



Applied Ethics

Life, Environment and Society

Edited by Center for Applied Ethics and Philosophy

Center for Applied Ethics and Philosophy
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Introduction

This collection of essays is the final summation of the Third International Conference on Applied Ethics held at Hokkaido University on November 21-23, 2008. This conference is organised by the Center for Applied Ethics and Philosophy.

The purpose of this collection is to put together the works in the various fields of applied ethics written from different perspectives, all of which were presented at the conference. Earlier versions of the collected essays in this book appeared in the *Proceedings for the Third International Conference on Applied Ethics*.

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Center for Applied Ethics and Philosophy
Hokkaido University
Sapporo, Japan

Contributors

Aryya BHATTACHARYA, is the Head of the Department of Philosophy, at Vivekananda College for Women under the Calcutta University. She has completed her PhD from Jadavpur University on knowledge of other minds. Her area of specialization is philosophy of mind, ethics and aesthetics. She has presented papers in various seminars including the Asiatic Society where she spoke on *Advaita Saivism of Kashmir*. She studied Japanese language at Indo-Japan Language Society, Calcutta. She has studied Indian religion and philosophy under the guidance of her spiritual teacher Anantasri Sitaramdas Omkarnath

Serra İnci ÇELEBİ, PhD is a lecturer in public relations at Yaşar University in Turkey. She is the co-author of a book entitled *Marketing PR* (MediaCat, 1999). The author has been involved in several international conferences (e.g., in Cyprus, America, Slovenia, Dubai, Thailand, China, and Japan) and has publications in the *Corporate Communications: An International Journal*, *Journal of Yaşar University*, and book chapters.

Wan-ling CHOU is a PhD student of the Department of Philosophy of National Central University, Taiwan, ROC. She has assisted in research projects such as 'Inquiry into the Optimal / Quality Life of Sustainable Development and Its Agenda' and others. Her main research interests are Confucianism, bioethics, ethics of science and technology including genetic and neuroethics. Her publications include 'Liberalism and Confucianism on Genetic Justice,' 'Confucian Family Consent vs. Western Individual Consent: An Ethical Analysis' and others.

Yicheng CHUNG received her MA in Applied Ethics in Utrecht University (NL) and is expecting to begin her PhD. Her main research field is medical ethics, which includes topics such as the end-of-life care for the terminally ill patients and the reproductive technology versus reproductive right. She is interested in integrating ethical theories with traditional Chinese cultures and developing new perspectives towards the end-of-life cares.

Frederic GILBERT, PhD is a postdoctoral fellow at NovelTechEthics with States of Mind: Emerging Issues in Neuroethics, and Therapeutic Hopes and Ethical Concerns: Clinical Research in the Neurosciences, funded by CIHR. Prior to his present position at NTE, Frederic worked at the Institute for Biomedical Ethics at the Faculty of Medicine in Geneva.

Li-Yun HUANG is a PhD student of the Department of Philosophy of National Central University, Taiwan, ROC. She has assisted in the research project of environmental ethics of the department. Her main study interests are aesthetics, environmental ethics and environmental aesthetics.

Makoto IKEDA is a PhD candidate in Ethics at the Graduate School of Letters, Hokkaido University. He is also a research fellow of Japan Society for the Promotion of Science (JSPS). He specializes in theories of social justice from a metaethical perspective and is interested in theories of global justice.

Masatoshi KURIYAMA is a research fellow of the Center for Applied Ethics and Philosophy, Graduate School of Letters, Hokkaido University. He studied ancient philosophy, especially of Aristotle. His main research interest is objectivity in reporting.

Shui Chuen LEE, PhD is a professor and director of The Graduate Institute of Philosophy of National Central University, Taiwan ROC. He is chief PI of the various projects of the National Project of Human Genome Medicine since 1998 and has been working on ethical issues related to the Human Genome Project. He is the founder and editor of *The Newsletter of Applied Ethics* (1997, in Chinese) and a founding member and president (2006-2008) of the Taiwan Bioethics Association. He has published three books *Philosophical Explorations of Contemporary Neo-Confucianism* (1993), *Hume* (1993) and *Confucian Bioethics* (1999) in Chinese and edited the book *The Family, Medical Decision-Making, and Biotechnology: Critical Reflections on Asian Moral Perspectives* (Springer, 2007), and co-authored *Bedside Ethical Consultation* (2008) and more than a hundred articles in journals and book chapters both in Chinese and English. His interest covers applied ethics, bioethics as well as Chinese philosophies and Kant.

Takashi MASUBUCHI, PhD is a research fellow for the Sustainability Governance Project (SGP), the Center for Sustainability Science, Hokkaido University. He is engaged in research for sustainable regional governance systems. He received a PhD in ethics from the Graduate School of Letters, Hokkaido University. His research focuses on political philosophy and applied ethics, in particular, business ethics.

Dominic ROSER is a PhD student in the University Research Priority Programme in Ethics at the University of Zurich. He studied philosophy and economics in Bern, Oxford, and Geneva. His research focuses on political philosophy, in particular questions of climate justice and normative aspects of climate economics.

Makoto SUZUKI, PhD is a research fellow at Nanzan University Institute for Social Ethics, Nagoya, Japan. He received his BA and MA in letters from Kyoto University, and his PhD in philosophy from The Ohio State University. His research interests include moral philosophy, moral psychology and history of modern philosophy.

Heather P. TARLETON, MPAP, PhD is a researcher at the University of California, Los Angeles (UCLA) School of Public Health and was Principal Investigator of a National Science Foundation grant for Ethics Education in Science and Engineering (EERE). She received a PhD in Molecular Biology from Princeton University and a Masters degree in Public Affairs and Politics from Rutgers University.

Tetsu UENO, PhD is a research associate at the Department of Educational Philosophy, Graduate School of Education, Hiroshima University. He specializes in professional ethics education. He is currently engaged in the support program for graduate school educational reform “Development and Practice of EdD Type Program in Doctor’s Course” run by Hiroshima University. His recent publications include ‘Philosophy Education through Art for Art College Students,’ *Annals of the Art Education Society of Japan*, 292 (2009), pp.94-97, and ‘On Contradictory Approaches to Teacher Quality Improvement within the Government,’ *Education Law Review*, 37 (2008), pp.183-191.

Hon Chung WONG is a PhD candidate of Graduate Institute of Philosophy of National Central University and adjunct lecturer of Center for General Education and Core Curriculum of Tamkang University, Taiwan ROC. He is also member of the editorial board of *Legein Monthly* (2006- present), a journal of philosophy published in Taiwan. He has assisted in research projects such as the ELSI of stem cell research, Taiwan Biobank project and others. His main research interests are Bioethics, Confucian Philosophy and Kant. His publications include ‘A Study on Kant’s Metaphysical Deduction,’ ‘Regulations for Human Embryonic Stem Research in East Asian Countries: A Confucian Critique’ and others.

Applied Ethics : Life, Environment and Society

Chapter 1

A Defense of Response-Dependent Account of Well-being

Makoto SUZUKI

Well-being, welfare, or happiness—what makes our life well-off—is an important concept in prudence and ethics, including applied ethics. Ethical theorists have tried to provide an account of well-being, which tells us what, if actualized, would count as an intrinsic component of well-being¹ and why. However, none of the dominant accounts of well-being, i.e., Hedonism, Desire-Satisfaction theory, and Objective theory, has gained a consensus. This article considers the problems and merits of Desire-Satisfaction account, and proposes a new account that avoids its problems while preserving its merits. The view is still a response-dependent account, for well-being consists in a certain relationship to mental state, but it also borrows some insight from Hedonism.

1. Where the Response-Dependent Account of Well-being Is Now: The Problems and Merits of Desire-Satisfaction Account

Many philosophers have criticized Desire-Satisfaction theory, according to which the intrinsic components of well-being are the objects of desire, i.e., either present desire or desire had under certain conditions, such as full information. They point out the following problems for this dominant response-dependent account.

The first four problems suggest that Desire-Satisfaction account is too broad in that it counts as a component of well-being something that is intuitively not.

P1. [Desiring Valueless Things] Desire-Satisfaction account makes a valueless thing good for someone if it were desired by her (under certain conditions). Consider the *grass-counter* example (Rawls 1972, 432). A mathematician, fully informed about the options available to him, develops a desire to count blades of grass. According to Desire-Satisfaction account, grass counting is good for him, but this appears incorrect (Crisp 2006, 9).

P2. [Desiring Something Unrelated to One's Own Life] Something desired by someone might be valuable, but not intuitively a component of her well-being. Suppose that you are travelling in a foreign country and ride in the same train with a total stranger. You then desire (under certain conditions) that the stranger's life will go well. According to Desire-Satisfaction account, if the stranger's life goes well, *you* are better-off. This is counter-intuitive. Though the total stranger's life going well is valuable, this is not necessarily part of your well-being. Intuitively, a component of your well-being, what makes your life go better, must have something to do with your own life. However, this object of the desire, the total stranger's life

going well, is unrelated to your own life, intuitively understood (Parfit 1984, 494; Griffin 1986, 16-7; Sumner 1996, 125; Scanlon 1998, 114-5).

P3. [Heteronymous Desires] According to Desire-Satisfaction account, a person becomes well-off if she acquires a desire through heteronymous processes—addiction, obsession, insanity, adaptation to conditioning, hypnosis or brain surgery—and the desire is satisfied. However, this is counterintuitive (Elster 1982; Sen 1987, 45-6). If, for example, a person desires smoking or using drug only because of her addiction, that does not make it good for her.

P4. [Easily Satisfiable Desires] According to Desire-Satisfaction account, if a person gains easily satisfiable desires (under certain conditions), she will become well-off with these desires satisfied. This is also counterintuitive (Parfit 1984, 497; Scanlon 1998, 121).

The next problem suggests that Desire-Satisfaction account is too narrow in that it fails to count things that are intuitively components of well-being.

P5. [Unwanted Components of Well-being] Something is good for a person even if she does not and would not desire it if fully informed. Suppose you have no desire to read a physics textbook. If you were fully informed, in particular, if you had all the information included in the textbook, you would not want to read it. However, reading the textbook might be good for you if, say, you unexpectedly find reading it gratifying (Railton 2003, 36n15 & 54).²

The next problem suggests that Desire-Satisfaction account might wrongfully delimit the types of beings that can be better or worse-off.

P6. [Sentient Beings without Desires] Many non-human animals and some human beings, say, babies, might not have desires (Frey 1980). Still, it will make sense to talk about their well-being insofar as they can feel pleasure and pain.

The next problem suggests that Desire-Satisfaction account fails to capture the phenomenology of desiring subjects.

P7. [Desires do not Make Things Good] Desire-Satisfaction account takes desire satisfaction as either a good-making characteristic or the property of being good (for someone). But we desire things, such as writing a great novel, because we think those things are independently good; we do not think they are good because they will satisfy our desire. Desire itself provides no reason to pursue the desired thing (Wiggins 1998, 104-5; Quinn 1993, esp. 236-7; Scanlon 1998, 41-9; Parfit 2001).

The last problem suggests that Desire-Satisfaction account fails to capture the normativity of well-being.

P8. [Well-being as the Standard for Desire] Being good for someone is normative. Supposedly we can criticize not desiring what is good and desiring what is not good. For example, we should be able to criticize desiring torture for its own sake. However, according to Desire-Satisfaction account, there is no legitimate way to criticize desires if we attain these desires under certain conditions (Parfit 2001, 26-7).

These problems suggest that Desire-Satisfaction account is mistaken for making well-being dependent on desire. However, this account also has the following merits.

M1. [Securing the Relationship between Well-being and Desire-Satisfaction]

Desire-Satisfaction account vindicates our intuition that when our desires are satisfied, we usually get happy, and when our desires are not satisfied, we usually get unhappy.

M2. [Internalism] Desire-Satisfaction account vindicates internalism: if x is good for someone, she would desire and be motivated to acquire x under certain conditions (Railton 2003, Ch.1 & 2).

Other accounts of well-being, for example, Objective theories, have trouble vindicating these two intuitions. For, according to such theories, things like knowledge, (the exercise of) virtues, friendships, and achievements are good for someone without any non-accidental relationship with her desire (Kagan 1998, 40).

M3. [Various Components of Well-being] Individuals desire varieties of things, mental or non-mental. Thus, Desire-Satisfaction account is consistent with our intuition that various kinds of things have values. Other accounts of well-being, for example, Hedonism, have trouble here because, according to these theories, only certain mental states are valuable. Imagine that you are offered a chance to plug yourself into an “experience machine” for a life, which can give you any experience; you would not know you were on the machine, and the machine would not break down. You would not think that it is wise, however, from the point of your own well-being, to plug in. This famous thought experiment suggests that things other than your (pleasant) experiences are valuable for you (Nozick 1974, 42-5).

M4. [Sensitivity to Individual Differences] I might desire the things you do not desire, and I might not desire the things you do desire. Thus, Desire-Satisfaction account vindicates our intuition that what is good for someone might be different from what is good for others. Other theories of well-being, such as Objective theories, have trouble accommodating this intuition. For, according to these theories, certain things—for example, knowledge, (the exercise of) virtues, friendships, and achievements—are (intrinsically) good for any individual, while the other things are not (intrinsically) good for any individual (Griffin 1986, 54-5).

M5. [Diminishing Marginal Utility] Desire-Satisfaction account vindicates diminishing marginal utility; as a human being’s desire for the same type of things typically gets weaker as she receives more of it, the marginal utility gets smaller. Other accounts of well-being, for example, Objective theories, have trouble vindicating this point. According to these theories, the goodness of things like knowledge, (the exercise of) virtues, friendships, and achievements do not depend on any attitude of individuals.³

M6. [Unified Account] Desire-Satisfaction account specifies the essential characteristic for all the components of one’s well-being: they are desired (under certain conditions). Thus, Desire-Satisfaction account explains why good things are good—good things are good because they are desired (under certain conditions). Desire-Satisfaction account also makes the (intra-personal) comparability of each component of well-being intelligible: the components of one’s well-being are comparable with one another in terms of how strongly they are desired (under certain conditions). Other accounts of well-being, such as many Objective theories, face a difficulty here. According to them, there is nothing common between various types of good, like knowledge, (the exercise of) virtues, friendships, and

achievements (Kagan 1998, 40).⁴

M7. [Naturalism] Desire-Satisfaction account analyzes well-being in terms of the natural, i.e., non-evaluative, characteristics of being desired (under certain conditions) or of its reduction bases (Railton 2003, Ch.1).

These merits suggest that Desire-Satisfaction theory is appropriate for making well-being dependent on one and the same mental response that is naturalistically characterized. Desire-Satisfaction account faces the problems because it renders well-being dependent on desire, yet has merits because it is such a response-dependent account. Thus, we should look for a response-dependent account, which makes well-being dependent on another mental state.

2. Borrowing Some Insight from Hedonism: Gratification Account

Then, what mental state should we look to? The promising answer is gratification or enjoyment, an affective non-judgmental reaction that is, unlike desire, of a certain experiential feel⁵ and not necessarily future-directed. While one can desire only those things that she thinks can be realized in the future, she can be gratified by what happened in the past, is happening now, and may happen in the future. The mental state of gratification is a promising candidate for a few reasons. As recognized by hedonists, who take pleasure and absence of pain as the sole components of well-being, we change our desire by the expectation of what would gratify us. We also persuade others to desire and pursue something (or to stop them from desiring and pursuing it) on the basis of the expectation that it (or its absence) would gratify them if that occurred and they knew the fact.

Thus, well-being should be analyzed in terms of what would gratify the subject. A state of affairs is intrinsically good for someone just in case, and because, if obtained, she would be either gratified in it, or gratified at it if she knew the fact. My feeling pleasure is good for me because feeling pleasure is a way of gratification: that is, I would be gratified *in* it. My health is good for me because my health would be the intentional object of my gratification: that is, I would be gratified *at* it if I were healthy and knew the fact. Note, among many things that might cause gratification, only those that would be the intentional object of gratification are intrinsically good; the rest are only instrumentally good.⁶

This 'Gratification account' agrees with Hedonism that without certain experiential states—episodes of pleasure, enjoyment or gratification—nothing would be good for anyone. Thus, both views capture the intuitive idea that one's well-being ultimately depends on the existence of his consciousness: if the consciousness is lost, he can never be well-off (or bad-off, for that matter). Gratification account and Hedonism also share the view that something will be good only when it is related to gratification. While they both hold that one's gratification is intrinsically good for her and the things that contain or cause it are instrumentally good; Gratification account adds that the intentional objects of the gratification are intrinsically good for her and the things that contain or cause the objects are instrumentally good. Thus, according to Gratification account, many non-mental states of affairs can be intrinsically good for someone, because they can be the objects of her gratification.

This departure from Hedonism is plausible. It is prudent for someone to pursue all and only those things that she would enjoy. However, plausibly it does not mean it is prudent for her to pursue only pleasant experiences. It is prudent for her to pursue not only pleasant experiences, but also the things that she would be gratified at if they occurred and she knew the occurrence. All and only those things that are prudent for her to pursue (for their own sake) are the (intrinsic) components of her well-being. Thus, Gratification account is more plausible than Hedonism for admitting that many states of affairs, mental or non-mental, can be intrinsically good for someone because they can be the intentional objects of her gratification.

One aspect of the departure from Hedonism is that one can be more or less well-off without actually feeling anything. I might not know I am healthy and fail to be pleased at the fact. In such a case, according to Hedonism, I am not better-off, because I feel no pleasure from being healthy; in contrast, according to Gratification account, I am better-off, because I would be gratified if I knew the fact that I am healthy. This implication is intuitive. My health is intrinsically good for me whether or not I realize it.⁷

3. Gratification Account Avoids the Problems and Inherits the Merits of Desire-Satisfaction Account

The following is an explanation of how Gratification account avoids the problems Desire-Satisfaction account faces: being too broad; being too narrow; excluding the proper subjects of well-being; failing to capture the phenomenology of desiring subjects; and the normativity of well-being.

P1. [Desiring Valueless Things] Desire-Satisfaction account makes a valueless thing good for someone if it is desired by her. Gratification account doesn't. If someone desires a thing that she would not be gratified in or at (if it obtained and she knew that), it would not be good for her. This fits our intuition. Now, according to Gratification account, if someone desires a thing that she would be gratified in or at, it would be good for her. But then the thing is not intuitively valueless, for whatever someone would be gratified in or at is apparently valuable for her. Consider again the *grass-counter*. If the subject were not gratified at counting blades of grass, it would not be good for him even if he desired it. However, if he were gratified at it, it would be somewhat good for him.

Some might argue that Gratification account makes an obviously offensive thing good for someone as badly as Desire-Satisfaction account. For example, if one were gratified at harming others, it would be good for her (Rawls 1972, 30-1). If one were gratified at evading punishment for harming the victims, it would again be good for her. However, this is not counterintuitive. Gratification account is a theory of well-being and not of moral good or all-things-considered good. Seemingly, if one is gratified at harming others, it is probably neither morally good nor all-things-considered good, but the person is still better-off. Apparently, if she is gratified at evading punishment for harming the victims, it is probably neither morally good nor all-things-considered good, but the person is still better-off. Actually, morality and punishment are necessary partly for preventing someone from getting better-off by

harming others and getting away. To make sense of this intuition, we should admit that someone is better-off if he would be gratified at harming others and evading the consequences; this is what Gratification account implies.

P2. [Desiring Something Unrelated to One's Own Life] Gratification account vindicates the intuition that desired things might be a value, but not a component of the subject's well-being. Return to the supposition that you desire that a total stranger's life goes well. It is not part of *your* well-being if you would not be gratified if the stranger's life went well and you realized that. Sure, if you were gratified it would be part of your well-being according to Gratification account. This is intuitive, however, because your interest would be apparently promoted. Thus, Gratification account properly distinguishes values between what constitutes well-being and what does not.

P3. [Heteronymous Desires] That desires can be attained through heteronymous process—addiction, obsession, insanity, adaptation to conditioning, hypnosis, or brain surgery—poses little problem for Gratification account. According to the account, if the addicted person ceases to be gratified at smoking or using drugs that is not good for him. Of course, insofar as the addicted person is gratified at smoking or using drugs, that is somewhat good for him. That is not counterintuitive, however. The gain of well-being will be outweighed by the loss of well-being in facing the subjection to drugs and the withdrawal symptoms that she would be gratified at avoiding.

P4. [Easily Satisfiable Desires] According to Desire-Satisfaction account, if a person has easily satisfiable desires, she would become well-off. According to Gratification account, however, if she would not be gratified at their satisfaction, she would not become well-off. Sure, if their satisfaction were gratifying, she would become somewhat happy, but this result is intuitive. Suppose scratching your head is gratifying to you and you desire to scratch your head. This desire is easily satisfiable, and when the desire is satisfied you will still become somewhat well-off.

P5. [Unwanted Components of Well-being] Something seems to be good for a person even if the person does not and would not desire it even if fully informed. This point is consistent with Gratification account. Suppose, again, you have no desire to read a physics textbook. If you were fully informed of the text, you would not want to read it. Reading the textbook would still be good for you if you would be gratified at reading the textbook. This result of Gratification account is intuitive.

P6. [Sentient Beings without Desires] Even if non-human animals and some human beings have no desires, it makes sense to talk about their well-being insofar as they can feel pleasure and pain. Gratification account vindicates this intuition. Even if a person cannot have desires, she can become more or less happy. She would become happy if she gets what would gratify her, including the absence of pain. In contrast to other theories, Gratification account selects the proper class of welfare subjects.⁸

P7. [Desires do not Make Things Good] We desire things, such as writing a great novel, because we think those things are independently good; we do not think they are good because they will satisfy our desire for them. This thought is compatible with Gratification account. Given Gratification account, we are right

in thinking that things are good for us not because they satisfy our desires; they are good independently of desires. Things are good for us because we would be gratified in or at them. According to Gratification account, while desires do not make things good, gratification in or at something is a good-making characteristic. This understanding of a good-making feature is intuitively plausible.

P8. [Well-being as the Standard for Desire] According to Desire-Satisfaction account, there is no way to criticize our desires if these desires are attained under certain conditions. According to Gratification account, however, there is such ways. These desires can be criticized as being imprudent if they are directed at what we would not be gratified in or at (if it obtained and we knew that). For example, suppose you desire that you become a professional philosopher. Given Gratification account, the desire can be criticized as being imprudent if you would get no pleasure out of knowingly becoming a professional philosopher. Desires are more imprudent if they are directed at what we would be gratified in or at its absence (if the absence obtained and the subject knew it). For instance, suppose you desire that you are tortured. This desire can be criticized as being imprudent because you would be gratified at the absence of torture. Further, if we do not desire the things that we would be gratified in or at (if they obtained and we realized it), our lack of the desires can be criticized as being imprudent. For example, suppose you fail to desire that you avoid suffering. Your lack of the desire can be criticized as being imprudent because you would be gratified at avoiding suffering.

In addition to avoiding the problems of Desire-Satisfaction account, Gratification account inherits its merits.

M1. [Securing the Relationship between Well-being and Desire-Satisfaction] Gratification account vindicates our intuition that when our desires are satisfied, we usually become happy, and when our desires are not satisfied, we usually become unhappy. We generally desire what would gratify us, so what satisfies our desires usually coincides with what makes us happy..

M2. [Internalism] Gratification account vindicates internalism. The internalism it satisfies is as follows: if x is good for someone, she would desire and be motivated to pursue x if she were prudent. If a person is prudent, she would desire and be motivated to pursue what she would be gratified in, or gratified at if it happened and she knew the fact. Because what she would be gratified in or at is what is good for her, this internalism turns out to be true.

As for these two points (M1 and M2), Gratification account improves upon the Objective theories of well-being. Objective theories tend to have trouble securing the relationship between well-being and desire, and vindicating internalism. According to Objective theories, certain things are good for someone without any non-accidental relationship with her desires.

M3. [Various Components of Well-being] Gratification account is compatible with our intuition that various states of affairs have values. Because we would be gratified at various things if we knew their occurrence, various states of affairs, including non-mental states, are good for us. This is so even if we actually fail to know their occurrence and are not gratified. Gratification account improves here upon Hedonism.

M4. [Sensitivity to Individual Differences] Gratification account vindicates our intuition that good for someone might be different from good for others, for each person is gratified at different types of things. Objective theories tend to have trouble accommodating this intuition. According to such theories, certain things, such as knowledge, (the exercise of) virtues, friendships, and achievements, are good for any individual, and the other things are not good for any individual. Thus, Gratification account improves here upon Objective theories of well-being.

M5. [Diminishing Marginal Utility] Gratification account vindicates diminishing marginal utility because, the more instances of a thing people have enjoyed, the less gratified would they be at its next instance. Objective theories generally fail to vindicate diminishing marginal utility because, according to these theories, the goodness of things does not depend on any attitude of individuals.⁹ Thus, Gratification account improves here upon Objective theories.

M6. [Unified Account] Gratification account unifies the components of well-being, and makes their comparison intelligible. All things are good for someone only if, and because, they would gratify her: that is, she would be either gratified in them, or gratified at them if they occurred and she knew the fact. We can thus compare the components of well-being in terms of how gratifying they would be. According to many Objective theories, there is nothing common between various types of good, like knowledge, (the exercise of) virtues, friendships and achievements.¹⁰ Thus, Gratification account improves upon them in unifying power.

