. It was rejected because of its failure to use the ‘design’ or make-up of human beings as a guide for identifying what promotes well-being.

Aristotle’s concept of ‘right desire’ as a secondary means of accessing moral truth (alongside ‘right reason’) was set forth as explained by Mortimer Adler. This was then supplemented by Donnelly’s concept of the “normative guidance” of facts (NLAN, p. 126). The combination of these two strategies supplies the moral agent with ways to use both sentiment and reason to identify right and wrong. In this chapter, I also proposed a particular form of pedagogy which I claim has unique motivational power.

Lastly, in chapter V, I have given an instantiation of how my theory may be used to arrive at ethical prescriptions and prohibitions. As was stated at the outset, this kind of prescriptivity is minimal. If such prescriptivity is to avoid arbitrariness, then it can only assert what the facts of nature suggest to the intellect. Such prescriptivity is clearly less

than that which a theory of the virtues or a religious ethical code will set forth. It must speak in terms of probabilities. Nonetheless, it has the power, if one accepts my axiom, to restore at least a degree of what Anscombe calls “a law conception of ethics.” It was seen in chapter V that, in terms of reproductive and gestational health, there are facts regarding human behaviours which we neglect to the harm of both ourselves and others. Right practical reason sees these facts as ethically weighty.

The notion that one cannot validly reason from factual premises to ethical values has taken on a life of its own, such that it has assumed the status of an orthodoxy in some philosophical circles. The failure to take the facts of the natural world as regards the physical, cognitive, and psycho-social needs of human beings into consideration when addressing normativity seems a glaring and basic mistake. If philosophy seeks to identify the good life, then that life is a human life. If ethics seeks to identify right and wrong, then its measure must be defined in human terms. Moral philosophers do well to remember Pope’s declaration that “the proper study of mankind is man.” (Pope, 1870, p. 225)

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