M7. [Naturalism] Gratification account analyzes well-being in terms of the natural characteristics of gratification or its reduction base.

Conclusion

Thus, Gratification account avoids several problems of the dominant response-dependent account, Desire-Satisfaction theory, but keeps its merits. Gratification account improves on Hedonism by incorporating its insight through making well-being dependent upon gratification, while allowing non-mental states to become components of well-being. Gratification account also fares better than many Objective theories of well-being in several respects: securing the relationship between well-being and desire; justifying internalism; being sensitive to individual differences; giving a unified account; and vindicating diminishing marginal utility. Thus, Gratification account might well be an improvement over the dominant accounts of well-being.

Notes

- 1 By an “intrinsic” component of well-being, I mean a component of well-being that is good (for someone) for its own sake, and not merely instrumentally good (for someone), that is, good (for someone) for being a causal or metaphysical condition of such a component.
- 2 Railton’s Desire-Satisfaction account avoids this problem by appealing not to what the subject would desire if informed, but to what his informed self would desire his non-informed self to desire in his present situation (2003, 11 & 54). This solution has another problem:

- the informed self might desire the non-informed self to desire (or not desire) something not because of the quality of the thing but because of the quality of desiring it, though the latter consideration is intuitively irrelevant to whether it is (intrinsically) good for the person. And it is hard to distinguish the quality of the thing from the quality of desiring without circularity, i.e., without using the concept of well-being or its cognates.
- 3 Objective theories of well-being can partly (but only partly) accommodate sensitivity to individual differences and diminishing marginal utility by including response-dependent elements into the components of well-being.
 - 4 Among Objective theories of well-being, Perfectionist theories claim that there is something common between various components of well-being: they all constitute the life of perfection. However, these theories must define what perfection is and then justify the identification of contribution to perfection with contribution to well-being.
 - 5 at least when the subject is conscious of the gratification (it is perhaps possible that she fails to be conscious of the gratification)
 - 6 Sumner 1996 characterizes welfare as power to evoke psychological happiness (173), which renders the distinction between intrinsic good and instrumental good unclear.
 - 7 This implication and the characterization of gratification as *ex post* affective *non-judgmental* reaction—which many non-human animals can have—distinguishes my account from what Griffin 1986 calls the “enjoyment account” (18-20) and Sumner 1996’s “happiness theory” (Ch.6).
 - 8 See, for example, Sumner 1996, 75-6 for the problem of perfectionist Objective theories, which take well-being to consist in excellences in the subject’s essential function(ing)s in delimiting the class.
 - 9 See Note 3.
 - 10 See Note 4.

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Chapter 2

The Discount Rate: A Small Number with a Big Impact

Dominic ROSER

Introduction

There is a small, inconspicuous parameter in the midst of many lines of formulae in economic models of climate change that generates hot debates. The discussion of this number made it into the popular press and forced economists to delve into moral arguments and conversely prompted moral philosophers to work on mathematical expressions. Both sides found each other amateurish at times and even professional commentators made mistakes (Quiggin, 2008, p. 201). The parameter in question is the discount rate. This number expresses how much less something in the future counts than the same thing today.

The real-world relevance of this technical debate should not be underestimated. The choice of the discount rate dwarfs almost any other aspect of economic models of climate change. These models can be further refined or increasingly sophisticated, but when it comes to the results they yield, the scientific and philosophical disagreements about the discount rate make all the difference. Many economists – most famously William Nordhaus – are on the side of those who warn against rash or costly action against climate change. Other economists – most notably, Nicholas Stern – call for urgent action. Their disagreement is above all explained by their different choice of discount rates. This choice has huge effects: William Nordhaus (2008, chapter V) estimates the net cost of basing policy on Stern’s views to be around \$20 trillion. Tol (2008, p. 3) demonstrates that a discount rate of 0% estimates total damage from a ton of CO₂ to be more than ten times higher on average than a discount rate of 3%.

When economists calculate the costs and benefits of climate change this is more than “academic gymnastics”: They are *heard* in the policy arena. Particularly, in the United States, cost-benefit analysis is given high priority. The Stern report had a huge impact on the media and served as an authority in innumerable arguments made on behalf of stringent climate policy. So, contributing to the discussion on the discount rate can have a real effect on whether ice caps will melt or not.

What about this number has the potential to bring about so much discussion and disagreement? If a climate economist has to express the damage done by a ton of CO₂, he will come up with an estimate of the damage it does each year and add those damages up. In adding up, he will value damage done in the future much less than damage done today. With a discount rate of 3%, damage of 100 units in 100 years will be valued as only about 5 units today. Many economists will go on to claim that preventing damage of 100 units in 100 years is therefore not worth more investments into mitigation measures than about 5 units today – otherwise the Net Present Value

of the measure would be negative. If you scale up the length of the time frame and calculate how much it might be worth to prevent catastrophic climate change, which, say, wipes out half of global welfare in 200 years, then by the same reasoning such catastrophic damage would only be valued today at around 0.3% of the damage it would do in 200 years. According to this logic, it seems that such a catastrophe is not worthy of much attention. But this kind of thinking is shocking to many. Damages in the future, so it seems, should not be seen as less important than damages in the present simply because they accrue at different points in time.

But is this really so? In many cases, valuing one and the same good differently depending on time seems completely natural. Imagine that you find out that 100 years ago your mother borrowed \$5 from your neighbour and that you now want to give the money back to your neighbour's family. How much should you give back to them? If your neighbours had kept the \$5 and had invested the money with an annual return of 3%, it would have grown to around \$100 today. \$5 accruing 100 years ago corresponds in value to \$100 today. (Notice that this is not only due to inflation. Typically, there is a positive (real) interest rate even without inflation). So, it *does* seem appropriate to value the same good vastly differently at different points in time even though this seemed implausible in the climate mitigation case. Can value be more or less valuable depending on time? Clearly, this paradoxical language reveals that there is a conundrum.

This article joins the debate by tackling one central question and two minor ones. The central question is: Should we discount future utility, and if yes, how much? "The future" is in particular taken to stand for future generations. In order to answer the question two senses of discounting are distinguished: Genuine discounting ("Discounting as Weighting") and "non-genuine" discounting ("Discounting as Representing Opportunity Cost"). The former is discussed in section II and is dismissed. It is dismissed not only as wrong but primarily as irrelevant. The latter is discussed in section III and is supported.

Some texts on discounting deem it sufficient to make general points and leave the reader uncertain as to how the arguments cash out in terms of their implications for economic models of climate change. Therefore, section IV summarises and discusses what section II and III amount to. One way in which this can be done is by answering two concrete questions that are examples of the kind of question to which one *must* have an answer at the end of the day (and which are useful to keep in mind while reading as questions of this kind ultimately drive the whole debate). First, should a climate mitigation measure that costs 5 units of utility today and increases utility by 100 hundred units in 100 years be pursued? Second, what is the total cost of emitting a ton of CO₂ if its emission leads to a utility loss of 1 unit per year for the next 100 years?

After the central question has been treated, sections V and VI then add discussions of two minor issues. First, does the debate on discounting treat a normative or a descriptive issue? Second, why does the discounting question have so much potential to puzzle and perplex?

A few disclaimers: First, this article is only concerned with the *utility* discount rate (also called the "pure time discount rate," the "rate of pure time preference,"

or the “inherent discount rate”). This rate tells us how to discount units of future utility rather than units of future wealth or units of future goods. For the latter, there are additional and often less controversial reasons for discounting, in particular the expectation that future generations will be better off. Typical values for the utility discount rate lie between 0% and 3% per year (cf. the numbers used by Tol, 2008, p. 3). Second, “utility” here denotes well-being or that thing that is of intrinsic value and of which it is good to have more. This is in alignment with cost-benefit analysis (of which climate economics is an example) where utility is typically seen as something that increases with wealth and possibly other factors such as environmental quality. In decision theory, the term “utility” can refer to other and more abstract concepts (e.g. whatever it is that can be portrayed as being maximized in behaviour regardless of whether the maximand is of value or is considered to be of value by the agent). I only use it because in the discounting debate it is the more common term than “well-being.” Third and importantly, I concede other controversial premises presupposed in cost-benefit analysis for the time being, particularly the premise that all values can be quantified and that all values are commensurable and count only insofar as they contribute to utility. This means *inter alia* that climate damages can in principle be weighed up by other goods, such as economic growth. The reason for bracketing such controversial premises lies in the goal of this article, which is to argue on the climate economist’s own terrain and to cut through to the debate that is *specific* to discounting. Fourth, the focus of this text lies on the question of discounting *utility of future generations* rather than *future utility within one’s own lifetime*. To simplify, I therefore assume non-overlapping generations. I also abstract from the fact that generations are composed of many persons and I thereby exclude questions of intragenerational distributive justice. Fifth, I exclude uncertainty. Finally, note that nothing in this article is specific to climate policy but applies more broadly to any policy that has effects spread out over time.

1. Genuine Discounting: Probably Wrong But Above All Unnecessary

Should we discount the utility that our descendants will enjoy simply because it occurs in the future? Presupposing impartiality, neutrality, universalizability, equality, non-arbitrariness, or any other similar moral desideratum, giving less weight to utility that accrues to future generations is at least *prima facie* implausible. This is particularly so for the theory within which the debate on discounting is at home: Utilitarianism. Economic cost-benefit analysis that has brought the discounting problem to attention espouses utilitarianism’s ideal of maximizing the sum of good regardless to whom the good accrues. With this core idea utilitarianism has no resources to come up with a rationale for counting the consequences of a policy for some persons less than the consequences for other persons. This would imply foregoing the maximization of aggregate good (where aggregate good is the unweighted sum of the good accruing to individuals). Economists might insist that they define good in terms of *preference* satisfaction, and that what must be maximized is the aggregate preference satisfaction of the *present* generation, which is the one currently deciding on policies, and that the preferences of the present

generation *do*, as a matter of fact, exhibit positive time preference. But this rejoinder solves no problems: Once one presupposes that aggregate preference satisfaction is something of importance there is no rationale why a concern with *aggregate* preference satisfaction should be limited to aggregating only the preferences of the subset of humans who live now and who decide on the policy. Given that a positive discount rate is, to say the least, not suggestive at first sight (and given that, in addition, there are worked out arguments against it; see for example the contributions by Tyler Cowen and Derek Parfit in Laslett and Fishkin, 1992), the burden of proof lies with those who argue for a positive discount rate.

One such argument for a positive discount rate (though not the most important one) is the claim that a discount rate of zero leads to a *reductio ad absurdum*. Partha Dasgupta (2007, p. 6), for example, has shown how low discount rates would lead to savings rates that are implausibly high. Given Stern's low discount rate, in an optimal growth model one should demand a rate of savings of 97.5% of all output (compare this to the current savings rate in the UK of about 15% of GDP). The idea of optimal growth models is to look for a balance between consumption and savings that maximizes discounted utility over time, where it is assumed that what is saved is invested at a positive rate of return. Another *reductio* is based on the fact that humanity potentially exists forever (or for a very long time). Even the smallest gains to an infinitely large number of future humans might, given a discount rate of zero, justify even the largest possible sacrifice of the present generation. Demanding a savings rate of 97.5% or demanding the largest possible sacrifice from the present generation are both absurd conclusions, and if the discount rate of zero should actually have such implications, it surely would have to be dismissed immediately.

But scrutinizing whether it really is the premise of a discount rate of zero that leads to such a conclusion reveals something crucial. What these arguments *actually* point out is that *if* one aims at maximizing aggregate utility and *if*, for that purpose, one weights the utility of present and future utility equally (i.e. applies a discount rate of zero), *then* one runs into a *reductio ad absurdum* (cf. Caney, 2008, p. 549). But this *reductio* can not only be evaded by giving up a discount rate larger than zero, but it can also be evaded by giving up the goal of maximizing aggregate utility. And this is the route I propose: We should not evaluate policies with effects over more than one generation by their effect on aggregate utility. Simple utilitarianism is a theory with few proponents, in particular for judging issues like climate policy. It is amazing how economists actually *did* manage to persuade politicians to see the sum of utility over the next centuries resulting from, say, the Kyoto Protocol as an important figure in the decision to support it or not. If one grants that this sum is not very relevant then the adequate response to the above *reductiones ad absurdum* becomes clear: The first conditional is to be rejected and not the second, i.e. the whole underlying theory of utilitarianism is to be rejected and not simply the discount rate of zero within utilitarianism. The latter is hardly the problem (as I did not argue but just briefly suggested in the first paragraph of this section).

What is an alternative to utilitarianism? It suffices here to sketch in a completely broad-brush manner the general thrust of a deontological alternative. Such an alternative makes a clear distinction between the effects of a policy that affect the

present generation (who decides on the policy) and those effects that affect future generations. In contrast to utilitarianism, deontological morality treats the effects of an action completely differently depending on whether they fall on oneself or on others. Within the confines of the premises mentioned in the introduction – i.e. that everything of value can be expressed in terms of utility – one plausible way of spelling out how a deontological alternative to utilitarianism takes future generations into account in present-day decision-making requires from the present generation to bequeath a certain threshold level of utility to future generations. A theory of inter-generational justice (or sustainability) could specify this level in egalitarian terms (say, as much as the present generation enjoyed) or, more plausibly, in sufficientarian terms (say, enough to lead a decent or flourishing life) (cf. Meyer and Roser, 2009) and possibly speak of this level as a right of future generations. Such a threshold principle is at odds with the utilitarianism of cost-benefit analysis: If the present generation has set aside enough resources – in the form of climate mitigation, capital formation, and so on – for the sake of future generations such that the latter can reach the required threshold of utility, the present generation need not concern itself with increasing future utility any further (though it may of course do so, for example because of beneficence or because of the warm glow of imagining one’s descendants well off). If a policy would yield huge benefits to the future at low costs to the present, the present generation would have no duty to pursue it. Conversely, if the present generation has not set aside enough resources to lift the future generation above the required threshold of utility, policies that yield only slight improvements to the future generation can be required of the present generation even if the latter should thereby incur large costs.

As a side remark, note that, in general, this alternative is neither more lenient nor more demanding towards the present generation than utilitarianism. This is worth mentioning because there is sometimes a fear among defendants of a positive and high discount rate that their opponents might be environmentalist saints who want to place unrealistically stringent demands on the present generation in arguing against positive discount rates. Actually, the tables can be turned (cf. Caney, 2008, p. 549): Typically, in moral philosophy, consequentialism (of which the utilitarianism of cost-benefit analysis is a species) is seen as having the problem of being unduly demanding.

What discount rate does this deontological approach involve? The simple answer is: None at all, not even a rate of zero. For effects that concern future generations, it does not make a discount rate *necessary*. It thus rebuts the claim made by Pearce et al. (2003, p. 124) that “not discounting” amounts to “discounting at 0%.” Discounting is *only* necessary if one weighs up values. As soon as one weighs up values, one needs to accord weights to these values (with a zero discount rate amounting to according equal weights). The deontological approach, however, does not suggest giving “equal weight.” Rather, it proposes not to weigh up the utility of present and future generations at all (and it therefore disagrees with the claim by Anthoff et al. (2008, p. 3) that “any statement about the desirability of climate policy necessarily contains a value judgement about the importance of future gains *relative* to present sacrifices.” (my emphasis)). Future generations’ utility is something of

which the present generation has to guarantee a certain amount of, regardless of whether the costs of doing so exceed the discounted benefits or not. And thus, in the intergenerational context and according to the deontological framework, the discount rate is *irrelevant*.

To reinforce the point, note that, in terms of counterintuitive implications, proponents of a low discount rate sit in the same boat as proponents of a high discount rate: If the uneasiness about a high discount rate stems from the fact that this makes even cataclysmal damages in the future count as trivial in today's terms, then one should be just as uneasy about a low discount rate because the latter, too, evaluates cataclysmal damages as trivial in today's term as long as those damages happen just *far enough* in the future. This reveals again that the basic problem about discounting is the allowance of intergenerational trade-offs and not just the allowance of intergenerational trade-offs with the wrong weights. In principle, given the utility maximizing framework, even a zero or a negative discount rate makes it possible to justify the bequest of catastrophes on posterity.

To sum up this section: The diagnosis is that the whole discounting debate has gone off track. Those who care about justice being done to future generations have criticized economists for their high discount rates and have spent all their energy in arguing for lower discount rates or in investigating different kinds of sophisticated alternatives such as differential or hyperbolic discount rates. The correct point on which to attack the economic approach to climate change, however, is not the *magnitude* of the discount rate but rather the utilitarian *framework* – the framework within which the necessity of determining a discount rate springs up at all. Note that a point in this general direction – i.e. that many concerns about the discount rate would more aptly be captured by criticizing more fundamental points of the economic approach than by criticizing the magnitude of the discount rate – has been made in some form or other by various authors, including prominent ones like Rawls (1971, pp. 297-8), Parfit (Cowen and Parfit in Laslett and Fisher, 1992, p. 149), Sunstein (Weisbach and Sunstein, 2008, p. 7), and even Nordhaus (1997, p. 327).

In terms of a disclaimer, it must be admitted that in this section the contrast between utilitarianism and its deontological counterpart was made very stark. First, in a more complete argument one would have to take into account that also most non-utilitarian theories allow or prescribe making *some* trade-offs, possibly even among rights. And as soon as trade-offs are allowed the question of the discount rate reappears. Second, the question of the discount rate reappears also when it comes to trading off utility coming at different points within the present generation's own lifespan (though, this is morally much less problematic than trade-offs between generations).

2. The Opportunity Cost Argument

The conclusion of the last section, however, is not the end of the story as concerns the discount rate. Even if the above reasoning is correct, discounting – or, more precisely, something that on the surface looks a lot *like* genuine discounting – still has a legitimate role to play.

Let us distinguish two senses of “discounting.” I will label the genuine sense of discounting – discussed in the last section – “Discounting as Weighting.” The discount rate in this sense gives *weights* to utility at different points in time and values utility according to these weights. “Discounting as Weighting” is done with the purpose of aggregating utility at different points in time into a single number. The idea of the utilitarian moral theory that makes such a discount rate necessary is to choose that policy that yields the highest aggregate discounted utility: *How much* utility the present generation bequeaths to posterity is determined by whatever yields the largest sum of discounted utility. And since this sum depends on what discount rate is used, the discount rate is also a determinant of *how much* the present generation should invest for the sake of posterity. If a low discount rate is chosen, the present generation will have to forego much utility in order to invest for the future. If a high discount rate is chosen – and future utility thus counts for little in the maximization exercise – the present generation must set aside few resources for future generations.

In this section, another sense of “discounting” that I label “Discounting as Representing Opportunity Costs” will be discussed (“Opportunity Cost” is a concept from economics that is defined as the “cost” of foregoing the best alternative to an option one has chosen).

The quotation marks are supposed to indicate that this is not a genuine kind of discounting. “Discounting as Representing Opportunity Costs” is not done with the purpose of determining how much utility the present generation ought to leave behind for posterity, but rather (given the level it ought to leave behind) with the purpose of determining *by what means* utility should be transferred into the future, i.e., whether through investments into climate mitigation, or through investments into other projects such as infrastructure, poverty reduction, basic research, etc. All of these different projects exhibit a certain rate of return. Those projects with a high rate of return allow the present generation to set aside fewer resources to fulfil its duties towards posterity (in terms of guaranteeing a certain utility level) than those projects with a low rate of return. If it is the policymaker’s goal to fulfil the duty at the lowest possible cost, determining what return on investment the different projects have must be investigated. If climate mitigation has a lower rate of return than its alternatives, it is not the optimal project of choice for carrying out one’s duty towards future generations.

In order to determine whether climate mitigation actually is a project with a lower return than other projects, the policymaker – or the economist advising him – can perform a mathematical exercise that on the surface looks exactly like genuine discounting: Assume that a certain climate mitigation measure costs 5 units today and prevents damages in the magnitude of 100 units in 100 years. One can then look at the most efficient alternative opportunity for which one could use the 5 units today and determine the rate of return this alternative investment opportunity has (call the latter rate of return i). In practice, the return that one can reach on alternative investments will be derived from the market interest rate (take $i = 4\%$ as an example; note that I am concerned here with a utility interest rate, while the observable market interest rate is of course in monetary terms). One can then “discount” future climate

damages of the magnitude of 100 by the rate of $i = 4\%$, and if the discounted damage is smaller than the 5 units necessary to prevent this climate damage, the climate investment is inefficient and the same amount of utility for future generations could be achieved in a way that is cheaper for the present generation, namely by investing into the project that yields return i . In the current example, discounting 100 units occurring in 100 years with a rate of 4% would yield a value of less than 2 units and therefore be much smaller than the costs of the climate mitigation investment. This means that if the 5 units were instead invested at the market rate of return, they would yield a pay-off of more than 250 units in 100 years, which would count as a much more profitable investment than the prevention of climate damages. This is all just a roundabout way of making a basic point that is familiar to any business decision: The internal rate of return of a project – such as climate mitigation – should exceed a hurdle rate that reflects the cost of capital. Of course, on a less simplistic view a host of technicalities such as irreversibilities, uncertainty, etc. would enter, but the foundational point remains that the capital used for a project should yield a higher return than its alternative use in order for the project to be worthwhile.

Presupposing the economic premise of substitutability between different goods, these kinds of efficiency calculations seem to be a legitimate consideration in judging climate policy. And, these kinds of calculations of opportunity costs can formally be represented as a discounting operation. However, in this kind of “discounting” operation no weighting of utility is involved at all. “Discounting” is only used as a mathematical tool of taking opportunity cost into account. One could make the whole argument without the notion of “discounting” and only rely on the notion of return on investment. This kind of discounting is neutral with respect to the foundational theory one employs – utilitarian or deontological – and with respect to how much utility one ought to bequeath to future generations. This kind of “non-genuine” discounting is only based on the idea that it is not a sufficient reason for engaging in climate mitigation that one owes something to posterity and that it is neither a sufficient reason that such mitigation investments have a positive return. Rather, since the resources that are put into climate mitigation are not available for other investments, and since these other investments typically have a positive return, too (and possibly an even larger one), climate mitigation investments can be said to have an opportunity cost. And if one is interested in fulfilling one’s duty towards future generation at the smallest possible cost, this must be taken into account – regardless of whether it is formally represented in a discounting exercise or not.

The fact that alternatives to climate mitigation yield large returns when compounded over decades, too, is something that, in my opinion, is not sufficiently taken notice of outside the discipline of economics. Many criticisms of discounting by moral philosophers or environmentalists are based on the *intuitive repugnance* of discounting: How could it be – so the critics ask, based on common sense – that the amount of resources deemed worthy of investing in the prevention of climate damages depends so dramatically on the point of time when these damages materialise? How could it possibly be justifiable that this amount is, say, twenty times smaller if the damages materialise in 100 years rather than today? The opportunity cost argument reveals that this is not at all as repugnant as it seems at first sight. In particular,

justifying discounting in this non-genuine sense does *not* have to be based on the – indeed morally repugnant or at least questionable – premise of considering future humans less valuable or giving less weight to the utility they enjoy.

A question remains, even if it is conceded that “Discounting as Representing Opportunity Costs” is justified: Is the justifiability of this non-genuine kind of discounting *really* independent from the justifiability of the genuine kind of discounting? It is – but confusion creeps in because there still is an indirect but harmless way in which opportunity costs depend on people exhibiting pure time preference, i.e. on people genuinely underweighting future utility. The opportunity cost of capital that is invested into climate mitigation can roughly be derived from the market interest rate. The market interest rate depends on a number of factors. Some of these factors are not influenced by humans, though others are: If people exhibit a high rate of pure time preference, i.e. if they discount future benefits and costs heavily, this is equivalent to a low demand for future goods, which in turn drives interest rates upwards. So, if people actually *are* impatient (a descriptive claim), this can drive up opportunity costs and therefore indirectly make climate mitigation less recommendable (a normative claim). The important point to note here is that the legitimacy of taking opportunity costs into account when deciding on climate policy does not depend on the moral evaluation of the determinants of the magnitude of these opportunity costs. The market interest rate that determines the magnitude of opportunity costs might be high due to selfish and irrational behaviour – which is a description some would want to give to behaviour driven by pure time preference larger than zero – but this does not affect the sheer fact that climate investments *do* have an opportunity cost of that magnitude (cf. Birnbacher, 2003, p. 50).

In the language of economic theory, the point can be expressed as follows: What Marginal Rate of Substitution (MRS) between present and future units people’s preferences exhibit – i.e. how they value present compared to future units – is not *directly* relevant to the discounting question, or more precisely, not relevant for the discounting question in the *intergenerational case*. In the intergenerational context, the only thing that is directly relevant is the Marginal Rate of Transformation (MRT) between present and future units. The MRT expresses the relative price of present units compared to future units. It is another way of expressing the rate of return. In a market economy, however, the MRT is not independent of the MRS – in equilibrium, they are even equal – and so people’s *actual* future-regarding preferences do affect, in an indirect way, how we *ought* to evaluate future-regarding policies. How we ought to evaluate future-regarding policies depends on the MRT, and if the MRT is dependent or even equal to the MRS this can of course mislead one to take the MRS as the basis for discounting. This mistake is, for example, committed when some authors, based on a respect for democracy, *prescribe* a positive discount rate directly on the basis of people’s *actual* underweighting of future utility, or when they prescribe a hyperbolic discount rate directly on the basis of the empirical fact that people actually exhibit hyperbolic preferences. The primary thing to do, however, is to note that these attitudes of people affect the rate of return of capital and therefore the opportunity costs of climate mitigation – and then to focus on the opportunity costs as the consideration that is directly relevant.

Recall that the argument for the legitimacy of non-genuine discounting rests on the premise mentioned in the introduction, namely that all values can be bundled together in one overarching value (utility), and therefore any kind of investment counts as substitutable for another as long as it yields the same amount of utility as the other. Many moral philosophers, as well as the average non-philosopher, are critical of this premise. If one should, for example, think that a dollar invested in medical research or economic growth has a much higher return than a dollar invested in climate mitigation or conservation of biodiversity, but if one should *also* think that medical progress and economic growth should not be substituted for climatic stability and biodiversity, then the opportunity cost argument for preferring investments into medical research and economic growth over climate mitigation and biodiversity conservation loses all its power. The opportunity cost argument loses all its power, *a fortiori*, if one believes that these different goods are not even commensurable or that there is something deeply wrong about conceiving of them as “investments” and that it therefore does not make sense to speak about comparing their returns.

3. Implications

What answers do section II and III give to the original question “Should we discount future utility and if yes, how much?” The answer depends on what sense of “discounting” is involved and what one uses a discount rate for.

Discounting in the first sense (cf. section II) is understood in the sense of weighting, and it is used for the purpose of judging policies by the sum of the weighted utility they create. The appropriate response to this kind of discounting is to question the goal of maximizing a sum of weighted utility in the first place, and not only to question how utility at different points in time is weighted. When policies are judged by this maximization criterion, not only are the *means* to benefit future generations judged by their effects on aggregate utility, but also the *distribution* of utility among generations. This is problematic: How much utility the present generation ought to leave to future generations should be determined by defining a certain level of utility owed to future generations independently of aggregate considerations, but rather based on deontological reasoning.

Once one has determined *how much* the present generation must bequeath to posterity, one then has to determine *by what means* the present generation should bequeath this amount of utility. To answer this question, a “discount rate” may legitimately be used. A discount rate in this sense represents opportunity costs (cf. section III). Using such a discount rate – and deriving it from the market interest rate – allows one to account for opportunity costs of climate investments in a mathematically elegant way (even though it could also formally be done without a discount rate). It is nothing more than an instrument to compare the returns of different sorts of investments.

In summary, the conclusion is that – at least in the intergenerational context and given the premise of the legitimacy and possibility of substituting different investments for each other – genuine discounting in the sense of weighting is not

necessary, and non-genuine discounting in the sense of representing opportunity cost is justified.

How does this conclusion deal with the two concrete questions mentioned in the introduction? The first question is: Should a climate mitigation measure be pursued that costs 5 units of utility today and increases utility in 100 years by 100 units? In one scenario, assume that discounting these 100 units by the rate of return of the best available alternative investment yields a value of 6 units. In other words, the rate of return on climate investments is 3% and the rate of return on the best available alternative investments is 2.9%. Should the climate mitigation measure be pursued? Not necessarily. Whether it should be pursued not only depends on its being more efficient than alternative projects, but also on whether the measure is necessary to lift future generations above the threshold level of utility required by considerations of intergenerational justice. If the present generation has already set aside enough for posterity, then there is no binding reason to pursue climate mitigation even if mitigation has a positive Net Present Value. In another scenario, assume that discounting the 100 units of prevented damage by the rate of return of the best alternative investment yields a value of 4 units. In other words, the rate of return on the best available alternative investment in this scenario is 3.3%. Should the climate measure be pursued in this case? If the policymaker cares about achieving an intergenerationally just policy at the lowest possible cost, the answer is no: If the present generation owes further utility to future generations, this utility could be “bought” at a cheaper price if one engaged in the alternative investment rather than by protecting the climate. This is what discounting (in the sense of “Discounting as Representing Opportunity Costs”) reveals.

To sum up: The fact that discounted future benefits exceed the present costs of a given policy is a necessary but not a sufficient condition for the policy to be recommendable. This is in contrast to the typical cost-benefit analyst who would regard it as both a necessary and sufficient condition.

The second question is: What is the total cost of emitting a ton of CO₂ if its emission leads to a utility loss of 1 unit per year for the next 100 years? The answer to this question is less clear than is generally recognized by proponents of discounting. One interpretation of the question is this: How much would it cost us today to make investments that make everybody as well off as if the ton of CO₂ had not been emitted? In order to answer this question, the reasoning concerned with non-genuine discounting is relevant: The damage done in the future must be discounted by the rate of return on alternative investments that are necessary to counterbalance the utility loss generated by the emission of CO₂. On this interpretation, the total cost of a ton of CO₂ is much less than 100.

A second interpretation, however, takes the question at face value and simply asks what the costs *are* (regardless of how they could be counterbalanced). The answer to this question corresponds to the reasoning concerning genuine discounting. If one wants to know the total costs – *simpliciter* – there is no reason to discount future costs before adding them up. The total costs are 100 units and nothing less (even though the costs for counterbalancing these costs of 100 are much less than 100). There is a difficulty with this second interpretation of the question, however:

Why should one be interested in the answer to such a question in the first place? In what way could the aggregate costs caused by a ton of CO₂ over many generations be relevant to the decision of the present generation on how much CO₂ to emit? For the present generation, what matters are two points: first, justice is done to future generations and, second, that justice is done at the lowest possible cost to itself. Total costs show up in neither of these two considerations.

How could these conclusions from section II and III be incorporated into the actual models built by climate economists? Cost-benefit analysis, which maximizes Net Present Value, does not yield answers to questions we are interested in because the sum of utility across generations resulting from different policies is not what we ought to care about (and it is neither what most people actually do care about). Neither is the Social Cost of Carbon computed for many decades a number that contains decision-relevant information. Something closely related to classical cost-benefit analysis, however, produces relevant results, namely cost-effectiveness studies (or, similar approaches such as the tolerable windows approach). In such studies that separate the equity and the efficiency question a certain target is defined, say, an emission concentration or a temperature threshold (both could be interpreted as a proxy for the utility level owed to future generations), and then the most efficient path – taking into account opportunity costs – to reach that target is calculated. Such an approach makes future utility independent of cost-benefit considerations and therefore also independent of discounting debates.

4. Normative or Descriptive?

The literature on discounting is not unanimous about the *status* of the debate: Is it a normative or a descriptive discussion? Some claim that there is something deeply irritating about descriptivists (Birnbacher, 2003, p. 47), while others deride those calling for moral argument as arrogant (Nordhaus, 2007, p. 691). Still others speak of there being both a descriptive *and* a prescriptive approach alongside each other (Arrow et al., 1996). The crucial question is this: Does one have to invoke not *only* descriptive premises but *also* normative premises in arguing for the correct view on discounting?

In some very limited sense, one need not invoke normative premises to choose a discount rate: Anyone can run economic models of climate change and one can do so for whatever purpose one likes. If that purpose is just the fun of doing maths or to see what happens when plugging in different numbers for the discount rate, then the choice of a discount rate obviously is not a normative matter.

However, economic models of climate change are typically built with a certain *purpose* in mind. This purpose consists in helping policymakers decide on what should be done. “What should be done” – this is an irreducibly normative matter. How, then, does the normativity of the purpose of the economic model “infect” the choice of the discount rate with normativity? Economists know that they can neither make a unique model for every single person that would like to have judged climate policy according to his own preferred criteria (including the discount rate), nor can they explain in depth and detail to policymakers the criteria (including the

discount rate) according to which economic models evaluate climate policy. In such circumstances, and when forced to decide on which criteria to use when putting a yardstick to climate policy, using those criteria that would democratically be chosen seems to be a sensible way to go. And this is how climate economists often defend the discount rate they use: They claim to use the discount rate that people would actually plug into their models if they could do so. Where do they get the information about people's views on the discount rate? They claim that the *market interest rate* mirrors the preferences of people concerning discounting and is therefore democratically justified. Many will also claim that *reading off* the discount rate from the market interest rate makes the choice of a discount rate a descriptive issue rather than a normative issue.

In response to these claims, I have two remarks: First, even if the observed market interest rate should figure somewhere in the premises of the argument for the correct discount rate to be used, this does not by itself make the choice of the discount rate a purely descriptive issue. There are other premises left, and at least one of them is a normative one: The premise that in economic modelling one *should* use those criteria – such as magnitude of the discount rate – that people would democratically approve of. Even if this premiss about democracy is not a very controversial premiss, it still is a normative premise. It is a premise relating to the professional ethics of modellers who know that policymakers listen to them without being able to completely understand their models. Second, I go along with the idea that economic policy advice should work with the criteria that people would democratically approve of. But I find it extremely implausible to claim that one can read off how presently living people would like to treat people living in the future from market interest rates. This assumes that presently living people not only maximize discounted utility over their own lifetime but that this maximizing framework is also what they would like to apply to the utility of future generations. A much more reliable way of finding out how people want to incorporate the effects of policies on future generation's utility in their action guiding principles is to start reflecting on how one would do that oneself, to discuss the results with moral philosophers, social scientists, and psychologists and, most importantly (though most expensively) to engage in surveys.

So far I have argued the following in this section: For the economist who is involved in modelling, the choice of the discount rate *is* normative but it is *only* normative in the very limited sense of presupposing the normative premise that one should use those criteria that the democratic body would approve of. Once he has decided on this normative premise, he is then only involved in the *descriptive* issue of finding out what the democratic body thinks about discounting.

But matters are different for the democratic body itself. For the democratic body, the discount rate is a more substantively normative issue. If people have to decide on how future generations *ought* to be treated, normativity can in no way be stripped off from this "ought." They cannot rely on what the democratic body thinks because they *are* the democratic body itself. Depending on how people want future generations to be treated, they have to tell their scientists what kind of numbers to calculate: Either numbers that inform them about the sum of discounted utility of

various policies (and if so, with how high a discount rate), or numbers that portray the costs of different policies that all bequeath a certain pre-defined level of utility to future generations, or still other numbers that are only relevant when one is interested in laying still another normative yardstick to policy. It is of course granted that once these normative questions on how future generations' utility ought to be taken into account are decided, there still remains a host of descriptive issues to be looked at, not the least of which is the use of the market interest rate as a proxy for the opportunity cost of capital.

5. The Roots of Confusion

The debate on discounting has brought forth a lot of puzzlement and perplexity. This can be traced to at least three features of the issue.

First, since discounting is concerned with future generations, it is concerned with justice among an indefinite and potentially infinite number of individuals. Neither our theories of justice nor our human thinking, more generally, is adapted to deal with infinity. Our minds are already bad at handling very large numbers and infinity is something completely different still. Since the underlying utilitarianism involved in cost-benefit analysis is interested in maximizing the sum of individuals' utility up into the indefinite or infinite future, our human inability to grasp and deal with such concepts should not be taken lightly.

Second, real people actually *do* discount within their *own* lifetime: They aim at increasing the sum of utility over time, but give less weight to utility when it accrues in the future than when it accrues in the present. This empirical fact poses a difficult problem for the discounting debate on intergenerationally relevant policy choices. First, it is a difficult question whether such discounting in personal choices within one's own lifetime should be thought of as irrational (after all, utility that I receive in the future is just as much utility as when I receive it in the present) or whether it should simply be seen as a matter of taste to prefer utility in the present to utility in the future (after all, what is so different about preferring apples over oranges to preferring utility today over utility tomorrow?). A particularly strong, though not conclusive, case can be made that hyperbolic discounting must count as irrational since it leads to so-called time inconsistency. Second, it is unclear in what way considering discounting within one's own lifetime to be legitimate should affect how one views the legitimacy of discounting in policies with effects beyond one's own lifetime. This is particularly so because, whereas for each individual there is a clear distinction between its own lifetime and people living or being born after its lifetime, for society (the "present generation") as a whole (and it is society as a whole that decides on policies) there is no such distinction.

Third, there is something deeply "magical" about the fact that investments have a positive rate of return (or worded differently: that "capital is productive" (Gossier, 2008, 66) or that "technology is fertile" (Broome, 1994, p. 139)). This familiar and obvious fact is the most unrecognized but most influential cause of puzzlement inherent in the discounting debate. If I plant one apple today an apple tree will grow and I will have more than one apple in the future: Apples *increase*

over time! As a consequence of this, it becomes a genuinely philosophical issue whether two apples today should be seen as equally valuable as two apples in the future. Even though we are talking about the *same* amount of the *same* good (only at different points in time), two apples today are in some sense *more* valuable than two apples in the future. The reason is that if one owns the two apples today, rather than in the future, one can plant one of the two apples and eat the other and therefore have more apples both today (one apple instead of zero) *and* in the future (say, three apples instead of two) than if one had the two apples only in the future. Thus – using paradoxical language – two apples are in some sense more valuable than two apples. It all depends when you have them and whether they are consumed or invested. The same holds true not only for apples but for many investments, and also indirectly for utility. Foregoing utility today implies the ability to harvest more utility in the future than the amount foregone today. That is the opposite of a leaky bucket, it is an “incubation bucket,” so to speak (cf. Schelling, 1995, p. 398). And our theories of distributive justice have not, in general, dealt with the issue of values that increase when being “redistributed,” and in particular not with the potential – given the open future – to increase indefinitely (for an interesting exception, see Moeller, 2006).

These three factors taken together, and in particular the last one, explain some of the difficulty in coming to terms with the discount rate.

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Chapter 3

Distributive Justice in a Global Village: In Defense of Theories of Global Justice

Makoto IKEDA

Introduction

Recently transportation and information technologies have improved so greatly that our world has become more integrated than ever before. For example, a wide variety of imported foods and goods can be found in local stores. Through the Internet we can get information and interact with others beyond our borders. Furthermore, we can no longer ignore the political or economic affairs in distant states or regions, because local affairs can profoundly influence global trends and *vice versa*, as seen in the recent global economic turmoil. We are all involved in a massive and rapid flow of persons, products, money and information. These phenomena have been collectively referred to as ‘globalization’ and some people contend that we now live together, so to speak, in a “Global Village,” and that all of us benefit enormously from globalization.

However, not all of the people in the world have shared in the benefits of progress generated by globalization. Many studies have supported this contention. For example, a *Human Development Report* says that, “[T]he global village appears deeply divided between the streets of the haves and those of the have-nots” (United Nations Development Programme, 2006: p. 263). The 500 richest people have an income of more than 100 billion PPP US dollars (without asset wealth), while the poorest 20% still live on less than one PPP US dollar a day (in currency conversion, the differences of price levels between countries are eliminated by Purchase Power Parities or PPPs) (op. cit.: p. 269). Income disparity between the world’s richest 10% and the poorest 10% (based on country averages) increased from 19.4: 1 in 1970 to 26.9: 1 in 1997 (UNDP, 2001: p. 20). There exist similar inequalities between countries in other indicators of human well-being, such as life expectancy, literacy, access to adequate nutrition and safe water and so on. Put simply, where one is born in our Global Village determines his/her expectations over the lifespan. Obviously, the expression “a rising tide lifts all boats” seems to be false at least in terms of globalization and therefore, globalization should not be praised in and of itself. A moral theory is needed to help us constructively criticize globalization and indicate how to make it fairer to all of us.

Charles Beitz, Thomas Pogge and Martha Nussbaum recently have argued that only theories of global distributive justice are suitable to serve as our theoretical guide. These theorists have criticized and subsequently modified John Rawls’s theory of social justice. When considering the urgent moral issues pertaining to globalization, unlike Rawls, they have focused on global institutions shared

by all persons in the world (for example, IMF, World Bank, United Nations and international laws, treaties, and conventions) and considered how these institutions could be redesigned to provide for everyone.

1. A Critique of Rawls's Theory of Justice and the Theories of Global Distributive Justice

Before the discussion of their theories of global distributive justice, it is helpful to comment on John Rawls's theory of justice, because his theory was the first comprehensive theory that developed the idea of social justice in terms of contemporary ethics, and as a result, it has greatly influenced the theories of global distributive justice.

In *A Theory of Justice* (Rawls, 1971), Rawls explored the issue of *domestic* distributive justice *within* a single society. He focused on the system of social institutions or fair terms of social cooperation that its citizens share (he calls it "the basic structure of society" (Rawls, 1971: pp. 7-11)). These institutions or cooperative terms consist of various economic, legal, political and social arrangements and they distribute among citizens the basic liberties, rights, wealth, burdens and advantages in view of each citizen's talents, or social positions, classes or the environments to which he/she belongs. However, no citizen can choose such characteristics on his/her own. So, according to Rawls, if the terms of social cooperation were to favor certain citizens in view of such characteristics, such terms (and their distribution of various goods) must be ones to which all citizens would willingly consent in some ideal situation. In this "original position," citizens would agree on Rawls's principles of justice for regulating those terms. These principles claim that (1) the equal basic political liberties for all citizens should be guaranteed; and that social and economic inequality is permissible only if (2) prerogatives are attached to offices and positions under the fair equality of opportunity and (3) such inequality is the greatest benefit to the least advantaged members of society ("the difference principle") (Rawls, 1971: pp. 60, 302; see also Rawls, 2001: p. 42). What kind of society does Rawls envision following these principles? It appears that a just society for Rawls is one in which all reasonable citizens have an equal voice toward their terms of cooperation. Using Rawls's phrase, this kind of equality between citizens may be termed "democratic equality" (Rawls, 1971: p. 65).

Although in *A Theory of Justice* Rawls referred to the issue of the relations between states or international justice, he did not address it until twenty-two years later at the lecture "The Law of Peoples" (Rawls, 1993) and in a book with the same name (Rawls, 1999). However his treatise might be inadequate to many readers because Rawls clearly rejects applying the theory of distributive justice to international relations. Worse still, he erroneously assumes that each state is a closed or self-contained entity and that its rule of law and economic affairs are independent of those of others (Rawls, 1999: p. 25ff.). From this assumption, Rawls concludes that world ethics should be about interactions between independent states; that their interactions must be regulated by what we must cope with in world ethics, which is absolute poverty of states or persons, not global inequality between them. Rawls

admits there are moral duties to assist “burdened societies” which do not have adequate basic structure and enough resources to achieve domestic justice (Rawls, 1999: p. 106) and he recognizes the need to reform international political and economic institutions to respect the independence of each state (Rawls, 1999: pp. 43, 115).

It is difficult to accept Rawls’s assumptions noted above at face value. For, as stated at the outset, today we cannot assume that each state is closed. Our world has become more and more integrated under a global order. The well-being of persons is greatly influenced not only by domestic institutions, but also by those of other states. Given such a structure, it is morally inappropriate to attribute the extreme poverty of persons of developing countries only to the failure of their governments.

In light of these facts, Charles Beitz, Thomas Pogge and Martha Nussbaum reject *The Law of Peoples*. Criticizing and revising Rawls’s theory of international justice, they focus rather on the relationships between persons under global institutions than on the interactions between self-contained states. They apply the principles of global distributive justice directly to all persons in our Global Village. Additionally, they invoke not only the duty to assist the extremely poor (whether an individual or a state), but also the duty to reform the global order in a better and fairer direction.

Their theories of global distributive justice have two distinctive characteristics, that is, their cosmopolitanism on the one hand, and their adoption of the idea of “distributive justice” and taking into account what has caused certain situations in question, on the other. By comparing each of their two characteristics with others that have appeared in some of the traditional international ethics or political theories, it is possible to articulate how helpful and promising their theories of global distributive justice are in dealing with the ethical problems of our globalizing world.

2. Cosmopolitanism versus Statism

Cosmopolitan theorists claim that (1) the subject matter of morality is primarily with regard to individuals, and not with states or other entities; (2) it is (morally) irrelevant which state of the world these individuals happen to be in, just as it is so what part of the society they happen to be in; and (3) no moral privilege is accorded to the society that the cosmopolitan theorists live in (Satz, 2003: p. 629). They assume that we have the same reason to struggle against global economic inequality among all persons in the world as we have to struggle against domestic economic inequality among citizens within a state because in both cases such an imbalance violates the equality of persons. In other words, we must not treat persons differently because of their nationalities (Beitz, 1979; Pogge, 1989, 2002; Nussbaum, 2006).

Some theorists, including Rawls, oppose cosmopolitanism. They are sometimes called statist¹ because they emphasize shared membership within a state, on the basis of which citizens owe special obligations to each other, which they cannot owe to outsiders. Statists argue against cosmopolitanism where cosmopolitans seem to aspire to a kind of world government exercising its power over global redistribution. They hold that such a world government must violate self-determination of each

country's government as well as transform itself into a global despotism by some superpowers (Rawls, 1999: p. 36). Therefore, statists reject the notion of the perfect duty of justice to each other beyond borders, although they accept it among citizens in a society. Some statists think that one does not have any moral duties to help outsiders unless the help benefits him/herself (Morgenthau, 1952), while other statists, such as Ronald Dworkin, acknowledge the imperfect duty of charity to outsiders; namely, the duty to alleviate famine or human-rights disasters in the world (Dworkin, 1986). However, this duty is not imposed while striving for global equality.

Not surprisingly, some arguments against statism can be found. Initially, statism cannot account for why a state may be regarded as the most important community among many others. Imagine a British man who was born in Jamaica, works now in Paris as a journalist, has faith in Christianity, and loves soul music. It is perfectly acceptable for him to feel special obligations toward persons with whom he shares these identities. Indeed, if he recognizes himself as a member of the human race and is committed to humanity, perhaps he feels special obligations to all human beings. Additionally, if he acknowledges that he shares global institutions with others in the world under which he affect each other, then he should acknowledge the perfect duty of justice to those including people outside his own state. Here, it is noteworthy that Dworkin justifies the duty of charity to outsiders by invoking universal human rights and accepting some ties among human beings. Given the fact of the growing interdependence of persons across as well as within borders, Dworkin should defend rather the perfect duty of justice to everyone beyond our borders.

Furthermore, Nussbaum claims that cosmopolitans need not aspire to a world government (Nussbaum, 1996). She supports "moral cosmopolitanism," as distinguished from political or institutional cosmopolitanism that supports the creation of a world government. Moral cosmopolitanism can acknowledge that persons often attach to nationality (or other shared memberships) and that they want their national self-determination not to be violated by non-members or some kind of world government. Moral cosmopolitanism willingly accepts moral partiality, as far as it can improve various aspects of well-being for all persons in the world, which include affiliation, emotions, practical reasons, self-control and so on. In other words, moral cosmopolitanism can accept patriotism unless it leads to parochialism. Therefore cosmopolitanism is not so limiting as statism sometimes has assumed, and cosmopolitanism can avoid its difficulties alleged by statism.²

3. Distributive-Justice-Approach versus Benevolence-Approach

All cosmopolitans do not always adopt the theories of global distributive justice. In considering our moral issues beyond borders and justifying perfect duties to all persons in the world, utilitarian cosmopolitans seem to adopt rather the idea of benevolence. As to why addressing severe poverty or global inequality is necessary, utilitarian cosmopolitans invoke the perfect duty of benevolence, while contractarian cosmopolitans invoke the perfect duty of distributive justice. As I will discuss later, between these theorists, they differ on how and according to what moral

responsibilities should be distributed among moral agents.

The theory of benevolence simply states that there should be as much good as possible, or that “if one can prevent some significant bad from occurring, without sacrificing anything of comparable moral importance, one ought morally to do so” (Arneson, 2004: p. 33). In the case of global poverty or inequality, whoever is in a position to assist the global poor has the duty to do so, whether he/she has contributed to global poverty or not. Put simply, benevolence distributes moral responsibilities to each agent according to its capacity to do the required action. Benevolence is basically independent of who or what may have caused the bad situation, and what relations, if any, there have been between the agent and his or her recipients. For example, in his paper “Famine, Affluence and Morality” (Singer, 1972), Peter Singer claims that we have the moral duty to assist the global poor by analogy of helping a drowning child. He explains that if you can save her life only at the expense of your shoes getting dirty, you ought to do so, no matter what relationship you have with the child (for example, she is your child or if it was you who pushed her into the pond). Similarly, if one can save the Bengalis from famine only for a nominal cost, he/she ought to do so even if he/she is not likely to see the Bengalis hereafter.

However, it cannot be appropriate to compare the situation of the global poor to that of a drowning child, for our common-sense moral judgment holds that there clearly is a great difference of moral relevance between them. Namely, that the global poverty is for the most part created and perpetuated by an unfair global order, which has been designed by developed countries. The global poor do not only lack basic goods, but are also deprived of them. From this fact, we commonly judge that it is those who have deprived the global poor of basic goods that have (at least more) moral responsibilities to help the global poor. The benevolence-approach Singer advocates cannot match the common-sense moral judgment about how to distribute moral responsibilities, because the approach intrinsically ignores the difference between lack and deprivation. Therefore if we think that our common-sense moral judgments are well-founded, we should seek other approaches than the benevolence-approach that can take into account what has caused the situations in question; for instance, global poverty or inequality.

In contrast, the idea of distributive justice presupposes reciprocal relations and takes into account what may have caused the (good / bad) situations in question. Here justice distributes moral responsibilities to each actor according to its contribution to improving the bad situation. Pogge claims that justice requires “negative duties (not to harm) and intermediate duties (to avert the harm that one’s past conduct may cause in the future)” (Pogge, 2005: p. 35). According to him, affluent countries and their citizens have moral duties to alleviate or eradicate global poverty, not because they are in a position to do so, but because they have perpetuated global poverty, through designing or supporting the unfair global order (Pogge, 2005; see also Barry, 2005). Pogge requires the richer nations to (re-)design international or global institutions more fairly through those organizations which we redistribute various goods among persons in the world while seeking democratic equality between them.³

A summary of the characteristics of the theories of global distributive justice is as follows. At first, the theorists all take a cosmopolitan-approach and operate on behalf of all individuals in the world primarily, but at the same time the theories can support national self-determination. Secondly, theories of global distributive justice adopt the idea of distributive justice, and distribute moral responsibilities to each actor according to his/her contribution. They fit our common-sense moral judgments better than the utilitarian- or benevolence-approach. From these observations, it can be concluded that theories of global distributive justice are better tools for identifying and addressing moral problems in our Global Village than statism and the benevolence-approach.

4. What Principles of Global Distributive Justice Should be Adopted?

Despite the aforementioned advantages of the theories of global distributive justice, there are still some questions to be addressed. For example, when we select the global-distributive-justice approach, what are the exact principles that should be adopted? This question is further divided into two questions, which are: (1) what should be employed as a measure of welfare or goods to be distributed and (2) what objectives should there be when distributing such goods among persons in the world?

Regarding the former sub-question, most of the theorists of global justice as well as proponents of other theories (for example, utilitarian theorists and human-rights theorists) argue against using GDP- or income-metric approaches because they may hide the deprivation of well-being of people in developing countries (Pogge and Reddy, 2005). As alternatives to these approaches, Pogge (as did Rawls on domestic justice) offers a resource-approach focusing on a range of resources persons need as the basis to live a good life (Pogge, 1989, 2002) on the one hand. Sen and Nussbaum offer a capability-approach focusing directly on capabilities, that is, “what people are actually able to do and to be” by various resources (Nussbaum, 2006: p. 70; see also Sen, 1999) on the other. Sen and Nussbaum argue against the resource-approach on the grounds that the power of persons to convert various resources into their capabilities are not equal and that what is really important to persons is their capabilities. Additionally, Sen and Nussbaum deem the capability-approach to be more harmonious with the pluralism of values in the world than the resource-approach. Pogge then retorts that the resource-approach is no less flexible than the capability-approach and that the former is easier to handle in policy-making than the latter because it is extremely difficult to assess whether and how much a person possesses a certain capability, much less whether a person has a greater capability than another person. The viewpoint of Sen and Nussbaum seems to be quite different from that of Pogge.

At this point it is important for us to recall the claims of Rawls. Though he focuses on the “primary goods” that every citizen needs (Rawls, 1971: pp. 62, 90-95), Rawls aims not at their equal distribution between all citizens, but at their encouraging democratic equality by providing all citizens with an equal voice

toward their own terms of social cooperation. If Rawls's contention is regarded as plausible, then, the question of which approach to adopt is not as important as initially thought. Sen and Nussbaum rightly argue that what matters is capabilities rather than resources or income, and what is paramount is attaining democratic equality.⁴ However, it is more difficult to determine whether there is democratic equality among all citizens of our Global Village than to assess their capabilities, so in practice, it is obligatory to implement income- or resource-approaches, or such a composite measure as the Human Development Index, which assesses human development multi-dimensionally (for example, See UNDP, 2006).

Similar things can also be said about the second sub-question. Pogge and Beitz support the principles of global justice to which Rawls's principles of domestic justice (including "the difference principle") are applied on a global scale (Beitz 1979, Pogge 1989). In contrast, Nussbaum supports principles of adequate security of capabilities for all persons, although she acknowledges that some capabilities can be adequately secured only if they are equally secured (in the case of the political, religious, and civil liberties) and others not (in the case of capabilities closely connected with the idea of property or instrumental goods) (Nussbaum, 2006: 291-295). Pogge, Beitz and Nussbaum agree that what matters is not equality of income, resources, or even capabilities. Rawls's claims regarding democratic equality are true in this case too. The aims of theorists of global distributive justice can ultimately converge on the point of democratic equality between the members of our Global Village. Unequal distribution of income, resources and capabilities among the members are justified unless it violates democratic equality.

Concluding Remarks: The Problems to be Addressed

Theories of global distributive justice are new, and so there are still several difficult problems to be addressed in order to make these theories more workable in practice. One of the problems involves what specific institutions and policies ought to be supported in order to implement the principles of global distributive justice. Many theorists in ethics, politics, and economics have put forward suggestions to resolve this issue. For example, Pogge suggests offering a "Global Resources Dividend" to eradicate poverty (Pogge, 1994, 2005), which requires the establishment of a global fund of natural resources worldwide for mitigating the effects of the current global order unfair to many developing countries and their inhabitants. Joseph E. Stiglitz proposes a fairer trade system to all countries including developing ones (Stiglitz, 2006). However, which suggestions are the fairest, the most useful and viable is still debatable, and to answer this question requires 'profound' and interdisciplinary knowledge. Finally, despite the fact that the lofty task of making the globalizing world more equitable and fair remains, it is hoped that there has been some clarification as to the current problems and challenges associated with implementing the theories of global distributive justice.

Notes

- 1 The word “statism” is used in place of “nationalism” because the latter has many implications that may be confusing. It is not necessary for all citizens within a state to share a single national identity (nurtured by common culture, history, language, and so on). It is possible that two or more national groups can exist within a state (as in most states in our globalizing world today). It is also possible that people sharing a national culture can live across borders (in the case of refugees).
- 2 Please note David Miller’s argument against moral cosmopolitanism (Miller, 2005, and see also Miller, 1995) in which he regards liberal nation-building as essential to achieve those liberal ideals that include an individual’s autonomy, democracy and social (domestic) justice, and we have a moral duty to assist the global poor to achieve these ideals within their states. But he rightly thinks that it is not necessary that the liberal nation-builders’ aim require the complete global equality of resources and opportunity among persons in the world. It is sufficient that this inequality should be so limited that it affects the equality of power between the affluent and the poor states. However, recalling Rawls’s theories, we find that global distributive justice aim primarily to promote the equality of power among persons and consequently that there might be little difference between Miller’s proposal and that of moral cosmopolitans.
- 3 Singer in his recent works seems to adopt the perspective of global distributive justice (See Singer, 2002).
- 4 Nussbaum includes in her list of the central human capabilities “control[ing] one’s political environment” (Nussbaum 2006: p. 77). Perhaps ‘having this capability’ can be put into ‘having equal voice toward the terms of social cooperation.’

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Chapter 4

Does Neurobiological Determinism Entail the End of Criminal Responsibility?

Frederic GILBERT

An Applied Ethics Issue

Imagine an ultramodern courtroom scene. A defence lawyer stands up and, pointing to his client on the stand with his left hand while holding in his right hand a functional Magnetic Resonance Imaging picture, makes this plea: “My client is not guilty; it was his brain that did it. Do not blame my client, blame his overactive amygdala and his underactive frontal lobe. Look at the dots here, he had no free will, and therefore he cannot be held responsible for having strangled the victim to death.” This futuristic¹ courtroom illustrates one fundamental point: linking the brain to criminal and antisocial behaviour raises neuroethical questions regarding free will and moral responsibility. How can an individual be held responsible if his criminal behaviour was neurobiologically determined? Neurobiological determinism has put the once-thought “out-of-date” free will problem back into applied ethics discussions.

According to folk presupposition, which allows for punishing a convicted person, criminal behaviour is a consequence of free will. But this common presupposition seems open to challenge. Indeed, since most neuroscientists support neurobiological determinism, this implies that the empirical facts of the matter rule out the possibility of any actions being determined by a free will. The ethical implications of neurobiological determinism regarding this issue force the question: Does acknowledging the increasing weight of evidence from neurobiology rule out blaming criminals for their actions? Should criminals be allowed to pass through the judicial system scot-free? Or does this open the door to new neurological interventions and treatments for criminals?

To answer these questions, first let us explore whether the notion of neurobiological determinism is compatible with the concept of responsibility. To do so, this article will analyze (1-2) the philosophical notions of free will, determinism and responsibility. Secondly, it will examine (3) whether compatibilism is the correct position to hold in these matters. Thirdly, it will investigate (4) how someone can be held truly and ultimately responsible as is required by the libertarian position. Finally, it will explore (5) the consequences of lacking free will and responsibility from the perspective of practical ethics and criminal justice.

1. What are Free Will and Responsibility?

According to the western philosophical tradition (Frankfurt, 1969, Kane, 2002, Van

Inwagen, 1983, Searle, 2001, Walter, 2001, Watson, 1982, Widerker and McKenna, 2003, Baertschi, 2004, Copp, 1997, Widerker, 1995, Etc. not exhaustive), we have free will when we feel (1) that what we choose and how we act is “up to us.” This means “we could have chosen or acted otherwise” from an array of alternative possibilities. For instance, Jack could have chosen to see a movie or go to school instead of strangling his friend. This “up-to-us-ness” associated with Jack’s action also suggests that (2) the ultimate sources of Jack’s action lie in him and not outside him, in factors beyond his control or in some neurobiologically determined fact. In other words, nobody has forced Jack to strangle his friend.

Points (1) and (2) entail that Jack is the originator² of his own action. He is the cause of his crime. In this sense, Jack is responsible for his action because he could have chosen differently from among numerous possibilities. This is why most philosophers who believe in free will hold him responsible; he is ultimately responsible since he is the source of his action.

From this point of view, criminal responsibility can be described as such: A person who has the ability to tell “right” from “wrong” must do what is “right.” Indeed, the ability to do the “right” instead of the “wrong” entails the obligation to accomplish the “right”: Thus, a person who does not “rightly” act (when s/he knows s/he must) is a person who does the “wrong” action intentionally. The ability to intentionally do that which is “wrong” instead of doing that which is “right” means that the criminal could have intentionally acted “rightly” instead of “wrongly” in the same initial conditions. The ability to intentionally act otherwise proves that the criminal could have done otherwise, which is why he is morally responsible for his crime.

This description is consistent with both a strong and a weak sense of free will and responsibility. The strong one is the libertarian account, which falls within the incompatibilist family of positions, and the weak sense is the compatibilist view.

According to libertarians (Kane 2005, Van Inwagen 1983, Clarke 2003, Kant 1796, Searle 2001), actions are based on the *Indeterminist Condition*: an agent could have acted otherwise (could have chosen different possible futures) given the *same* past circumstances and laws of nature. This entails *contra causa freedom*: there is no cause in free human behavior. Jack is a self-made cause. His action is not the result of neurobiological determinism. He is the cause of action. Therefore, this implies *contra causa responsibility*. We are ultimately responsible for our behaviour. This is the main reason why free will and responsibility are incompatible with neurobiological determinism. Indeed, if we are determined by some neurobiological causes, how could we have decided to act otherwise and therefore be morally responsible?

On their side, compatibilists³ advocate that free will and responsibility are compatible with neurobiological determinism. This position may be divided in two distinct branches: classical compatibilism (Davidson, 1973, Ayer, 1954, Hume, 1748, Hobbes, 1651) and semi-compatibilism (Fischer and Ravizza, 1998, Dennett, 1984, Frankfurt, 1969). While the first branch refers to alternative possibilities to justify free will and moral responsibility, the second branch denies free will but maintains that responsibility is compatible with neurobiological determinism. Despite this major difference, both of these forms of compatibilism must establish how one can

be responsible for actions that are neurobiologically determined.

2. What is Determinism?

Since the beginning of the 20th century, the notion of determinism has migrated from physical theories to the biological sciences. At this point, findings of genetics and current neurobiology have convinced most experts that human behaviour is influenced by biological mechanisms which are beyond human control. In this regard, two distinct theories of determinism have come to define the ensuing debates: classical and contemporary determinism.

Since Newton and Laplace, we have become accustomed to the notion that natural laws apply to all things in the universe. This conception of the universe entails universal determinism. As we act in and on this universe, this account implies that we should also be subject to these same natural laws. As a consequence, far from being freely decided, our acts are to be understood as part of the deterministic network of the universe. According to this strong sense of determinism (i.e., the classical hard determinist argument (Edwards, 1958, Laplace, 1840, Holbach, 1770)), the same past determines the same future. The future could, in theory, be perfectly predicted from the past.

The weak sense of determinism, on the other hand, is defended by the contemporary hard determinists (Smilansky, 2003, Pereboom, 2001, Strawson, 2002, Honderich, 1988). This sense does not imply that the future can be perfectly predicted. It argues that, although the same past determines the same future, the future cannot be perfectly predicted because it can be anticipated only probabilistically (Deterministic Chaos). This implies the *Determinist Condition*: An agent would have acted differently, if the past conditions had been otherwise.⁴ Therefore, for contemporary hard determinists, no one can be held responsible if the initial conditions were the same. These hard determinists are members of the incompatibilist family.

The question before us now is: Should we follow the compatibilists or the incompatibilists?

3. Why not Compatibilism ?

Even though the concept of compatibilism serves as a useful tool in the ethical debate over how to establish agent responsibility, it may not suffice to resolve the metaphysical problems which accompany the concept of freedom. It has to overcome two major obstacles. The first one is the consequence argument⁵, which can be described as follows: If determinism is true, then our acts are the consequences of the laws of nature and events in the remote past. Therefore, the consequences of these laws and events do not leave room for free action, including our present acts. In other words, compatibilists have to demonstrate that an action can be free and determined in the same physical context at exactly the same time in order to justify responsibility. How can a determined action be associated with responsibility? If compatibilists are able to overcome these difficulties, they will still have to face a second major obstacle: the pre-punishment argument (Smilansky,

2007). Neal Tognazzini⁶ articulates the pre-punishment argument in the following way: “Suppose compatibilism is true. Now consider a deterministic world where agents are free and responsible. In principle, we could come to know that someone is going to commit a crime, even before the person commits the crime.” According to Tognazzini, there is no relevant moral difference between knowing that someone *has* committed a crime and knowing that someone *will* commit a crime. Consequently, the conclusion that follows is simple: compatibilists cannot in principle object to pre-punishment (punishing someone for a crime that he will commit but has not yet committed) on moral grounds.

How to make free will compatible with determinism is difficult to see, but it is even more difficult to see how to make it compatible with indeterminism. If it is correct that true moral responsibility requires libertarian free will (Smilansky, 2003, 42), then it looks as if the only way to defend free will is by *contra causa responsibility*. For many, “current legal doctrine, although officially compatibilist, is ultimately grounded in intuitions that are incompatibilist and, more specifically, libertarian” (Greene and Cohen, 2004, 1776). Our penal law appears to have answered the question “Why do we punish people?” in line with a libertarian standpoint (Walter, 2001, 36).⁷ Might Jack be ultimately responsible for his actions in the sense that the libertarians advocate?

4. How can we be Truly and Ultimately Responsible?

The libertarian approach brings with it a basic question: how can someone be ultimately responsible? For hard determinists, there is an easy answer: it is impossible to be truly and ultimately responsible. They call this position the *Basic Argument*. It contends that to hold people ultimately responsible requires *contra causa responsibility*, which requires that Jack is *causa sui*. In other words, Jack has to be the ultimate origin of his decision and his action because he, and only he, is ultimately responsible for what that action is. For a hard determinist, a libertarian position based on this conception is indefensible, because it requires that Jack makes free choices (which render him ultimately responsible for what he is) which are rooted in an endless regress – which is impossible. According to Strawson (Strawson, 1986),

- (1) Jack does what he does because of the way he is (his nature or character),
- (2) To be truly responsible for what he does, Jack must be truly responsible for the way he is (for his nature or character),
- (3) But to be truly responsible for the way he is, Jack must have done something in the past for which he was also responsible to make himself, at least in part, the way he is,
- (4) But if Jack was truly responsible for doing something in the past to make himself what he is now, Jack must have been responsible for the way he was then (for his nature or character) at that earlier time.
- (5) But to have been responsible for the way he was at that earlier time, he must have done something for which he was responsible at a still earlier

time to make himself the way he was at that earlier time, and so on backward.

In other words, there is a fundamental sense in which Jack did not and cannot make himself the way he is. This is how the *Basic Argument* refutes ultimate responsibility and free will. Jack cannot be *causa sui*; he cannot be the cause of himself, he cannot be truly or ultimately self-made in any way.

What libertarians *mean* by free will may not survive a deterministic understanding of ourselves, and compatibilism seems to be an incoherent position. If hard determinism is true, then what are the consequences for practical ethics?

5. Without Free Will and Responsibility, What Are the Consequences for Practical Ethics and Morality?

How can responsibility be ascribed in a deterministic world? According to hard determinists, we have nothing to fear from their view. According to them, the obvious point is that we can avoid free will and responsibility issues by stating up front what characteristics of an agent we refer to when we need to take appropriate measures in response to a committed crime.

Indeed, it seems that retribution and determinism are incompatible. According to retribution theory, as elaborated, for instance, by Kant, blame and punishment are appropriate because they are deserved.⁸ The person has done wrong with his free will and must repay in kind for the wrong inflicted, under the form of the *Ius talionis* (Kant, 1986, 215). Retribution bases its justice on a back-forward attribution. But if persons lacked free will, they would not be ultimately blameworthy for their actions and therefore punishment would not be truly deserved. The conclusions of hard determinism seem to preclude any retributive justification of criminal punishment by leading us to reject the reactive attitudes that presuppose basic desert. These reactive attitudes presuppose that individuals have the sort of free will required for moral responsibility, and as such are inadmissible to hard determinists. So if hard determinism is true, there is no responsibility, and therefore the retribution theory of punishment would have to be abandoned (Pereboom, 2009).

Given that neither a libertarian nor a compatibilist account of free will is possible, does this mean that we need to rethink morality, especially concerning its application in matters of assigning criminal responsibility? The growing empirical vindication of the hard determinist position pushes us to consider prudent reforms to the criminal justice system by shifting the focus away from retributive punishment and towards protecting society through re-education and deterrence. Following the hard determinist recommendation, based on a forward-looking sense of justice, consequentialist considerations should be prioritized. If we gave up a belief in free will and responsibility, we would put more emphasis on the prevention of crimes through deterrence and reform rather than on retribution and vengeance – and society could be better off as a result (Pereboom, 2001).

The criminal justice system should abandon the idea of retribution mainly because it fosters the folk belief that bad people should be punished because

they have freely chosen to act immorally with their will or their soul. There is an important difference between *being* immoral and *acting* immorally. For instance, one of the biggest obstacles to presenting a defence based on frontal lobe dysfunction is the jury itself. People tend to imagine moral and ethical judgments as coming from some source other than the physical brain. For example, a survey could easily demonstrate that it is a commonly held belief that an average person's sense of "morality and ethics" is connected to the spiritual self as opposed to the physical self. Jurors may think of morality and free will in terms of the soul or the mind as opposed to the brain. However, neurobiological determinism teaches us that an individual who *acts* immorally as a result of a physical disability is arguably not responsible and cannot be declared immoral (Sapolsky, 2004). Frontally damaged individuals should not be sentenced based upon a mere determination of morality. As Sapolsky puts it:

You can have a horrendously damaged brain where someone knows the difference between right and wrong but cannot control their behaviour. At that point, you are dealing with a broken machine, and concepts like punishment and evil and sin become utterly irrelevant. Does that mean the person should be dumped back on the street? Absolutely not. You can have a car with the brakes not working, and it should not be allowed to be near anyone it can hurt.⁹

This quotation seems to illustrate that the law should focus on deterring future harms instead of focusing on irrelevant beliefs that have nothing to do with the origin of the deviant behaviour. In some cases, this might mean lighter punishments followed by more intensive and prolonged treatment. If, and only if, penalizing and punishing persons does not successfully prevent criminal behaviour, then it is not worth punishing the persons in question (Greene and Cohen, 2004).

The hard determinist doctrine does not entail taking a passive stance towards antisocial behaviour; on the contrary, it strongly recommends that action be taken against criminality. In order to protect society from criminals, hard determinism prescribes that law can justify penal measures based on a right of self-defence. To understand this right, Pereboom uses an analogy with the right to quarantine: "Suppose that a serial killer continues to pose a grave danger to a community. Even if he is not morally responsible for his crimes, it would be as legitimate to detain him as it is to quarantine a carrier of a deadly communicable disease" (Pereboom, 2001, 174).

Conclusion

This article has addressed the question, "Does neurobiological determinism entail the end of criminal responsibility?" Although it is important to clarify the philosophical foundation of free will, defending the traditional libertarian approach to retributive punishment may not be ethical. Instead, I have argued that it is more helpful to try to increase our knowledge of how morality can be rooted in a

determinist conception, and that this will lead us to a model of justice that avoids retributive punishments. Acknowledging the increasing neurobiological evidence in support of determinism does not mean that criminals should be given a free pass through the criminal justice system. Instead, it opens the door to new neurological interventions and treatments for criminals. If hard determinism is true, many ethical issues would need to be rethought regarding the kinds of treatments that can be imposed on convicts. What are the direct legal impacts of hard determinism for the current criminal system? For example, how should medical treatment of convicts be conducted in order to prevent recidivism? Much work remains to be done on the effect of hard determinism on our conception of justice.

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Notes

- 1 This fictional story is not as futuristic as it seems; many neuroimages have already been introduced to many real courtrooms. Historically, perhaps the most famous neurobiological defence occurred in 1981, at the trial of John Hinckley, the man who shot President Reagan. Computerized tomography brain images showed neuronal abnormalities associated with schizophrenic disorder in Hinckley's brain in order to demonstrate his lack of guilt by reason of insanity (Pratt 2005, 1). The neurobiological determinist argument of "my brain forced me to do it" is quite similar to the gene determinist argument: "It was not me. I was genetically programmed to commit the crime."
- 2 See in particular Honderich's chapter, Causation? Origination? in Honderich, T., (2002), *How free are you?: The determinism problem*, second edition, Oxford University Press, Chapter 4.
- 3 Most philosophers today are compatibilists. See Levy, N. (2007), *Neuroethics: Challenges for the 21st Century*, Cambridge University Press.
- 4 Not to be confused with the compatibilist statement, "An agent could have acted otherwise if the past conditions had been otherwise—in other words, if the agent had wanted differently," which is clearly a libertarian *a posteriori* statement.
- 5 The consequence argument is also defended by Ginet, O'Connor, Widerker, and Wiggins. See Kapitan, T., A Master Argument for Incompatibilism? in Kane, R., ed., (2002), *The Oxford Handbook of Free Will*, Oxford University Press, pp. 127-157. About the formulation of the argument, see Peter van Inwagen, (1983), *An Essay on Free Will*, Oxford University Press, Clarendon Press; Fischer, (1994), *The Metaphysics of Free Will: An Essay on Control*, Aristotelian Society Monograph Series, vol. 14. Cambridge, Mass.: Blackwell Publishers, pp. 1-110.
- 6 See Neal Tognazzini's comments on Smilansky's article at: http://gfp.typepad.com/the_garden_of_forking_pat/2007/10/compatibilism-a.html#comments.
- 7 "Traditional [law] theists in our environment, and Christians in particular, tend to endorse libertarianism about free will, according to which we have the free will required for moral

- responsibility.” Pereboom, D., (2005), *Free Will, Evil, and Divine Providence*, in *God and the Ethics of Belief: New Essays in Philosophy of Religion*, Andrew Chignell and Andrew Dole, eds. Cambridge: Cambridge University Press, pp. 77-98.
- 8 “Retributive punishment serves a moral function for Kant by making the criminal live under the law he implicitly sets up in his criminal act. The criminal acts on a maxim that he would not will as a universal law; we apply the law of that maxim to him, as though he had willed it universally... We are merely following out the rational interpretation of his irrational act, and he should have no reason to complain.” See Fleischacker, S., (1988), *Kant’s Theory of Punishment*, In *Kant-Studien*, Vol. 79, no. 4, 1988, p. 442.
- 9 Quote of Sapolsky in Rosen, J., (2007), *The Brain on the Stand*, in *The New York Times*, March 11, 2007: http://www.nytimes.com/2007/03/11/magazine/11NeuroLaw.t.html?_r=1&wanted=1&ei=5087&em&en=18634b423f80cc9d&ex=1173931200&oref=slogin

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Chapter 5

From Genetic Enhancement to Neuro Enhancement

Wanling CHOU

It is obvious that both genetics and neuro-science will have great impact upon the future development of human society. We start to harvest the fruit of genetic application in diseases that traditional medicine could do very little. Governments and professionals are chasing new research in pharmacogenetics and genetic therapies. Neuro science is now doing research that crosses the borders of biomedicines, from early artificial intelligence studies to more recently how brain cells and neuro structures affect our ways of thinking and memories. Genetics and brain cells are essential elements that make up what human beings are. Both affect our behavior and thinking activities. Without appealing to simple-minded genetic determinism, we have to admit that genes have a lot to do with our behavior and thinking just as we admit there are some connection between genetic endowment and IQ performance. The nerve network of our brain cells is doubtless affects our bodily reactions and fitness. Abnormal brain function will lead not only to physiological discomfort, but also affects our patterns of thinking and learning. It sounds reasonable enough that both genes and brain cells are what make up the essential ingredients in our way of thinking and behavior though we are not determinists. These technologies are now being applied to the treatments of patients and very soon to the use of enhancement. Both genetics and neuro-science offer hope and fear for us because they are offering on the one hand treatments and improvement for our health and performance that traditional medicine and technology could not do. On the other hand, they may upset some of our basic values and our views on human being and human society. One of the possible employments of such technologies is enhancement. It has aroused a long time debate for genetic enhancement and now comes to neuro enhancement. In this article, I would like to probe further the morality of the impact of such enhancements upon personal identity and humanity and compare the morality of these two types of enhancement.

1. Genes and the Brain

The relation of genes and the brain is somewhat like the network design and operation of a computer. Genes define the design of a computer while the brain works according to the design and carrying out the necessary functions. Genes and the brain could not be separate from each other for the network needs brain cells to execute and brain cells need the guidance of the network before they could do anything. Genetic structure determines how our brain cells grow and work. How it works out depends on the number of neurons and synapses. To put it in a nut shell,

we could say genes determine one's natural endowment while the brain affects our learning capacity.

Genetic variations certainly affect our brain structure and development, however, the change or loss of function of our brain will not change our genes. Changing one's gene is like changing one's brain design. Many researchers did find some genes that affect our behaviors. The GREB (dunce amnesiac cabbage rutabaga) genes do have very strong effect upon the formation of memory and if its function lost we will lose our power in learning and memory. The gene of FOXP2 is a linguistic one and it is the gene that enables human being speaks while other animals don't. The gene of BDNF (brain-derived neurotrophic factor) works with our eyes and it let us learn how to judge the deepness and experiencing three dimensional perceptions. The oxytocin receptor gene is what makes prairie voles monogamous and mountain voles not.(Matt Ridley 2003) However, many more behaviors are not determined by single genes and nurture contributes much to one's behaviors. By nature means by genetic and instinct, and by nurture means learnt by the brain.

Genetic enhancement beside inheritable could also control the operation or closure of certain brain actions. While brain enhancement works on the networking design by changing the number of synapses and neurons happening and their directions. The former enhances certain capability, while the latter increases its degree. Both could concern the same kind of events such as enhancement of intelligence (if there are genes determining intelligence). Enhancement may be switching off certain genes that lower our intelligence or it may be enhancing the number of synaptic stimulus of neurons that affects the growth of intelligence. The difference lies in the heritability and effectiveness. Heritability takes time. While effectiveness is more direct. If parents have high IQ, theoretically their child will have higher IQ than others. However, it may not be fully developed. If parents do not have high IQ, genetic enhancement could raise the IQ of their child but it still needs brain learning for its full development. Even children without high IQ, their intelligence could be enhanced by brain stimulations so that their capacity could be raised to their highest performance. This is reflected in our traditional conception that a not too bright child could make good performance in learning if it works hard enough. Which of the two kinds of enhancements make the best? The answer is brain stimulation.

Since the brain is the more manipulative and its effect is more direct and obvious, neuron enhancement becomes one of the hot subjects in bioethics. Once we could control precisely the function and operation of the brain, we could control others. Presently, scientists have accumulated some effective research results on brain memory, for instance, injury in the temporal lobe will stop the formation of new memory, and the injury of amygdale will affect the learning of fear, and so on.(Larry R. Squire 2000) If we apply the brain controlling technology upon human being, the controlled subject does not retain personal identity and could be trained as killing machine. We shall return to this and other ethical problems of brain enhancement.

2. Ethical Issues with Genes and Evolution

Darwin's theory of evolution has brought forth the development of evolutionary ethics into the field. (Richard Dawkins 2006) Its basic idea is that the ethical development of human society is but a part of the result of the evolution of *Homo sapiens*. Its function is for the continuity and harmony of the species. In other words, what we thought as the uniquely human characteristics of morality is the result of evolution and human being is hundred percent animals. (Owen Flanagan 2008) In fact Darwinian evolutionary ethicists use a rich body of scientific data to prove this point. For instance, the different mating pattern between prairie voles and mountain voles, with the former monogamous and the latter polygamous is found to be due to the difference in oxytocin receptor, which determines the pattern of childbirth of the species. There is another prominent physiological difference between the two species. It is supposed to prove that the so-called loyalty of family system or virtues of human morality are evolutionary results only. (One of the points expressed by Patricia Churchland in the workshop on neuroethics "Neuroscience and Ethics: The Good, the Bad, and the Brain," Taipei, Taiwan, December, 2008.) In fact, the recent studies in genetics and brain function greatly enhance the persuasion of Darwin's evolution theory.

Evolutionary ethics posts an imposing challenge on some of the deeply ingrained conceptions of morality in our traditions. Most obvious of all, evolutionary ethics contains a deterministic element. If it is pressed too far, all our acts are but genetically determined, it may wipe out the possibility of morality. Natural selection is a rule and the only rule for evolution. Genetic and brain function explanation of moral acts is basically a third person point of view. It leaves no room for our first person experience in moral dealings. It seems to contradict with our moral experience that the first person decision making is what is crucial in determining the moral property of our acts. Is free will an evolutionary result or is it just a figment of our thought which never exists?

The development of genetics and neuroscience leads to the belief that manipulations of our genes and brain could change man's behavior and the morality of our act is not dependent on the so-called internal reasons such as conscience or free will. Though neuroscientists may be able to show how our brain functions when we perform some moral acts, however, they could not explain why moral acts have meaning for us. Human moral decision is not mechanistic, and, if all human acts are the determined results of natural causality, then stealing is nothing but the transferring of the money in your pocket to mine. There is nothing immoral. This is not what our moral experience would endorse. It means moral judgment and acts are meaningful for human being. It remains for neuroscience to explain what does it mean by "meaningful" in such context and in what sense neuroscience technology could change one's moral behavior.

There are a lot of moral issues and much more are evolving from the development of genetics and neuroscience. (Steven J. Marcus 2002 ; Judy Illes 2006) I shall treat only the ethical issues of the two kinds of enhancement that are bringing

forth by these two disciplines in this article.

3. Ethical Problems of Genetic and Neuro Enhancement

Genetic enhancement is a kind of genetic interference; it belongs to an invasive kind of treatment. Its basic principle is like genetic therapy and the difference lies only in its motive and goal. Though genetic enhancement is not available so far, its breakthrough is imminent. Some genetic therapy has been applied though still in animal experimentation stage and it is widely believed that in the not too far future, it will be applied to human subjects. A simple distinction between the two is that genetic therapy is using genetic interference for the control or cure of genetic diseases, while genetic enhancement for the raising of our abilities more than normal. In other words, the former is a treatment of disease while the latter is not. This is one of the most hotly debated issues in genetic ethics.

Genetic therapy shares the usual motive and goals as traditional treatment of patients and the release of pain though the method is a little different. Genetic enhancement is an invasive one without medical necessity, that is, it has no medical needs. By disease, we usually mean deviation from normal species functioning. Genetic therapy employs genetic interference for such cure. Genetic enhancement acts upon normal genes to enhance its power or effects. In cases of purely enhancing a person's power or physiological states to have certain socially approved abilities, such as intelligence, body capacity, height and others, it seems to be acceptable. However, the ethical issues that it engenders could not be lightly taken. There are three kinds of problems need be taken care of.

First, it concerns social justice. When genetic technology becomes mature for employment, many people will think of using it for the enhancement of our abilities. Though the raising of ability is not genetically determined, nurture and personal effort are also very important, it is obvious that people with higher gift performs better and faster in learning and other activities. If we could enhance intelligence as well as such important traits as understanding, memory, logical thinking etc., we seem to achieve what others need hard working to make. The result of competition seems socially unjust. Besides, since the cost for genetic enhancement will be fairly high, those affordable for it will be those in the upper class of the society. The natural consequence will be those dominant will continue dominant and the social gap will be enlarged further unfairly. Some predicts that this will end in the kind of genetic eugenic that the Nazi had dreamt of.

Second, it is also a problem in distribution justice in that if both kinds of technology become mature for medical use, they will be included into medical care practice. One of the problems is whether the right to health care covers such genetic interference. Furthermore, genetic interference technology inevitably requires a larger portion of the share and the users are usually those rare diseases patient. Since healthcare resources are limited, it is wonder how to appropriate the funding to meet the requirement of justice in healthcare resources allocation.

The third one is the problem of personal identity. The above two questions are more or less external questions of justice. The problem with personal identity is

more an internal problem for these two kinds of enhancement. Personal identity is the identity of a person over time, that is, whether the individual realizes his or she is the same person over time. (Robert Audi 2002) When we use invasive genetic or neuro interference, it may affect the personal identity of the subject. It seems that the value of human dignity includes one's being the same person over time. If one is completely ignorant of the past or the future, it seems that one is harboring two or more completely different sorts of consciousness. It could not be the same person and will not be accountable for what one has done before or after the operation. However, we need to go deeper to make out the difference between these two types of enhancement.

4. Enhancement and Personal Identity

Biomedical technology is supposed to achieve a universally accepted goal that its development will benefit all. It could be achieved by helping us to know more about ourselves by such means as the study of decoding of DNA. Or, it could be achieved by the prevention and control of diseases. Both genetic and neuro enhancements seem to be able to help perfecting human nature. However, they could also destroy some of our most cherished possessions such as our personal identity and hence our self identity. After a successful operation, I might not know who I am any more. It is obvious that we would not like to lose our own self and become controlled by what we have developed. We have to be aware of the traps underlying these two types of enhancement.

First of all, the term "enhancement" means something quite different from the term "cure." It has nothing wrong to fix. Taking Boorse's definition of disease as deviation from normal species functioning, genetic therapy and neuro treatment are interference with something that deviates from normal species functioning. Genetic and neuro enhancements are working on normal genes and brain cells so as to raise their abilities and effectiveness. Their difference lies in that genetic enhancement will affect our children while neuro enhancement is more or less personal.

4.1. Genetic Enhancement and Personal Identity

Though genetic enhancement could be applied to achieve a number of good traits, one's outstanding performance will not be determined totally by genes. It depends much on nurture. However, if everything equals, those have better natural endowment usually done better on almost everything. Genius is genius in addition to their efforts in that they have better genes. It seems that genetic enhancement is something with good results. But, is it true? If the technology is so matured that we could make the most perfect type of baby we need. Could you imagine you are born according to the design of somebody? In the case of adult, we may be transformed into a smart but cold blood type of person. Would you like to accept it in place with the former a little slow but tender person? (I assume for the sake of argument that genes do affect our way of thinking and behavior as well as personality. However, it does not mean that this article supports genetic determinism.) Both questions are not as straight forward as they seem to be.

Personal identity problem does not happen with the creation of perfect species because a designed perfect baby will grow up without the happening of inconsistent self consciousness and hence will have personal identity like any normal child. In the case of adults, genetic enhancement again does not affect his or her personal identity. Genetic change may change one's personal traits and its degree of manifestation. It will not change his or her self identity and hence personal identity. Personal identity needs memory for its formation. Since we need to be able to identify what happens to our self consciousness over time as the same self that we are and memory provide us with this important service. Even with a gene of extreme violence, enhancing such genes would make it much more prominent and compelling, but we are self conscious what we have been doing all along. Our memory tells us what we have been before and after. Someone might try to enhance oneself in violent genes for benefit, however, since we remain the same person all along and thus responsible for what we had done.

4.2. Neuro Enhancement and Personal Identity

As we said above, the brain is more direct and effective in affecting human behavior because it controls directly the number of synapses and neurons. The brain divides into a number of lobes with different functions. The frontal lobe is responsible for planning and autonomous acts; the parietal lobe is in charge of body surface sensation and the perception of space; the occipital lobe is for visual perception; the temporal lobe controls hearing and visual perception, as well as memory.(Larry R. Squire2000) Any injury to these lobes will seriously affect human behavior. The lobe that influences our personal identity is the frontal lobe. For, the frontal lobe is in charge of the formation of memory. Loss of memory or unable to make new memory means one does not remember what one has done and could not have self consciousness. Without self consciousness one loses personal identity. From a philosophical point of view, we could have cognition of objects is because our brain have a threefold function.(The following is a kind of three fold synthesis explicated in Kant's *Critique of Pure Reason*.) Our perception is first of all receiving mere manifolds of objects which need to be organized by the concepts of our understanding before they could be recognized as the manifold of some certain object. Since perceptual images passes away instantly and the reproduction of the passed manifolds by the imagination or memory is needed for the concepts to be able to unify them into a perception of certain object. Such threefold synthesis is possible only because we could identify them as all belongs to the one and identical self that we are. Such a self conscious and identical self makes up our personal identity. If neuro enhancement could bring changes of our personal identity by enhancing or destroying our memory or power of memory, it would give us all we need for the control of a person. It opens the dark alley to mind controlling. Not only the controlled person may be a killing tool and it would have lost what dignity a human being has as he or she is no more than a human machine.

Concluding remark

We may hope that both kinds of enhancement could bring human being forward to be a super man or woman, and might be as a soft minded spider man who promote and protect human happiness. However, we should not forget that our stake is also high. It involves not only social justice but also the most precious value of human dignity. Hence we should not take too lightly the possible dark side of such technological advances and should do everything to prevent the misuse or abuse of such powerful tools upon ourselves.

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Chapter 6

Listen to My Heart: Paternalism vs. Patient Autonomy

Yicheng CHUNG

Introduction

Perhaps one of the most challenging responsibilities physicians face in cancer medicine is the question of truthfulness with terminally ill cancer patients (Taboada & Bruera, 2001). For some physicians, it might just be a bad day at work; for others, truth-telling can mean a serious ethical dilemma associated with cultural pressure. Under the cultural umbrella where paternalism and family-oriented-determination are more dominant than individual autonomy and self-determination, the physician-patient relationship can be quite complicated and decision-making might go beyond the ethical consideration of a patient's welfare and lose its way. In this kind of situation, the technical knowledge that physicians have learnt from medical school does not seem to be of much help. One of the roles ethicists play is to provide a systematic analysis of various ethical dilemmas in different settings and to facilitate the solution. The moral dilemma needs to be solved. A consultation with ethicists or a group discussion following ethical analysis of clinical cases will be useful when decisions have to be reached in individual cases.

In this essay, three cases are discussed to illustrate the ethical dilemmas of communication with individual patients and their families. The main question is: should physicians still tell their terminally ill patients the truth of diagnosis and prognosis, even though the patient's family might oppose? The underlying reasoning behind this dilemma is the difficulty to compare the importance of paternalism, the principle of beneficence, and the principle of respecting the patient's autonomy. My aim is to provide a possible solution to this dilemma by indicating a physician-patient relationship model that is relationship-centred. I will first begin with analysing the concept of paternalism with reference to truth telling, and show how paternalism might undermine the patient's autonomy in this respect. Second, I will discuss how the principle of beneficence or the idea of hope might shape the decision, and argue that the good will of the patients' family cannot be a reason to override the patient's autonomy and their right to make an accurate decision. The request to withhold diagnosis and prognosis from the patient's family shall not be counted as an extension of the patient's autonomy, or a sort of implicit consent grounded in the relationship. In the relationship-centred model, communications between physicians and patients are crucial. In addition, each patient's autobiography becomes essential with regard to decision-making. The patient's family might contribute to the patient's autobiography, and the patient might depend on the families in difficult times. The authenticity of the patient's autonomy, however, calls for more attention, and this can be fulfilled with close conversation

between the physician and the patient.

1. Three Cases

Consider the following three cases of three 73-year-old women with the same diagnosis:

1. A 73-year-old woman was diagnosed with gastric cancer and a further examination revealed metastases in her liver and poor general condition. The patient was diagnosed as terminally ill and only palliative care could be given. The doctor revealed the diagnosis to her in the presence of her family, on the patient's request, and throughout the meeting she stated that her only wish was to go home and had no interest in learning about the prognosis or diagnosis in detail. To respect her wish, the medical team proceeded with a palliative care unit for appropriate symptom control and the patient was discharged when her general condition was stable. The patient died at home 2 months later with her symptoms well controlled.
2. A second woman with the same diagnosis: she first went to a community hospital for examination, however, because of her critical condition, she was transferred to a medical centre for further examination where the doctors discovered metastases. With the uncertainty of the patient's character and vulnerability, the doctor revealed the possible diagnosis to the patient's family, without the presence of the patient. Despite the reliable diagnosis of terminal cancer illness and prognosis, the physician withheld the prognosis and explained the curative procedure with a vague indication of its effectiveness. After a discussion with the patient, the family representative accepted the physician's medical suggestion based on their confidence in his judgement and profession. The patient has been treated with chemotherapy but her body was too weak to bear the side-effects and the symptoms, she died 2 weeks later in the hospital of her sudden deteriorated condition and the family was left with no preparation.
3. A third woman with the same diagnosis: the doctor also firstly approached the patient's family member and discussed the illness. The doctor revealed the truth in full including her terminal illness and prognosis. The family did not want to upset the patient by telling her the truth and were mostly afraid that she would become depressed and give up all the hope of living, they told her that the treatment was helping to build up her nutritional and immune status and the doctor was requested not to reveal the diagnosis to the patient. Staying in the ward, the patient one day told the nurse that she felt very isolated because she couldn't discuss her real worries with her children. She had the feeling that her family might lie to her about her illness and she knew they did it out of good will. She expressed that she knew she is going to die, even though no one told her. She borrowed pen and paper from the nurse and wrote a will. The patient died one week after and by discovering the will, her family realised that the patient had already known the situation.

2. Paternalism

Sometimes people hide things from us because they think it is better for us not to know. Sometimes a mother forbids her child to play with scissors because the scissors may harm the child. In the above cases, doctors at times withhold some information from their patients for the sake of patients' interests. Actions as such are regarded as paternalistic. They are justified solely on the grounds that the person affected would be better off, or less harmed, and the person in question would prefer not to be treated this way. Regarding to the clinical setting in discussion, physician's paternalistic action can be restated as below:

- (1) A physician withheld the relevant information from his patient.
- (2) The patient preferred not to be treated this way, and hence her autonomy was thwarted.
- (3) The physician did so out of the belief that the patient's welfare would be improved, or at least not diminished.

(1) is an action; (2) shows on what moral ground (1) violates moral obligation; and (3) is the justification of such violation. Here, the physician fails to comply with the principle of respecting his patient, but he justifies his action by improving the patient's welfare. Promoting patients' welfare seems to be a good reason to override patients' autonomy, right?

Paternalistic actions or rules can sometimes be justified by various theoretical reasons. Physicians may believe that sometimes their action is justified morally because the result is good (consequentialism). Or, they may believe that so long as the patient is properly treated, truth-telling is not so important (contractualism). The contractual justification is quite common in Japan, Japanese patients expect to receive good care and treatment from the medical institute, do not wish to know, or to be burdened by the information (Hoshino, 1997). They expect a good result and high quality treatment, and in return they give gifts (Hoffmaster, 2001). The exchange of goods and gifts is the invisible social contract in Japanese culture and bioethics.

Here are some Year 5 Taiwanese medical students' concerns about truth-telling to terminally ill patients, which they wrote and presented in their bioethics course:

"In the traditional view, cancer is regarded as untreatable. In addition, some patients are more pessimistic or anxious by nature. If we disclose the truth to this group of patients presumptuously, they might feel hopeless and decline any treatment. This is something we really do not want to see."(Sheu *et al.*, 2006, pp. 590-8)

"Asking a patient who has not much knowledge about the disease and [who is] emotionally vulnerable to make decisions on treatment... The patient may become depressed and the family would complain about the doctor's imprudent act." (Sheu *et al.*, 2006, pp. 590-8)

In a broad sense, paternalistic action is justified by claiming that more good

than harm is produced. From the preceding quotes, physicians' good intentions to promote the patient's welfare or prevent it from diminishing is beyond question, what is in question is whether the physician can distinguish the conditions in which more good than harm is done and build that into their guidelines (Dworkin, 2005). Promoting patients' welfare must be measured as objectively as possible, and yet patients' attitude towards their diagnosis is a subjective and empirical issue. In such situation, physicians judge the best interest of their patients on a case by case basis. If one wishes to justify paternalistic actions through the consequentialist approach, it would require more than the clinical experiences each physician has to deduce a firm conclusion.

Another theoretical basis to justify paternalistic actions is contractualism, which argues that we (all of us) would agree to such interference, given suitable knowledge and suitable motivation on a contractual basis (Dworkin, 2005). In this view, it is necessary to determine whether the person being interfered with is acting voluntarily and knowledgably, if he is not, then the paternalistic action might be permissible. Hence, borrowing Mill's famous example of the person about to walk across a damaged bridge, if we could not communicate the danger, because he speaks only Japanese, a soft paternalistic action to prevent him from crossing the bridge would be permissible. However, if he knows the situation and still wants to take the risk, he must be allowed to proceed (Mill, 1956). Therefore, physicians might withhold some diagnosis in order to determine whether the patient is acting voluntarily and knowledgably. For instance, as quoted in the preceded passage, if the patient has a belief that cancer is untreatable and he is going to die soon, while the actual situation is the reverse, then it is permissible for the physician to ensure the patient's competence first instead of simply revealing the diagnosis.

Mill's example yields an indication that in some cases paternalistic actions may be morally permitted, or even required, given that the man is about to cross a damaged bridge. There is a *default* mode underlying the contract which ensures that each party entering the contract knows all the terms and conditions and is capable of making voluntary decisions. Nothing should proceed unless the default mode is met. In our clinical cases, surely each patient possesses individual character and reacts differently to their own illness. To make sure the patient acts knowledgably, soft-paternalism may be justified to cover the risk resulting from the variety of the patient's reaction. The default rule would be to exam the competence of the patient, and this in some cases might involve paternalistic actions.

3. Patient, Family, and Physician

In our cases, physician's decision is complicated by the participation of the patient's family. It is, as far as I know, relatively common in East Asian that the physicians may approach the patients' families first and reveal the diagnoses to them. I assume this is more for practical reasons than theoretical ones. Physicians may need the family's consent to do some examination in cases of emergency; also they need to know the family history of illness. The issue of obtaining information and legal consents by violating the code of confidentiality is yet another moral problem.

Where to draw the line and balance between confidentiality and patient's interests is, however, beyond the scope of this essay.

In the case 3, the patient's family requests the physician not to tell the patient the truth because they are afraid that she might be depressed and lose all the hope to live. Their intention is understandable, and the rationale may again be the belief that the patient can be better off this way. This can be seen as a form of paternalistic action that the family is trying in an effort to protect the patient from further harm, and they may claim that as family members they are right to do so. But being the patient's family does not mean whatever they do for the patient is always justified. Once the protection exceeds the limit and patient is left untold, it would be hard to see how withholding information could benefit the patient.

4. Beneficence and Hope

Another perspective on the family's request to withhold the truth may be the principle of beneficence or hope. It can be interpreted as a deception of good will, which I would like to call *the placebo effect*. It means to give hope to the patient and also to the family, despite of the slim chance of recovery. The patient undergoes treatments which have little chance of leading to recovery, and yet remain unaware of the possibility of deteriorating her illness. The family believe that as long as the patient still has hope, and still struggles to live, there is a better chance to recover, and life would be easier without thinking that death is awaiting. The psychological effects may support the patient, but not enough to build a moral principle on such a basis. There is one flaw in making an analogy between treatment with little chances of success and a placebo pill. That is, even though the psychological benefit of the placebo might be similar to the treatment for the terminally ill patient, the significant difference is that the placebo pill is itself harmless in physical terms. That is to say, if the hope of psychological benefit fails, the general condition of the patient would not deteriorate. The placebo effect can be associated with palliative care without the patient realising it is being given, which means to minimise the symptoms and at the same time still hold out hope. If that were the case, the request of the patient's family may be partly justified. Nevertheless, this would not yield them a right to ask the physician to abstain from truth-telling. It may be a custom or a tradition that the family are the main care-provider for the ill patient, and thus the family's will may need to be respected. However, for family members to override the patient's decision, it would need to prove that the patient is incompetent of making any decision. Psychological effects alone are not enough to replace the patient's will by following the family's wishes.

It might be argued that in East Asian¹ culture the principle of autonomy is collective instead of personal, and the family's request is an extension of the patient's will. As East Asian ethicist Fan points out, in the East Asia, autonomy should be understood in a social solidarity way. He says that:

Every agent should be able to make his or her decisions and actions harmoniously in cooperation with other relevant persons (Fan, 1997, pp.

309-22).

This suggests that solidarity is the key to moral decision. The patient and her family may need to reach a mutual consent and an agreement before a clinical decision can be made (Fan, 1997). Also it could be considered extremely rude and inappropriate if a physician directly informs the patient about a diagnosis of a terminal disease rather than a family representative (Fan, 1997). Hence, the physician-patient relationship becomes a triangular relationship. The physician might wish to tell the truth, the family might oppose it, and it is hard to extract the patient's own mind from such plight.

5. Physician-Patient Relationship

From the preceding paragraphs, various physician-patient relationship models are shown. The paternalistic model is less acceptable in moral terms because of the difficulties shown in the first section. In some difficult cases, such as Jehovah's Witness patients with regard to blood transfusion, soft-paternalistic model may be morally permissible. The soft-paternalistic model can be considered as a default position, to which the physician can track their original responsibility to the patients in such difficult cases. However, the default position hardly leads anywhere, because what is suggested is a passive aspect of the physicians' responsibilities. Soft-paternalistic model is based on the assumption that patients in general do not make rational choices and need physicians' help. This may satisfy the role as the default model for physicians to treat every patient, but if we confine the physician-patient relationship to soft-paternalism, it might ultimately undermine the relationship. Look at Mill's example again, if a doctor sees a patient about to cross a damaged bridge and all he does is only to ensure his patient is not mentally ill, would this kind of relationship be desirable?

The converse of the paternalistic model is the patient-centred model, which shifts the focus from physicians to patients. It is the patient's call in making medical decisions and physicians should withhold their recommendations in case the patients might be biased (Brody, 1985). This shift, which is derived from the consumer movement in the late 20th century, has encouraged patients to be more assertive, to question physicians' recommendations, and to demand interventions that might otherwise be withheld (Barsky, 1988; Illich, 1976). And after a few decades of practicing and training, the patient-centred model has developed new problems as serious as those posed by paternalistic one. Being advised not to influence the patient and only give objective information, the physician has come to be seen as an impediment to decision making, instead of a resource for it (Quill & Brody, 1996). The rise of patient's autonomy also partly transformed the physician-patient relationship to the consumer-supplier one. Patients navigate treacherous medical terrain without adequate medical guidance (Quill & Brody, 1996).

Both the paternalistic and the patient-centred models flow one way, as one direction is from doctor to patient and the other is the reverse. Both have serious problems and neither of them can solve the dilemma stemming from our cases. A

joint approach may be favoured, and is called the relationship-centred model. The relationship-centred model is considered as the middle way which restrains the physician's power from exceeding and also enhances the patient's autonomy. It is a two way exchange of information, both doctor and patient reveal treatment preferences, and both agree on the decision to implement (Charles et al., 1999). It is in a form of discussion between the physicians and the patients, at times including family members and others, and in the dialogue they reach a consensus. In this model, doctors are not mere information-providers and patients are not mere treatment-receivers or treatment-demanders. Both the physician and the patient walk hand in hand to face the possible difficulties to come.

In the relationship-centred model, the philosophical point is to respect the patient as a person, which, I believe, is the nature of respecting an individual's autonomy. The physician needs to take the time to listen to the patient's story, and to integrate the medical decisions into the current chapter of her biography (Quill & Brody, 1996). The patient's family plays an important role in this model as well. The family's request of not telling the truth may still not be justified; nonetheless, it is essential for the doctor to know what may shape the patient's decision making, and with communication the family may be more supportive to the medical decision. The relationship-centred model is more personal, in which the physician, patient, and the family may all deliberate upon the medical decision to implement, and have a say in the decision making procedure. Open discussion does not frustrate the patient's hope; rather, it builds more courage for the patient to fight the illness, and in our cases, the cancer.

In the recent years, a shift towards such relationship-centred model in the healthcare services has emerged in Japan and received growing attention in the Japanese society. A radio series called "The Conversation of Life" (いのちの対話) by NHK radio 1 has broadcasted an episode regarding how physicians and patients may go hand in hand and fight the illness. The conversation is later published in 2008. In the programme, Dr. Kamata and Dr. Hinohara have pointed out that doctors and patients shall form a team to fight the illness, and in the process of fighting, doctors are important partners to their patients (Kamata et al., 2008). In order to form a good partnership with the patients, physicians shall be good listeners and well communicators. They shall have sympathy with their patients and believe in a holistic view towards body-mind connection (Kamata et al., 2008). This shift in the patient-physician relationship may still be **in its beginning stage and it requires time** to implement the relationship-centred model to general practice. Nevertheless, this is a sign of awareness that the core of medical treatment is not science, but humanity.

Conclusion

In this essay I have tried to solve the moral dilemma which physicians might face when deciding the disclosure of diagnosis to their terminally ill patients. I have used three cases to show the possible difficulties in this clinical setting, and three morally relevant factors have been analysed. The paternalistic action is hard to justify in such a setting, though soft-paternalism may at times be morally permissible.

Doctors in East Asian may feel pressure from the patient's family with regard to truth-telling. However, the family's requests may lack moral grounds and even though the family's will may be argued as an extension of the patient's autonomy in some cultures, a request that overrides the patient's autonomy still does not hold. A favourable model to include all the opinions of the physician, patient, and the patient's family is the relationship-centred model. It helps to reflect the authenticity of the patient's autonomy, to see her as a person, and improve the quality of life in the last days.

Note

- 1 Here I take mainly Japan and Taiwan as examples when I referred to the East Asian culture. The practice of truth-telling or family decision can be related to a broad cultural character based on Confucianism that shared by Japan, Korea, China, Taiwan, and some other South East Asian countries.

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Chapter 7

Killing Oneself or the Other

Aryya BHATTACHARYA

Introduction

Gandhiji once observed:

*“Death is our friend, the trust of friends. He delivers us from agony. I do not want to die of a creeping paralysis of my faculties – a defeated man.”*¹

The English poet William Ernest Henley wrote:

*“I am the master of my fate, I am the captain of my soul.”*²

Despite the above, Hamlet’s dilemma of *“To be or not to be”* faces many a soul in times of distress, agony and suffering, when the question asked is *“To die or not to die.”* The essential corollary to this question becomes, *“To assist or not to assist in death.”* These moral dilemmas, known to us as suicide and euthanasia, have tormented us for centuries and still the controversies rage on without any definitive solution.

Euthanasia- the Greek word means *‘happy death.’* But happy for whom? The person who dies or those who see that death? Death is an inevitable truth which nobody can escape. But at the same time it can hardly be a welcome experience. If it were, everybody would be eagerly waiting for death. But paradoxically enough, in spite of such a longing for life people sometimes turn away from it and seek solace in death either in the form of pure suicide or in the form of assisted suicide or Euthanasia. In modern times tremendous advancement in the field of medical science has increased the longevity of human beings, many a times even through artificial procedures. Yet this very fact, which is like a boon to mankind, often becomes like a curse and people become eager to eliminate the same person whom they put on a life support system earlier.

Within the scope of this paper I would like to address the issue of killing either in the form of self-directed suicide or in the form of other-directed Euthanasia from the point of view of Hindu Scriptures. I am uttering the words *‘suicide’* and *‘euthanasia’* in the same breath because where killing or we might say *‘mercy killing’* is concerned it does not matter whether the pain is physical or mental, the criteria for such an action as killing that is based on *‘mercy’* should be stated clearly. If moral science allows killing of others on the ground of mercy or pity, self-pity should also be regarded as a valid reason for killing oneself. People do choose death over life sometimes in the name of suicide but whatever name one might give, at the end of the day, it is killing of a life none the less- whether of one-self or that of others.

1. Euthanasia: A Happy Death?

As we all know, the Greek word Euthanasia is made of two words ‘eu’ and ‘*thanatos*’ which means ‘*beautiful death*’ or ‘*peaceful destruction.*’ We find some references of Euthanasia (not terminological but conceptual) in Plato’s *Republic* and Aristotle’s *Politic*. It is said that- living is not the good, but living well. The wise man therefore lives as long as he can. He will think of life in terms of quality not quantity.

Euthanasia may be conducted with the consent of the ailing party or without his consent. Generally, involuntary euthanasia is conducted where an individual makes a decision for another person incapable of doing so. The decision can be made based on what the incapacitated individual would have wanted, or it could be made on substituted judgment of what the decision maker would want were he or she in the incapacitated person’s place, or finally, the decision could be made by assessing objectively whether euthanasia is the most beneficial course of treatment. In any case, euthanasia by proxy consent is highly controversial, especially because multiple proxies may claim the authority to decide for the patient and may or may not have explicit consent from the patient to make that decision. Euthanasia can also be conducted passively, non-actively, and actively. Passive euthanasia entails the withholding of common treatments (such as antibiotics, pain medications, or surgery) or the distribution of a medication (such as morphine) to relieve pain, knowing that it may also result in death. Passive euthanasia is the most accepted form, and it is a common practice in most hospitals. Non-active euthanasia entails the withdrawing of life support and is more in controversy than passive euthanasia. Active euthanasia entails the use of lethal substances or forces to kill and is the most controversial process.

Advances in medical science and some laws of affluent countries like America that are hell bent on keeping a patient alive as long as possible, no matter what his state of consciousness is, has rekindled this age old debate. Here I would like to mention that so far this problem is, practically speaking, not very pressing in the third world nations where providing minimum medical facility to ailing family members and relatives is almost a luxury, that most of the people fail to provide for. Recently the debate has started about euthanasia. But still the reference of such a discussion is restricted to a few affluent people like business tycoons, famous film stars and so forth. This debate practically loses its significance where the lower and middle earning groups are concerned. Anyway, let us get back to the discussion. The basic questions that should be discussed are:

Why the life is all important, and why it is wrong to choose death over life?

Keeping this in mind the key questions that this paper would like to answer revolve around a man’s right to doctor’s autonomy and choose a dignified death and a second person’s rights and duties.

2. Life: The Divine Power

Hindu Scriptures that include *Vedas*, *Upanisads* and *Samhitas* always hold life,

which possesses an intrinsic value, in extremely high esteem. According to Hindu value system a human being is not an isolated simple persona but a Cosmic Being.³ So being a part of and qualitatively same with the organic whole it is the obligation of each being to contribute to the maintenance of the harmonious functions in personal, familial, social and cosmic level. This is how limited human beings transcend earthly humanity and reach cosmic divinity. Life, humanity and cosmic divinity are ultimately inseparable in nature. So a good life is a qualitative life through participation in the lives of the other beings. *Abhinavagupta*, the famous Kashmiri *Advaitist* (12 cent A.D.), in his pioneering work *Pratyabhijna Vimarsini*, remarked that self-consciousness or I-ness is the very self of sentiency. This is the freedom and the Supreme power of the transcendental self. A jar is not manifest in itself- cannot shine freely or independently, is therefore said to be insentient. But a man, say *Caitra* (or say Tom) because he has various kinds of feelings and activity shines in himself. This free consciousness is all-powerful. It identifies itself with others, denies, and again merges- such is its essential nature.⁴ This I-ness, which is the very essence of a living human being, should be nurtured at any cost.

Hindu scriptures hold that the cosmic sound or nada in Sanskrit, which is akin to gengo in Japanese, is the root cause of all creation. As *vacya* and *vacaka* or the reference and the referent are not non-identical. *Omkanada* or the cosmic sound OUM and *Omka* or the cosmic being is one and the same. This Supreme Being, who is also termed as *virat* or *hiranya garva* is the only reality – *ekamevadwitiyam*. He has no second. But then *ekaki na ramate sah dwitiyam oichha* – being exasperated with loneliness he desired for the second and started pulsating. This first shiver of the supreme one gave birth to this manifold universe with its living and non-living things. So living souls are nothing but the image and part of that supreme self and hence cosmic in nature.

Morality is termed by the Hindu thinkers as Dharma. The Sanskrit word Dharma is originated from the root *dhr*, which means to hold or to sustain. Therefore the word dharma denotes-upholding, supporting, nourishing or that which upholds, nourishes, sustains stability and social order, general well-being and progress of mankind. Whatever conduces to the fulfilment of these objects is Dharma.

Hindu scriptures speak of two kinds of Dharma- *sadharana dharma* or universal duty and *varnashrama dharma* or the duties incumbent on a person by virtue of his caste and station in life. Where *varnashram dharma* is concerned Hindu ethics is relativistic in nature since these duties are meant for a man, not as a human being but by virtue of his *varna* or caste and *ashrama* or stage of life. *Varnashram dharma* is a compound of the twin concept of *varna dharma* and *ashrama dharma* of which former is a social notion where as the latter gains significance mainly in the context of personal morality According to Hindu scriptures there are four types of castes viz. *Brahmana*, *ksatriya*, *vaisya* and *shudra*. In *purusa sukta* it is said that *Brahmana* is originated from the face of that Supreme Being, *ksatriya* from his hands, *vaisya* from his thighs and *shudra* from his feet. There are four *ashramas* viz *brahmachaya* or student life, *garhastha* or household life *vanaprastha* or dwelling in the forest and *sannyas* or the life of an ascetic. In Hindu thoughts, Liberation or *Moksa* is deemed to be the ultimate goal of life.⁵ Morality is nothing but the means

to that end.⁶ But Hindu *dharma* is never life denying in nature. Here we see that though ascetism leads to *moksa* but it comes in the final stage of life, after fulfilling all the duties to family and to the society.

Hindu religion does not permit escapism. One has to fulfil his earthly duties as a social being before going in search of his true self. It is interesting to note that here altruism leads to egotism and not vice versa, as commonly believed. A question might be raised, why do Hindu scriptures prescribe *Sannyas* or asceticism as the final stage of life? Why should people practise asceticism as a must do after completing moral obligations towards family and society? Well, it is because Hindu religion never identified a person with his body. A person has a body but he is not the body that gets destroyed due to the course of nature.⁷

In reality man is the consciousness personified. *Atman* or *cit* is his real self. The death of the body does not imply the death of the soul. The self, burdened with the seeds of his past deeds, both good and bad, takes another body and thus the journey to self realisation continues uninterrupted through different types of 'yoni' or 'form' or 'katachi' as Japanese people might have said. Rare is the human birth- considers Hindu Scriptures. The status of 'man' is the highest in the evolutionary scale of living beings⁸, which is obtained after a long series of incarnations. The body, though not sentient in nature, is a necessary and primary condition for attaining the highest moral goal that is liberation from earthly bondage or *Moksa*. That is why Hindu Scriptures heavily stress on the preservation of the body. They have gone so far as to say that, if necessary, one should preserve and nurture body by devouring anything that helps sustaining it including even human flesh.⁹ This is applicable to ascetics and sages also. This clearly shows the absolute life affirming thoughts of Hindu Scriptures.

The Karma doctrine classifies the actions of men into *Sakama* and *Niskama karma*. *Sakama karma* is performed with some result in mind, and it also yields results, whether good or bad. *Niskama karma* is performed without keeping any such desire in mind. Here we are talking only about *sakama karma*. The consequences of our actions affect not only our dispositions and tendencies but also genetic makeup, social status at birth, etc. Karma operates in a naturalistic fashion and is the stepping-stone of final liberation. Therefore, if something like suicide or Euthanasia hinders that natural flow, the person concerned will have to undergo many more re-births which in turn will be much more painful, veering him off from the sole purpose of his life. One achieves divinity, which is his real self, through liberation. Anything that helps the manifestation of that divinity of the soul is beneficial and moral. Where as, everything that hinders this unfolding is harmful and immoral. In fact, suicide and Euthanasia are considered by the Hindus not only as immoral but a sinful act as well. When a human being brings death to a life, even if on compassionate grounds, he violets the basic rule of existence.

3. Denying Life

Hindu ethics is too strict, yet too liberal in nature. It is never dogmatic but always case specific.¹⁰ Although *Vedas* and *Upanisads* do not support destroying of life but

yet in a way is flexible enough to accommodate suicide or Euthanasia in some form or the other in Hindu scriptures we get references of a few people who were allowed to choose the time of their death, *Bhisma* – the famous son of *Shantanu*, is most remarkable of them.

Hinduism has a claim of being one of the oldest religions in the world. The following of Dharma and the attainment of Salvation are the principal objectives of Hinduism. The Dharmashastras in fact allowed for the committing of suicide if a person was incurably ill or too old to observe the rules of the body, by jumping into fire, water or from a precipice or even by starvation. This would not result in sin and would also assure a place in heaven. Apart from this the *Dharmashastras* also speak of the *Mahaprasthan* or the great journey. According to *Manu*, A forest hermit when he suffered from an incurable disease and could not perform the duties of his order could start towards the Northeast on the great journey till his body fell down to rise no more. The *Adipurana* also states that a man suffering from an incurable disease who started the great journey or killed himself by jumping into the fire, water or off a precipice committed no sin.

However the *puranas* also forbid the commission of suicide as an escape from responsibility of ones actions. *Manu* says that a person who commits suicide should be denied the purification of water before cremation. *Kautilya* says that a man who commits suicide out of anger or frustration should be dragged into the city by rope, by a *candala* and none of his kin must attend or perform the rituals of cremation.

Although Hinduism does to a certain extent accept suicide as moral, it is only limited to those who have fulfilled all in life and seek to be one with the *Parmathma*. The practices of *Sati* and *Jauhar* that have been advocated as acceptance of suicide by the Hindu religion are but perversions of a few and not accepted Hindu philosophy. Moreover in today's society both of these acts are not only immoral but also illegal.

In Hindu philosophy the practice of euthanasia may also be logical deemed illegal. Hindus believe in the doctrine of karma or destiny. This doctrine clearly propounds suffering and pleasure as essential elements to fulfil ones negative and positive *Karma Phala*. Hence the ending of ones life because one suffers great pain would be to leave the negative karma un-accounted for. Apart from this the Hindu religion strongly puts forth the principle of *Ahimsa* against all beings including ones self.

Another form of self-willed death is '*Prayopvesa*' where Hindu Scriptures allow termination of food and water at the request of either a terminally ill patient or a '*yogin*' who chooses self-willed death.¹¹ As we have already seen, according to the Hindu Scriptures *Moksa* is the summum bonum of life and body is an integral part of the journey towards that goal. That is why spiritually advanced sages who cannot meditate anymore due to fragile bodily conditions often abandon their old frail bodies and take new ones at their free will. This is known as '*Kayakalpa*' and there are a few references of such in Hindu Scriptures¹² (Govindan, 2000, p. 134). In Hindu religion liberated persons are divided into two groups-

Jivamukta or those who continue to live in the same body even after attaining liberation and *Videhmukta* or those who abandon their bodies and choose death

voluntarily as soon as they attain liberation. In the Hindu epic *Ramayana*, *Savari*, the famous devotee of Lord *Ramachandra* is such an example. There are also allowances for suicide and euthanasia, as I have already mentioned, in the form of *Jauhar Brata* in medieval Rajasthan¹³ (Singh-Chib, 1979, p. 118).

Goddess *Durga*, when incarnated as *Sati*, the daughter of Daksha *Prajapati* voluntarily had chosen death over the unbearable anguish that hearing the insult of *Siva*, her husband, caused to her.¹⁴ *Sita*, the heroine of the famous epic *Ramayana*, also had voluntarily chosen death over life.

When physical or mental anguish becomes so strong that it outwits the pleasure of living, Hindu Scriptures allow death as a welcoming relief. Voluntary death is also allowed for the sake of universal good as is presented by the story of *Dadhichi*, the sage.¹⁵ A proper case of active Euthanasia can be found in *Ramayana* when lord *Rama* killed the demon *Viradh* on his request to make him free from the depilated cursed bodily condition that he was suffering from.¹⁶ In *Mahabharata* Goddess *Ganga* killed seven of her sons in order to release them from the pain of earthly bondage.¹⁷ But the anecdote of *Bhisma* shows that one should not wish for death before fulfilling earthly duties even while being in pain, and that his relatives should do as the person wishes. Folklores and legends also sometimes support this form of killing.

Over here the examples of suicide and euthanasia are jumbled up together. And that is intentional on the part of the writer, because whether it is other assisted suicide or self assisted the axiom to be chosen is the same and that is: are people free to choose death of one self or that of other even on the ground of compassion. And if the answer to the above mentioned query is in affirmative then suicide is as ethical and legal as euthanasia. Even the self-sacrifice of *Dadhichi* is nothing but suicide after all. Objection might be raised that the great sage *Dadhichi* has sacrificed his life for the universal good and hence can not be equated with plain 'suicide' which is done out of selfish motives like deep rooted depression or self disgust etc. in the same way, it might be argued, as when a person takes life of another human it is called killing but when a doctor helps a person end his/her life that is called 'mercy killing or euthanasia.

But again if we stripe off the cloth of vainglory from such actions do they not amount to killing or suicide at the end of the day?

Moreover, now it is time to ponder upon the thought that when family members of a patient advocate euthanasia, do they have best interest of the patient alone in their mind or do they at least, to a certain extent, led by their selfish interest of getting rid of the situation that probably have disturbed their lives and proved to be a burden on their economy. And if they are driven by their selfish hedonistic purposes instead of doing duty for duty's sake then they definitely fail as moral agents.

In fact we cannot rule out the abusive usage of euthanasia in cases of disabled or mentally sick persons. Legal system definitely would be thee to control such abusive uses but whether that would be full proof is again a matter of debate.

But this is not all. The much more inherent danger which is hidden in it is the possibility of state sponsored genocide in the name of mercy killing.

The two criteria that keep surfacing in favour of euthanasia are:

1. Respect for the autonomous decisions of rational agents
2. Dignity of life that is worth living

Let me take the second criterion first. Who is to decide which life is worth living? Which type of life is to be termed as ‘worth living’?

In ancient times Romans considered life of a physically weak child not worth living. Hitler decided that the lives of Jewish people are not worth living. Many a terrorist group think lives of all those who differ in ideology are not worth living. In fact it is highly paternalistic to decide for a fellow human being that he/she is not worth living.

And this paternalistic attitude is a dangerous slippery slope of which every conscientious being should be alert about, lest it pave the way to state sponsored terror and mass murder.

The criterion, often forwarded in support of euthanasia, is the respect for the autonomous decisions of the rational agents.

4. The Response of Law

It can be argued that Article 21 of the Constitution of India has conferred a positive right to live, which carries with it the negative right not to live.¹⁸ This is, it can be argued, akin to the situation where a freedom to speak also embodies in itself the freedom not to speak, or to remain silent. Similarly, about the freedom of business and occupation, it can be said that it includes freedom not to do business. Thus, every positive right carries within itself a negative right not to do a particular act. A right to live, therefore, will confer the reverse right to terminate a life as well. The criticism against this argument is, this type of promulgation is but a superficial analysis of the situation, without taking into account the inherent difference between one fundamental right and the other. It has been argued that the negative aspect of the right to live would mean the end or extinction of the positive aspect, and so, it is not the suspension as such of the right as is in the case of ‘Silence’ or ‘non-association.’ It has also been stated that the right to life stands on different footing from other rights, as all other rights are derivable from the right to live. But such a criticism is not devoid of its failings. One may refuse to live, if his living be not according to the person concerned worth living or if the richness and fullness of life were not to demand living further. One may rightly think that having achieved all world pleasure or happiness, he has something to achieve beyond this life. This desire for communion with God may very rightly lead even a very healthy mind to think that he would forego his right to live and would rather choose not to live. In any case, a person cannot be forced to enjoy right to life to his detriment, disadvantage or disliking. Whatever turn this debate might take, it is undisputed that the right encompassed or conferred by Article 21 is an inalienable human right and can, under no circumstances, be easily waived. Law can grant only so much liberty as ‘would not jeopardize the interest of another or would affect him adversely, i.e., allowing of stretching of arm upto that point where the other fellow’s nose does not begin.’ Suicide or euthanasia not only affects the person dying, but it affects their

relatives, family and friends, and ultimately, society at large. Therefore, legally allowing euthanasia would have wide ramifications at the various levels of society, and such a colossal power cannot be granted under the guise of a personal right to die, and should only be allowed in the rarest of cases.¹⁹

5. Redeeming Circumstances

Let us take a pause and recapitulate the general conditions under which mercy killing is permissible. They are:

1. Patient's suffering is unbearable with no prospect of improvement
2. Patients' request (in case of voluntary euthanasia) persists over time
3. Patient is fully aware of his/her condition, prospect and options
4. Death must be carried out by a physician after consulting at least one more physician etc.

Now let us go back to the Hindu scriptures and see the criteria led by them. If we analyse the instances of euthanasia, as presented by Hindu scriptures we can see that selfish hedonistic criterion was never part of it. *Bhisma*, the famous *Kourava*, whom I have already mentioned. *Bhisma*, though was not in favour of war yet was fighting from the side of *Kouravas* and was the first person to be chosen by *Duryodhana* in the capacity of the general. He was fighting bravely but ultimately he fell down. But as his body was pierced by innumerable arrows, his body could not touch the ground and he virtually lied down on the bed of arrows on the battlefield. He was in extreme bodily pain and the chance of his recovery was nil. In that aberrated bodily state he lied down near the battle field with out food or water but refuse to take refuge to death even when he was blessed with the boon of choosing the time of is death only because he was duty bound to his country and could not afford to die unless and until his countrymen are safe and happy under a just monarch. He chose to die only after the war was over and peace prevailed. This clearly shows that Hindu scriptures always placed duty over happiness. In fact if I am righteous I make myself worthy of happiness. Thus, according to Hinduism, happiness becomes part of my total final good. This is the demand of justice.

Killing of *Viradha* by Sri *Ramchandra* is a tailor made case of Euthanasia. Over here the decision of killing was taken by *Ramchandra*, the hero of the famous Hindu epic *Ramayana*, who is depicted as a man who is perfect in every respect and his virtuousness and righteousness is envied even by the gods. So it is clear from this assertion that the decision of executing Euthanasia is the prerogative of an extremely knowledgeable person who, though should be compassionate to fellow human beings yet should not be propelled by compassion when taking decision of mercy killing but by reason alone. He/she should perform it as Kant would have put it '*Duty for Duty's sake.*' Or as *Bhagabat Gita* preaches – while taking such decisions the moral agent must be totally free from wish, hope or desire and act for the sake of duty and duty alone. Otherwise he/she would be committing the heinous crime of killing human life. This is a tall order no doubt.

Conclusion

In Hindu Scriptures it is said *Anandadveb Khalvimani bhutani jayante, anandhadaiva jijibasanti bhutani* which means- this whole world is created out of joy and people live in joy-in a word joy or bliss is the true nature of a self. So self by nature seeks joy and bliss and wishes to avoid that which is painful. When a person is threatened by extreme pain, physical or mental, he seeks refuge in death. But why should he do so? Is it because the state of death to be a state of supreme blissfulness? Not admitting but assuming death to be a state of eternal bliss, is it of any use to a person that chooses death over life? Because enjoyment requires an enjoyer but does death not strip off the state of that enjoyer from the person who dies and therefore, annihilates absolutely? Is the suicide or euthanasia nothing but an escape route only? But again, to what destination? Is it total non-existence that people in extreme pain prefer? Or is it a mode of protest against the gross injustice that people under such trauma think they are subjected to? Given chance, will they not reconsider their decision? Every body desires peace and happiness- they desire life.

Charaka and *Sushruta* who were the codifiers of *Ayurveda* or the ancient medical science of India, carefully considered and documented the various medical ethics and procedures. *Ayurveda* classifies diseases as either *Sadhya*, that is those that can be effectively treated and cured and *Asadhya* or those that cannot. Incurable diseases again are divided into two classes- (i) which can be managed for an acceptable quality of life and (ii) those which cannot, like terminal cancer. If treatment cannot provide a person quality life then *Ayurveda* considers it better to give no treatment other than palliative measures. *Ayurveda* holds that death is not to be feared, neither accelerated nor delayed but must be treated as a natural process. So natural timing of death should be preserved.

Hindus regard death as a migration of soul from one stage to another. It is our duty to provide comforts that are humanly possible to the patient in a spiritual environment. Even today elderly people, especially those that live at rural areas, choose to stay at home amidst their kith and kins in their last hours instead of dying lonely in a cold hospital bed with the life supporting systems on. They are helped by their family and relatives to their journey to after life in the forms of devotional songs, prayers, feeding of holy water, etc. they are also assisted by the doctors who treat them because most of the doctors also help them with nothing beyond pain control drugs. People believe that thus they help in making the transition of the diseased soul from this world to the next as smooth as possible.

Even the terminally ill people, knowing their days are numbered, can live a quality life if they are relieved of pain. They can wipe out the bitterness from their soul, fulfil their duties either by themselves or with the help of the people around, repent their misdeeds, take the course of *yoga, japa*, worship, prayer etc seeking the highest realisation as he is consciously and joyously released from the world. That is what the Hindu scriptures preach. It is the duty of the people around including doctors to help reduce his suffering so that his thoughts become sublime with gratitude, affection and love when he sets out on his great journey of death. To

leave the body through the highest possible *cakra* is the key to spiritual progress. Prolonging peoples' lives uselessly by artificial measures, compelling them to bear the burden of life like a vegetable and then ending it with artificial measures, often for the relief of those who have to witness that suffering continuously is not only cruel but a heinous crime against humanity. Therefore, laws are necessary for ending the unending process of futile treatment, not for terminating the life that was pushed into the labyrinth of such a dark, cruel well in the name of treatment. Acceptance of the natural process of life and death is what the Hindu scriptures prescribe barring a few exceptions which again prove the law.

Let us end with the famous hymn of *Rg veda* that celebrates life over death: Let us repeat that verse: "Arise! The breath, the life, again hath reached us; darkness hath passed away and light approacheth. Shine then today, rich Maid, on him who lauds thee, shine down on u the gift of life and offspring."²⁰ (Griffith, R.T.H., 1973, pp. 16-17)

Notes

- 1 Quoted by Hansraj, J, in *P. Rathinam v. Union of India* [AIR1994SC1844]
- 2 Henley, W. E., *Invictus*.
- 3 Hindu Scriptures hold that there is only one Supreme Being who desired to be many [*Bahusyam Prajayeya*- I will be many] and starts pulsating. This is how the whole universe along with its living and non-living beings gets manifested. Therefore the entire universe has originated from that first shiver of creation of **Brahma** or the Supreme Being. This is the message of the famous *Purusa-Sukta* [Cf. *Rg Veda* X.90.12: "*brahmano sya mukham asid bahu rajanyah krtah/ uru tad asya yad vaisyah padbhyam sudro ajayata//*"] so, humans are nothing but the images of that Super Cosmic Being (Brahma) also termed as *Birata* and *Hiranya Garbha*, being qualitatively the same. The metaphors that are often used in Hindu scriptures are that of fire and spark, ocean and its waves, the sea and a doll made from sea salt etc.
- 4 "*Citih pratyabamashartma para baksvarsodita/ svatantryametannukham tadaishvaryam paramatmanaha//*" *Iswarpratyabhijnavimarshini*, I-V-13.
- 5 Hindu schools are not unanimous in their opinion regarding the definition of liberation or Moksa. Without entering into that debate, due to time and space constraint, the term moksa is used here very loosely and somewhat vaguely.
- 6 Vedic thoughts, however, insist that other than some exceptional circumstances a man must perform his socio-moral duties before setting in the path of salvation. Hindu scriptures speak of two kinds of dharmas or duties, namely, *sadharana dharma* or universal duties and *varnashrama dharma* or the duties incumbent on a person by virtue of his caste or *varna* and stage or *ashrama* of life. Depending on birth there are four *varnas* or castes, namely, *brahmana*, *ksatriya*, *vaisya* and *sudra*; and there are four *ashramas*, namely, *brahmacharya*, *garhastha*, *vanaprastha* and *sannyasa*. *Vanaprasthya* and *sannyasa* are the stages when a person, after fulfilling his or her earthly duties set on a journey of self-realisation or moksa.
- 7 "*na jayate mryate ba bipascit/ nayam kutascinna babhuba kascit/ ajo nittah sasvatohayam purano/ na hanyate hanyamane sarire//*" *Kathopanisad* I-II-18.
- 8 It is the attribute of dharma (morality) that differentiates man from the lower species: "*aharanidrabhayamaithunam cha samanyametatpashubhirmaranam/ dharmo hi tesamadhiko*

viseso dharmena heenah pashubhih samanah/ Manuśmṛiti.

- 9 It should be noted that Hindu scriptures are extremely restrictive where edibles are concerned. Normally ascetics are allowed to have only *habisya*, which is minimum staple diet that is necessary for living.
- 10 Even man's duties are often acknowledged by Hinduism to be relative to time (*yuga*) and place (*desa*) and thus they admit that *dharma* may well vary from one age to another, as well as from one region to another.
- 11 Concern for the wellbeing of others by knowingly hastening one's death is considered to be a sign of spiritual enlightenment and hence, it is allowed on occasions. The Laws of Manu allow *prayopavesa* but only for ascetics, members of the Brahmin caste, and kings. The rationale behind this is as follows: If one permits one's body a slow and wilful dissolution they are free from sorrow and fear and are ultimately liberated. However, as a prerequisite for such action, one must publicly announce the intention to fast, and permit community intervention, if any is offered.
- 12 Govindan, S.V. (2000) *Carakasamhita Ayurvedic Massage For Health And Healing – Ayurvedic And Spiritual Energy*.
- 13 According to medieval folklore, when the country is attacked by outsiders who wished to outrage the modesty of the women, they jumped into the fire choosing self-immolation to suffering humiliation. Such women were greatly praised by Hindu religion, and were not considered as sinners but pious people who go to heaven instantly. Cf. Singh-Chib, S. (1979) *Rajasthan*.
- 14 Cf. *Kalika Purana*.
- 15 *Mahabharata, Adiparvam*.
- 16 *Ramayana, Aranyakanda*, Canto IV verses 1-34.
- 17 According to mythology, eight celestial beings were cursed by a sage and condemned to a mortal existence. Fearful of earthly sufferings, they prayed to Goddess *Ganga* to be reborn in her womb, whereafter she would immerse them in water, putting an end to their mortal lives. Only the eighth son survived, and became *Bhisma*, the doyen of *Mahabharata*. For details see *Mahabharata, Adiparva*, Canto 98.
- 18 *Maruti Shripati Dubal v. State of Maharashtra*, 1987 Cri LJ 743 (Bom), overruled by *P. Rathinam*.
- 19 For details read *P. Rathinam v. Union of India* [AIR1994SC1844]; *Olga Tellis v. Bombay Municipal Corporation* [AIR 1986 SC 180]; see also Singh, M.P *Can there Be A Fundamental Right To Die?*, DLR Vol. XVII, 134.
- 20 *Rg Veda*, trans. Griffith, R.T.H. (1973) rev. ed, RVI 113.

Chapter 8

Benefit Sharing in Biobanking: A Confucian Examination

Honchung WONG

Introduction

After the sequencing of human genome project, how different genes effect on human body, how the interactions between human genes, environment and personal lifestyle determine the raising of different kinds of human diseases, as well as how to develop effective medicine and treatment through human genetic research became the main issues of biomedical research in this century. In order to facilitate these kinds of research, many countries have launched biobank projects to collect large amount of biological samples and personal medical and lifestyle information for future studies. In general, donors will not be offered any material financial and other inducement to contribute to these projects. Altruism is usually appealed to encourage people to participate, with the commitment that their donation will be conducive to the advancement of healthcare services and medical knowledge, which will benefit their society as a whole. However, it will be inevitable that private companies will use samples or information stored in biobanks to develop medicine and make profit in return. How to share the benefits derived from these resources will be an important issue which has to be solved by any biobank project.

In his paper, D. Schroeder divided the justification for benefit sharing in the context of human genetic resources into four different models:

1. The outcomes of human genetic research are sufficient benefits for both cooperators and the public at large.
2. Cooperators who cannot benefit directly from genetic research (e.g. donors of DNA samples for large-scale studies) qualify for some form of additional benefits, whereas cooperators who can benefit directly (e.g. recipients of experimental drugs in pharmacogenetics trails) do not.
3. All cooperators qualify for additional benefits (owing to the risks involved or because their property is being used).
4. Altruism should be the guiding principle for contributors to human genetic research (Schroeder, 2007).

A mixture of models (1) and (4) dominates current practice. However, it is probable that many participants in various biomedical research or biobank project will not benefit from them. Nowadays, a large number of biomedical research recruits their subjects from various developing countries, such as various clinical trials on HIV vaccines, but it is hardly conceivable that the result products will

be affordable to them if there is not any mechanism to protect their priorities over others to share the benefits resulted from the research (Schroeder, 2007).

In this article, I try to argue for a family-priority based benefit sharing model for Biobanking from Confucian perspective. Two reasons support my approach. First, benefits sharing in any biobank project should be proportional to contribution. Since participants contribute more than non-participants to the project through the donation of their biological samples and data, they should have priorities over others to share the benefits result from it. Secondly, since the families of the participants also take part in the projects in some sense as they share some degree of genetic characteristic and private information with the participants, they should also enjoy the benefits similar to the participants.

To begin with, I examine first the existing benefits sharing policies of biobanks or similar databases in some countries, such as UK Biobank and Icelandic Health Sector Database. I also examine the recommendations suggested by the existing international declarations or statements, such as the three international declarations adopted by United Nations Educational, Scientific and Cultural Organization (UNESCO) and “Statement on Benefit Sharing” adopted by Human Genome Organization (HUGO). I found that some of these policies or statements have not provided adequate concern to the interests of the participants and their families in biobank projects. Finally, I elaborate the proper attitude towards families and other human beings suggested by Confucian philosophy and outline the family-priority based benefit sharing model I proposed in accordance with it.

Keywords: biobank, benefit-sharing, Confucianism

1. UK Biobank

The objective of UK Biobank is to build a database that can support a diverse range of research intended to improve the prevention, diagnosis and treatment of illness and the promotion of health throughout society. 500, 000 people aged 49-69 will be recruited to participate in the project. Their lifestyle and environmental information, medical history, physical measurements, and biological samples are to be collected and then their health will be followed for many years through medical and other health-related records (UK Biobank, 2007).

The benefit sharing policy of UK biobank aims mainly to dissemination of knowledge generally. All research users are required to put results from all analyses made on participants’ data and samples in the UK Biobank database so that they are subsequently available to all researchers with appropriate scientific and ethics approval. They are also required to place the findings from all research based on UK Biobank in the public domain so that people can benefit from them. Such knowledge may also be applied to the development or improvement of healthcare techniques, technologies, materials or routines, and may be communicated to participants, the National Health Service (NHS) or others as appropriate. Moreover, fee will be charged for access to data or samples stored in UK Biobank. Any income that UK Biobank secures from access fee or intellectual property will be re-invested in the resource (UK Biobank, 2007).

The reason why UK Biobank restricts benefits sharing to dissemination of knowledge, rather than offer other more substantial benefits to its participants may be that any material financial or other benefits may constitute improper inducement. The terms “public interest” and “public good” are often used in the context of UK biobank, including the early drafts of the projects’ Intellectual Property and Access Policy which describe UK Biobank as being “a managed resource for the public good” (Capps et al., 2008). Scientifically robust and ethically sound health-related genetic research can count as a public good. However, offering additional benefits to its participants may be seen as incompatible to its aim to benefit public. Moreover, altruism is usually appealed to encourage people to participate in this project as well as other biomedical research (Medical Research Council, 2001). Since it is expected that UK Biobank will only contribute to the future of society, there is little for participants to directly gain.

However, some studies reveal that many people worries about whether UK Biobank can realize its aim to contribute common good, especially when they know that commercial entities would have access the resource. During one public consultation on UK Biobank performed by People Science and Policy Limited in 2002, a number of respondents expressed a strong concern that companies would focus on profitable diseases rather than on major public health issues and whether any real benefits to the public from UK Biobank would be come true (People Science and Policy Ltd., 2002). Moreover, in a 2004 Scottish study of ten focus groups investigating public attitudes about UK Biobank, the majority of respondents thought that only medical personnel, academics, or research scientists should be accessible to their DNA and other information. Most respondents thought the database should be publicly owned and controlled in some way. Furthermore, there was clear discomfort about a loss of control over their samples and information (Haddow, et al., 2007).

On the other hand, it may be the case that the reason why some people participate is just that they suffer from a certain kind of disease and hope that providing their samples and data to UK Biobank may be a chance for the advancement of the treatment of them and their families or descendants in the future. If there is any finding in research using their sample or information, private enterprise will speed up the production of new therapy. However, if the price of new drugs determined by the companies is not affordable to them, they may think that they are treated only as a means to profit making for the companies.

UK Biobank also recognized that to grant private enterprise access to its material may weaken its ability to fulfill its role as serving for public interest. This is particularly evident when its users get patents for their own discoveries stemming from this material. Current UK and European laws on Intellectual Property Rights (IPRs) permit temporary monopolies to control the use of inventions, including in the broad field of genetics. While IPRs allow companies to regain the costs of expensive research and development programmes to ensure the investment needed to produce the therapeutic and diagnostic products in the future, they may also generate disproportionate claims from private right-holders, leading to undue restrictions and charges in licenses and constraints upon further research and the distribution of

benefits. In the end barriers against public access to medicines and diagnoses could be unacceptable (Capps et al., 2008).

2. Icelandic Health Sector Database

In 1998 Iceland approved an act to create Health Sector Database, which will be a centralized database on health data of its citizens, with the aim of serving increasing knowledge to improve health services. The idea for the Health Sector Database was suggested by Dr. Kári Stefánsson, a neurologist and cofounder of deCODE Genetics, Inc. Health Information about the Icelandic population, approximately 280, 000 people, will be stored and encrypted according to conditions set by the Data Protection Authority so that it is not individually identifiable to deCODE or others. The database will contain only quantitative information in health records (such as blood pressure levels) but not narrative information (such as physicians' notes). Nor genetic research data and results from genetic research which is derived from an individual's DNA or other genetic information will be included in it. Individual's informed consent, permission from an Icelandic ethics review board, as well as a permit from the Data Protection Authority will be required in order to linking health information within the Health Sector Database to genetic information for research purpose (National Institute of Health, 2004).

Icelandic government granted an exclusive license to deCode to develop, operate, and maintain the database. deCode should be responsible for costs relating to the set-up and monitoring of the database, as well as a fixed remuneration to the Icelandic government and a share of the profit from the operation. Such share will be used to promote health services, research and development. The annual royalty payment is reported to be 6% of revenues, capped at 70 million Kroner (US\$ 1 million) (Wilson, 2004). Moreover, deCODE was also granted the authority to sublicense data to others and has entered into an exclusive sub-license agreement with Hoffman-La Roche that will give the latter exclusive access to the database to explore the genetic origins of 12 diseases (Berger, 1999). The sub-license agreement between deCODE and Hoffman-LaRoche promises the Icelanders will be provided, free of charge for the patent term, any products that are developed using data from the Icelandic database (Greely, 2000).

Compared to UK Biobank project, deCODE's Health Sector Database project seems to commit to more substantial benefits to data providers. The project makes sure that their contribution to it through the provision to their medical records will be reimbursed by using a share of profit in promoting health infrastructure of their country. Moreover, they will enjoy free therapy if there is any success in developing new medical products by Hoffman-LaRoche in using their data from the database. However, it has been argued that promises to provide free drugs and diagnostics that are developed during the patent period are potentially empty and it is impossible to foresee how many drugs, if any, will be developed as a direct result of data derived from the DNA of the Icelandic people (Ibid.). Moreover, since the Icelandic government permits deCODE to access to publicly created medical health records of all Icelander without prior informed consent, some of them may think

that they are just sold by their state as commodities to a private company without their permission. Further, some sections of the Icelandic research community not associated with deCODE have worried about the heavy involvement of industry in human genetic research can constrict academic freedom and open access to important research resources (Martin & Kaye, 1999).

3. UNESCO Declarations and HUGO “Statement on Benefit-Sharing”

There are three declarations issued by UNESCO which mentioned the problem of benefit sharing in human genetic research, and they are the “Universal Declaration on the Human Genome and Human Rights” (UNESCO, 1997), “International Declaration on Human Genetic Data” (UNESCO, 2003) and “Universal Declaration on Bioethics and Human Rights” (UNESCO, 2005). The first declaration stated that “the human genome underlies the fundamental unity of all members of the human family” and “is the heritage of humanity in a symbolic sense” (Article 1). It also suggested that “benefits from advances in biology, genetics and medicine, concerning the human genome, shall be made available to all” (Article 12). The second declaration suggested that “prior, free, informed and express consent, without inducement by financial or other personal gain, should be obtained for the collection of human genetic data, human proteomic data or biological samples.” Moreover, it included a separate article on benefit sharing (Article 19), which recommends that benefits may take any of the following forms:

1. special assistance to the persons and groups that have take part in the research;
2. access to medical care;
3. provision of new diagnostics, facilities for new treatments or drugs stemming from the research;
4. support for health services;
5. capacity-building facilities for research purposes;
6. development and strengthening of the capacity of developing countries to collect and process human genetic data, taking into consideration their specific problem...(UNESCO, 2003)

In order to examine the UNESCO declarations mentioned above, we should clarify first in what sense the human genome is “the heritage of humanity.” The HUGO “Statement on Benefit Sharing” also understands human genome in a similar way and explains it as follows:

...the concept of common heritage also resonate under international law (e.g. the sea, the air, space, ...). Applied to human genetics, it maintains that beyond the individual, the family, or the population, there is a common shared interest in the genetic heritage of mankind. Therefore, the Human Genome Project should benefit all humanity (HUGO, 2000).

However, it is clear that the human genome as heritage of humanity is not similar as the sea, the air or space, otherwise researchers need not to ask the participants of their projects to consent in order to collect their genetic data or their biological samples. In other words, my genetic data or my biological samples are seen as my own and should not be used without my consent, as the HUGO statement asserted that “apart from identical twins, individuals exhibit significant variation” on genome. This sense of ownership of our bodies should be distinguished from property rights we claim to our other possessions. A great deal of criticism focuses on the notion regarding human body as a property, since it contributes to commodification of human life and a diminishing sense of human personhood (Dickenson, 2004), as Margaret Radin argued that “Systematically conceiving of personal attributes as fungible objects is threatening to personhood because it detaches from the person that which is integral to the person (Radin, 1996, 88).” Nevertheless, it is one thing if I regard my gene as my own, my unmarketable personal attribute, and participate in a biobank project to see whether there is any chance to rectify its defects. It is another thing if I conceive my gene as a commodity, selling it to others as I please and then benefiting me in return. I think many critics on the notion of ownership of human body failed to make clear the difference between them.

Moreover, my genetic makeup is also more similar to my families’ than that of the rest of mankind. If I participate in a biobank project, the genetic information of my families will also be exposed to others to a certain extent. More importantly, my lifestyle information may also be collected and it inevitably involves some private information of my families (as in the case of UK Biobank). Hence, if justice requires that benefits resulting from scientific research and its applications using materials deriving from a biobank should be shared by different individuals in proportional to their contribution, the participants of this biobank project and their families should have priorities over other people, which have not involved in it, on benefit sharing, otherwise, there will be a problem of free-riding and the willingness to participate in biobank projects will be weakened. However, though the UNESCO declarations did mention that the benefits may be special assistance to the persons and groups that have taken part in the research, and the HUGO statement also suggested that “members of a small group with rare genes who have helped research would be particularly deserving recipients of benefits,” the UNESCO declarations have not emphasized the priority of benefit sharing to the participants over others, and both of them have not mentioned the benefits which their families should enjoy.

On the other hand, the HUGO statement did explain why in some cases benefits should not be limited to those individuals who participated in research:

In the very rare case where the extended family or a small group/tribe harbours an unusual gene, yet the research eventually benefits those with another disorder, justice may require that the original group deserve recognition. In this situation, benefits could be provided to all members of the group regardless of their participation in the research. Limiting the returns to only those who participated could create divisiveness within a

group and is inconsistent with solidarity (HUGO, 2000).

The solidarity of a society will be weakened in another way. Though the HUGO statement suggested that profit-making entities should dedicate a percentage of their annual net profit to healthcare infrastructure or for vaccines, tests, drugs and treatments, the benefits received by the participants may be not enough to satisfy their medical needs and is just as same as other people which have not involved in the biobank project, as the benefits resulted may be limited. It is unfair to them compared to their contribution to the research and will weaken the solidarity of their society as justice is one of the basis of solidarity. Hence, though I agree that benefits should not be provided only to the participants, they and their families should have priorities to enjoy it.

Does the priority given to the participants on benefit sharing constitute improper inducement to their taking part in research? It would not be so if the benefits they can receive prior to others are limited to necessary medicine or treatments for their health care needs. Hence, their taking part in a biobank project can be regarded as a way to seek a chance for possible treatment for their illness in the future. However, a patient may think that they will not receive any treatment if they refuse to participate in research. Hence, some precautions against possible improper inducement may be needed, such as the consent process for taking part in a biobank project should be separated from the consent process for treatment, and a physician responsible for a patient's treatment should not involve in the recruitment process of a biobank project.

4. A family-priority based benefit sharing model for Biobanking from Confucian perspective

For Confucian, it is our moral obligation to concern with others' suffering, and we should try our best to relieve their pain. If we are indifferent to others' suffering, we do not deserve to be human. As Mencius said,

All men have a sense of compassion cannot bear to see the sufferings of others...The reason why I say that all men have a sense of compassion which cannot bear to see the sufferings of others is this: Suppose a man, all of a sudden, saw a child was about to fall into a well. He would invariably be moved to compassion, not because he wished to make friends with the parents, nor because he wished to win the praise of fellow-villagers and friends, nor yet because he disliked the cry of the child. From this it can be seen that those who have not feeling of compassion are not human... (Mencius, 2A: 6).

Mencius aims to shows us in the above example that we may have similar experience when we suddenly see others suffering from this kind of tragic accident, and it reveals our moral capacities. If we meet the situation like this, our sense of compassion will be present immediately and it is not due to concern about our

personal interest. If we act accordingly, our actions are deserved to be praised as moral. If we express it in all our behavior, we will become saint in Confucian sense. This sense of compassion is regarded by Mencius as human dignity and essence of human nature. It can be served as the basis of common morality. To help those suffering is not only a kind of matter we can do if we please, as if there is a choice for us not to do so, but a moral duty we have to realize.

In Confucianism, the sense of compassion cannot bear to see the sufferings of others is equal to the virtue of *ren* (beneficence), which is the highest among all virtues and is the foundation of all other virtues, and filial piety is a starting point of practicing *ren*, since this sense of compassion manifest most directly through our attitudes towards our parents. Moreover, we have a duty to love and take care of the rest of my families. However, our practicing of *ren* should not limit to these and should also extend to other humans and even other beings. As Mencius said,

Do reverence to the elders in your own family and extend it to those in other families, showing loving care to the young in your own family and extend it to those in other families, and you can rule the world easily as handles it by your palm...Hence one who extends his bounty can bring peace to the world; one who does not cannot bring peace even to his own family... (Mencius, 1A: 7).

To extend one's bounty means one should extend his love to his families to others. A man with a virtue of *ren* will view other's suffering as his own, as if it is an injury to his body. He will be satisfied only if all other humans are free from pain as well as they can fully develop their moral capacities and other talents. However, according to Confucianism, to fully develop all people's moral capacities and other talents is not only an obligation of beneficence, but also a requirement of justice. As a paper named "the Operation of Rites and the Great Harmony" in the *Books of Rites* wrote,

In the prevailing of Tao, the world under Heaven is justice for all.... Thus people care not only their parents but also other's parents, nourish not only their children but also other children, and try to see that old aged people could have a proper and happy ending, the adults could serve the society, the young could grow healthy, and those widows, widowers, young without parents, old without family, the disabled and the sick are all well taken care of. All men have their proper offices and all women have their happy families. It is disgusting if goods are wasted, but they should not be preserved only for myself. It is also disgusting if my abilities have not been fully realized, but their realization should not contribute only to my own happiness.

This passage fully expresses the Confucian Ideal of a just society. If people in one society only takes care of their own families and do not care about others, it is hardly viewed as ideal from Confucian perspective. Secondly, the caring of

vulnerable mentioned above should be the most important obligation of a state, and it is also an obligation of all members in a society, since they are not able to earn their livings and take care by themselves, and they may lack familial support or to support them may bring heavy burden to their families. Persons suffered from diseases and cannot afford their own medical expenses can be seen as the similar cases which should be a matter to our utmost concern. Thirdly, personal properties, talents and abilities should not only be viewed as a means to personal happiness. Some of them should contribute to public interest and should be used to help the needy person. Fourthly, the obligation of a state should not be limited to taking care of the neediest person. All members in a society should fully develop their moral capacities and other talents. If some of them are hampered by natural or social lotteries, such as suffered from diseases, other members of this society have a moral duty to assist them to overcome these kinds of obstruction.

However, it does not mean that we shall treat other the same as our families. Rather, we should take care of our families first, and then concern others if we have ability to do so, otherwise we just violate the virtue of *ren*. As Mencius said, “A gentleman is affectionate to his parents, but is merely benevolent towards the people; he is benevolent towards the people, but is merely kind to things (other than human beings).” (Mencius 7A: 45) Hence, though we are required to extend our love to our families to others, our attitude towards our families should be different from towards others.

Referring to the problem of benefit sharing in biobank project, we suggest that we should consider the interests of participants first. Since they have made contribution to the project through the donation of their samples and data to biobank, and some of them may take part in the project due to their own illness, they deserve to have priority over others to enjoy medical products resulting from research using their materials. This can be done through providing free therapies resulting from research or offering a discount to them. As we argued before, this should not be counted as an improper inducement for their participation. Rather, we should regard their participation as a way to seek treatment for their illness. For Confucian, since our own bodies are gifts from our parents, it is a duty of filial piety to keep our bodies as healthy as possible, and should not let them hurt without good moral reason. Hence, to seek possible way to treat our own illness can also be regarded as our moral duty.

As to the families of the participants, we also think that they have priority over others in sharing benefits resulting from research using materials from biobank. Since they share more genetic similarity to the participants than others, and their private information will be exposed to a certain degree if the lifestyle information of the participants is collected, as in the case of UK Biobank, we may say that in some sense they also “participate” in the project. Moreover, as we argued from Confucian perspective, we have a duty to love and take care of our families. Participants in biobank project should also have deep concern to their families’ health. If they may not enjoy the medical benefits resulted from researches using materials derived from biobanks, it is reasonable to think that they hope their families or their future generations will enjoy them. Hence, if a certain degree of discount should be offered

to the participants in biobank projects to buy the medicine or treatment they need, their families or at least their next generation should also have the same rights to enjoy it.

In the case of the members of an aboriginal group living in the same community, the group should be counted as an extended family and its members should share the benefits similar to families in ordinary sense. Since they also have genetic intimacy with the participants, they also in some sense “participate” in the project. It is different from a community which consists of members with different genetic origin. In the latter case, members of the community have no claims to benefits derived from research using materials from biobank as similar to families of the participants. On the other hand, a participant may have some families which do not come from the same genetic origin, such as cases in adoption, cohabitation and homosexual marriage. The medical product resulted from research using the biological sample of the participant may not be effective to them. However, if lifestyle information of the participant, which may also involve their private information, is collected by the project, they should also receive some kind of reimbursement other than medical products, such as a small token or gift where the culture expects this.

However, benefits deriving from research using materials from Biobank should not share to participants and their families only. Though Confucian thinks that taking care to our families is our foremost moral duty, it also thinks that we should extend our love to our families to all other human and non human beings, regarding their sufferings as if our own. Moreover, “the human genome is the heritage of humanity,” suggested by UNESCO declarations and HUGO statement, can also be justified in some sense. Hence, private enterprise should dedicate a percentage of their annual profit to healthcare infrastructure and to humanitarian efforts, as suggested by HUGO statement. Benefits resulting from any research using materials from biobank should also be shared with society as a whole and within the international community, in particular with developing countries, as suggested by UNESCO declarations. On the other hand, how much benefits the participants and their families should share compared to others not involved in the project should be determined under public deliberation.

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Chapter 9

An Idea of Green Thinking: From Confucian Legacy to Global Warming

Shui Chuen LEE

Pollution is always man-made

Peter Singer argues that we are already in one world and could not be separated both physically and conceptually.¹ We could not treat others as non-existent, nor treat them as unrelated to us. He argues rigorously that if we have any good argument about our responsibility to our family, our friends and our fellow citizens, we have the same to other people of other countries on pain of moral consistence. In a sense, we have now one law, one economy and, what is most important, we have one atmosphere and one community. We have to share with everyone on Earth the common living environment and we have to keep in constant touch with each other for good or bad. Environmental problems are global problems which could not be dealt with by one country and far less by the individuals. Our individual actions seem so out of proportion with the global scale. National actions fare better but still much outbalanced by global considerations. Global co-operations are needed for successful actions for environment issues. Mutual trust among nations and peoples are needed for global co-operations.

Unfortunately, the traditional ways of consideration of individual rights and responsibilities are inadequate to deal with such large scale and international problems. To overcome the separation and distance between nations, many people try to bring forth the idea that since we are all in one community, we have to share and bear the benefits and burdens of the world together. The national border is expanded into the global circle. However, we are not quite adapted to the elimination of the boundary of national space and we are still farther from taking seriously that human beings are all in the family. How to integrate the caring of remote others as family members into the individualistic model of the modern world is difficult enough. To go further to take plants and animals, rocks and soil into our moral concern seems a far call from fairy tales. Leopold had proposed it for more than half a century ago and we are still staggering at the door of embracing the others as community members on Earth. We need both philosophical and psychological constructions to bring all species and the Earth closer together.

To show that it is everyone's responsibility to help solving global environmental problems is a daunting construction. We need to lay out the reasons why as we are living on Earth today, we have a moral imperative to help each other and the environment at large. We have to realize how close our relationship with the world and our responsibility to the Earthly kingdom of nature. And, since we always act as individuals, we have to show how and why our individual actions could work to the

solution of various global issues such as sustainability, global warming, and so on. It amounts to a new way of green thinking which I try to articulate in the following.

1. One World: Personal and Impartial Points of view

Being an individual, we are naturally seeing things from our particular point of view and thus are personal towards our own interests. On the other hand, as rational animal, we easily recognize that others have similar kinds of interest and with equally legitimate force for them. We have no reason to refuse to recognize that those things that are most dear to us are as dear to our family members, our friends and our fellow citizens as well as to all people on Earth. We feel uncomfortable in seeing that our fellow people suffered without some minimum supply of necessities. We will certainly feel outrageous if it happens to our beloved ones. We feel almost the same when they happen to some unrelated persons. In fact, we have the ability to think and feel without particular attachment to our personal relationship or intimacy. In other words, though we usually have a great interest in our own benefits and commitments, we could think and act rationally at the same time, taking others' similar interest into consideration. We have so to say two standing points of view. One is personal and partial. We always act and think from our present here and now with all sorts of contingency. The other is impersonal and impartial, where we transcend or abstract from our particularities and consider others as equals in general.²

Borrowing an idea from Thomas Nagel that a political theory needs addressing people twice in its justification,³ a global environmental ethics needs to appeal to all, first, from the impersonal impartial point of view and also the personal point of view to justify and make our proposal acceptable and workable. Not only that our personal interest and happiness are our concern. We also cherish our intimate relationship and commitments with our family members, our friends, lovers. Our natural predilection towards our children and close friends constitutes what a parent-child relation and a friendship mean for our lives. They are not only some of the most precious experiences we all would like to sustain, but are part and parcel of our happiness and identity. Such personal consideration of the subject's welfare and commitments must come forth first. Thus the personal standpoint is a moral and legitimate starting point for our reflection on environmental issues. However, as Nagel is quick to point out that:

Each of us has a primary attachment to his own personal interests, projects, and commitments, but this is restrained by our occupation of the impersonal standpoint in two ways: first, by the recognition of the equal objective importance of what happens to everyone, and second, by the recognition of the special importance for each person of his own point of view and the reasonableness of some natural partiality. So, we are simultaneously partial to ourselves, impartial among everyone, and respectful of everyone else's partiality.⁴

The upshot is that we are moral agents. We could not act egoistically and paying no moral consideration for others. This also implies that we are somewhat rational or reflective in our acts and thinking. We have to consider others equally if we want to retain something fundamental to our life without self-contradictory and very often self-defeating. We have to respect each other's partiality within certain limits. The impartial standpoint is what necessary constituting the other side of our personal concern.

For any two standpoints, it is inevitable that inconsistency or conflict props up all the time. The difficulty is how to resolve them morally. We could not allow every piece of personal interest always overriding, otherwise we are simply not treating others as equals. Nor could we downplay all sorts of personal desires, which would make our demands too high for the common fowls to act on. We have to steer through some middle ground. How much weight we should allow for personal interest and where is its limit, again, need be judged at the impartial level as Nagel argues:

When these factors conflict, as they inevitably will, there is for each person an accommodation of his partiality which is reasonable in light of the interests and partiality of others. If he is more partial to himself than this in what he takes or insists upon, he is being unreasonable.⁵

So, we take an equalitarian stand for everyone's partiality. It implies that we have to limit our partiality in a way compatible with others' similar partiality. It sounds all reasonable and indeed it provides a strong argument against personal egotistic gains.

A legitimate system reconciles the two universal principles of impartiality and reasonable partiality so that no one can object that his interests are not being accorded sufficient weight or that the demands made on him are excessive.⁶

However, we need to delineate more clearly what the "equally others" means. The above requirement to treat others as equals is implicitly limited as only applied to persons within a shared community. Some people have doubts whether we could or should treat as equals crossing the national or ethnic border. Now, it seems that our reasoning could not stop at the national or ethnic border as we have no reason to treat others unequally across these borders lest we have to face the charge of hegemony or racism.⁷ In fact, as we are living more and more in a closely-knitted global village, the traditional boundaries become unreasonable blockage to others.

Furthermore, Nagel's original argument is but for persons. The environmental question is whether we have reason, the same kind of reason, to extend it to Nature as a whole, to consider non-human subjects or objects as equals. By equals I do not mean that we have some equal moral standing for all, but equal consideration of interest. Peter Singer has at least persuaded us that we have to take equal consideration for non-human animals which could suffer, lest we would be charged

specieism and responsible for all kinds of cruelty towards non-human animals.⁸

Granting that our moral consideration could not stop by the *Homo sapiens* line, could it be extended to the plant kingdom, to mountains and rivers? Could we, in a word, extend our impartial standpoint further to environment as a whole? Singer may not endorse it, so as a number of important thinkers of the field, since they limit their moral consideration to sentience. However, Aldo Leopold proposed it and a great number of traditional teachings, among them Confucianism as well as Taoism, fully endorsed it.

2. A Confucian Middle Way: Ecocentrism vs. Anthropocentrism

According to ecological studies, things in a habitat are closely interrelated in the form of a biotic community. The biotic community consists not only the living creatures, but also the rocks, soils, air and climates. Each sector is an important member and is essential for the maintaining and healthy development of the whole. Leopold observes that members of the biotic community could not be changed singly without enormous alternation for the whole.⁹ We could not separate ourselves from the others. The environmental pyramid is an organic whole. *Homo sapiens* are but one member among all. We get our living as well as our identity from the whole biotic community on Earth. In the community, the account of rights and responsibilities becomes extenuated. It is mediated through the whole and is diffused throughout the whole kingdom of Nature, the Land. Leopold sums up his land ethic in the following simple statement:

A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise.¹⁰

When Leopold first proposed his land ethic, he was very well aware that he was proposing a revolutionary kind of ethics in the western traditional culture of rights and responsibility. According to Callicott's interpretation, land ethic is an evolutionary-ecological environmental ethic.¹¹ It has a certain priority over other types of environmental ethics in that it is a natural development of the kind of environmental ethics embedded in the evolution of life on Earth and is a consistent and comprehensive world view that could fully or most fully account for our experience. The most important feature of land ethic is that human being has no particular standing. He is just one among others, only a citizen of the kingdom of Nature. We are ecologically part of an inseparable whole of the living world. *Homo sapiens* now are on equal status with other members of the biotic community.

Returning to the question of inclusion of non-human and non-sentient subjects, land ethic provides us a strong argument that we are all in the family. The non-human and non-sentient subjects contribute significantly to the welfare of the community which human beings enjoyed throughout the ages. However, the former have their interests in the survival game within the biotic community independent of human interests. They are not made for our consumption. Instead, we rely very much upon their provisions. Hence, the welfare of the non-human members of habitat has

equal claims on us. From an impartial standpoint it seems that a biotic community has its interest and benefits shared by all its members. *Homo sapiens* have been a beneficiary and recently become the destroyer of the integrity, stability and beauty of the global community. Inevitably, we are also sufferers of our destruction of the global habitat. We have to face much more skin cancers, more violent storms, rising temperature and water lines and others. The unfair part of the sharing of such collective calamities becomes clear when we realize that peoples of the more developed and wealthy countries have harvested most of the fruit of development while those of the poor and underdeveloped areas have to carry the heaviest portion of the burdens of pollutions. Impartial reasoning calls upon us to look into the fates of our brothers and sisters in the community, to restrain our partiality for our own species or our personal gains.

Land ethic has shown the truly impartiality spirit of *Homo sapiens* towards the biotic world. It tends to disregard the benefits of human beings in general and takes the stronger view of ecocentrism. Theoretically speaking, man could be sacrificed for other species. Though many land ethicists tried to ameliorate some of its extreme way of dealing with human affairs, their reasons seem not quite true to the spirit of land ethic and not persuasive for the common fowls.¹² For Confucianism, humans are the most intelligent type of members of the Earthly community. Indeed, human beings have the power that could destroy the whole world. But, human being is also the one that could save the world and its members from extinction. Humans seem to be a necessary member of a rational community. In a sense, as a moral agent, human being is one of the most valuable being in the biotic community. This is the standpoint of Confucianism. Ecology tells us a lot of our interrelationship with other living things and the environment, however, ecology could not command us to do what ought to do. Ethics is a moral consideration. For Confucians, it falls squarely back to our moral concerns with the sufferings of all living things.

Confucian has a high regard for human beings, however, Confucian will not endorse the value of human beings without qualification. Confucianism tries to steer a middle path. Human beings are valuable not as a species. *Homo sapiens* stand on the same footing as other species biologically. It is the basis for our holistic view of the world. What marks human beings special is precisely that he or she could be a moral agent. Human beings have the natural endowment of being able to have empathetic feelings towards other's sufferings and to make rational and moral deliberations. Such endowment enables human beings to transcend their biological confines to consider all people and things in an impartial standpoint and act accordingly in a morally acceptable way. The high value attached with such endowment is precisely because it commands the subject to be impartial and empathetic to all under Heaven and Earth, that is, to treat all things on Earth with justice and benevolence. It is the ground of our moral agency, and thus the value of our dignity and as an end in itself.¹³ Such endowment seems only happens to human being on this planet, but we have no reason to restrict it for human beings only. Furthermore, according to Confucianism, such endowment places the agent in an inalienable responsibility, that is, to alleviate the sufferings of others, human and non-human, and extend one's effort as far as possible to include the whole

universe into one's caring. Hence, human beings have higher moral status when they could realize their moral endowment in practice. If one does such things as hurting or killing others, a moral agent bears serious responsibility for their actions and is prone to adequate punishment. In this sense, human beings individually and as a whole have to make up for their deeds in the destruction of the common environmental community. The destruction our habitat is and has been caused by our forefathers and there is no excuse for us as we are not only the heirs but also the benefactors of their deeds.

Confucianism takes not only the impartial point of view of human beings, but also our personal existential situations. Man is a finite being and born into a definite family in certain society with different cultures and histories. Each one bears the particular stamp of one's existence which is his or her web of relationship. The most important of these is one's intimate family relations. We are naturally more connected with our family members. Though family members are usually of blood ties, for Confucianism, it is viewed more broadly with a socially constructed supplement. Adopted children are ethically and legally accepted as natural born. The sharing of the family joys and pains means a family is virtually a holistic unit for its family members. This is shown in our personal and sometimes partial predilections and commitments with our family members in exclusion to others. Confucian regards our moral practice starts from the family and family members have primordial duty towards each other. However, our empathetic caring could not stop at the family level; it extends all the way towards others in our social community, to all people, to all species on Earth and all things universally. We simply feel the pain an animal suffers under uncomfortable situation. It calls for action. We also sense and feel uneasy that in the destruction of plantations, the collapse of large scale landslides, many lives and things had lost and gone forever; that the integrity of the surrounding habitat has been disrupted. Though we start from the intimate circle of family and fellow persons, there is no reason to erase our concerns for outsiders, non-humans or even non-sentient things. Confucianism proposes a graduate expansion of the circle of our empathetic sentiment and action with a kind of differential degree. The personal and partial part of our natural concern is by all means ethically legitimate and important for us. In a sense, the partiality is a universal partiality for all. For Confucianism, everyone should care more about their parents and children, their friends and fellows first. Everyone has an equal share and offering in such partiality. However, the ideal is to care not only one's family, but also the other's family: not only our parents but also of others, not only our children but also of others. Personal partiality could not cross the base line of humanity on the one hand and the duty of benevolence at one's capacity on the other. We are not allowed to mistreat others for the sake of our family and intimate personal relationship. We have the unbounded impartial and trans-personal relation with all members of our biotic community. We are all related and the relationship carries with it differential responsibilities.

Most land ethicists propose that human beings should be the stewards of the Earth. We have the responsibility to take care of the others and our common posterity. This is great and good. Confucian goes a step further and claims that we

are also the nurturers of the world. It is a nurturer in the sense of a caring mother, not a despot. A nurturer takes up the similar duty of a mother to her child whether the latter is under-age or already grown up. A nurturer is like the mother Earth who embraces and offers unselfishly whatever she has for the growing of everything upon her breast. Our duty is not just leaving everything goes in its natural vent. We have to be benevolent to the members of our biotic community, to relieve their sufferings, to let everything have the chance to fully realize their natural endowment in the best possible way. This is in fact, the ideal for a moral agent in Confucian tradition, who acts to promote prosperity impartially for all. However, it does not mean that human agents behave as a benevolent dictator for the rest. In the broad sense, human actions are remedial and assisting. When nature runs good, man has no right to change.

3. From Personal Act to Global Effects

For Confucianism, the two standpoints are supplementary rather than something diametrically opposite to each other. They form a kind of continuum in our efforts to carry out our human project to make our world a flourishing and harmonious whole. It starts with the reflection and the following of the call of our empathetic feeling for the sufferings of others in our day to day mundane affairs so as to promote benevolence and cultivate our moral virtues. It then steps up to regulate and setting up our family, to bring order and prosperity to the state, and to achieve peace and harmony for all under Heaven. This is the moral-cum-political program embedded in Confucian texts such as *The Great Learning*.¹⁴ The personal act carries with all its implications to a larger and larger circle of our common experience and care. A consistent world view is built into our moral practice.¹⁵ However, in such a complex interrelated world today, individual effort seems too meager to affect anything significant. We need a framework for orchestrated collective actions in response to the often large scale environmental issues.

The two standpoints provide us not only a theoretical underpinning of our concerns both for personal and trans-personal interests, but also a fulcrum for our actions in global environmental issues. Whatever we think, our acts always start from the present and now. Usually the more direct the concern, the greater its force upon us. The farther away an event is conceived, whether spatially or temporally, the lesser is its influence upon our actions. Environmental issues are usually less direct for the individual and are global and hence very often much diffused into oblivion. We seem not being able to see clearly its significance in daily affairs. Thus it is not easy to appeal to the individuals to take actions in such global concerns. However, most people concern the wellbeing of their children and this would lead them into the thinking of a better world for their heirs and may move them to concern others wellbeing in the long run. Education and proliferation through all sorts of media will promote and activate the impartial care we are born with. Campaigns for special environmental issues usually have definite results in awakening at least some attended persons' interest and actions for the cause. It is no doubt that the number of people aware of environmental issues surges greatly round the world in the last fifty years or so. They usually show their efforts in the support of local government

actions in response to such issues and also international co-operations, though in a less degree. Individual international projects, such as those proposed through United Nations and its affiliate organizations, do achieve much in orchestration of individual acts across nations for its success. Our joining such governmental and mostly NGOs organizations and activities are good ways to show our concern and responsibility toward such global issues.

Most environmental injustice is a result of the fact that we are blind to the rights and our duty to other members of our community. When Nature strikes back with such powerful force as global weather changes, melting of ice cape, storms and hurricanes, human beings seem so helpless and many suffer the fatal injury without being the ones causing the imbalance of the community. Good educational programs or campaigns could stimulate the conscience of many people and motivate them into action. Even personal websites could make a change. They bring the issues into the immediate vicinity of one's life and show how one's single act, whether it is a small subscription, the use of green products, or just a show of concern, could be of collective results in the betterment of our common habitat and community.

The setting up of official departments dealing with environmental issues is now almost part of all government infrastructures, which provide a mechanism in the promotion of local environmental awareness and certain national efforts for the betterment of at least the local region. They could also be the agent for international collective actions through negotiations and co-operations. Of course, we should promote more and wider circles of international actions through international official organizations and NGOs to respond promptly those pressing issues that we face today. The individual acts could achieve global effects through such direct and indirect channels. What we need is that we put our faith into practical actions.

4. Some Green Thinking Reflections

As an impartial moral agent, we have to evaluate an environmental issue in a global perspective. The welfare of the whole biotic community takes precedence, and the most endangered species need be fully taken care of. As nurturers, we make all the efforts we could have to promote the prosperity and flourishing of the whole as well as the individuals within the community. When it comes to something that is natural and necessary for the biotic community to carry on, such as the food chain relation in the biotic pyramid, we have to leave our hands off. Most human intrusions carry certain backfiring and it seems advisable that we better step back and deliberate more before we take certain invasive actions. However, to the ills that we have produced, we have the responsibility to fix. In fact, almost what could be counted as environmental crises are usually caused by the massive exploitations or uses that man has placed on our environment. One such abuse is the rapid consumption of geological fuels. Within three hundred years, we have almost used up thousands of years of reserves underground. Nature has no way to recover for such large scale expenses. Environmental crises are also interrelated. The overuse of fuels leads to the breaking of the ozone hole, the accumulation of dangerous and poisonous wastes, the pollution of mountains and rivers, foods and herds, the rising of global

temperature, and so on. One such large scale calamities is the global warming problem that we are facing today.

Global warming is the cumulating result of what we have been doing since the industrial revolution three hundred years ago. Many people, wild species and regions have suffered from the rising temperature in various forms. It is impossible to accuse who is or are the chief offenders or accomplice. We may in general refer to them as our forefathers. They may be totally unaware of the devastating result of their acts. They may well be just thinking of making improvement for themselves and for their posterity. We are somehow the benefactors of their actions and we could not excuse ourselves from taking the responsibility to fix the problem, otherwise we are letting our community members and our posterity to suffer unnecessary any further. The only way to solve the issue is to take coordinating actions across the national and geographical borders. The proposal of the Kyoto Protocol is a paradigmatic case in such global efforts in response to the crisis. It calls for a global action and provide a framework to tackle the deterioration of the climate change, so that individual countries and personal actions could be tuned into a great enough effort to turn the tide back. The individual effort of Al Gore and group contributions of the UN Intergovernmental Panel on Climate Change(IPCC) are good examples to show how the works of the individual and international groups could contribute first to the awareness of the issue and hopefully the final solution of the crisis.

It is obvious that anyone reasoning impartially will endorse the project as necessary for the common good of all on Earth. Each nation may have to scale down its plan of development or may lose a small amount of its revenue for the implementation of the Protocol. It is nothing too demanding, nor is it an unworkable proposal. Once adopted by UN, it is an international categorical imperative for nations and for individuals to fight the temperature crisis. Some countries, like the United States, are selfish in not signing the international agreement. Disproportional contributions may be argued and compromised. The defense of national benefit is too partial for any nation to take. To be fair for people of these countries, I have to point out that many people in these countries are forerunner and supporters in the fighting of this issue. However, these countries take the advantage of others and destroy much of the effectiveness of the treaty. They refuse to take the necessary step to restore the disruption of our environment that triggers a large and devastating disaster for all. Such action is not only nothing nurturing, but an outright betrayal of our membership of the biotic community. For our impartial requirement here is nothing over-demanding for anyone or any nation, and far less for the Americans. However, there are strong signs that these countries and their people are gradually coming to terms and hopefully we could all act in coordination to fight and win this big issue of our time. It is a good news that in the last minutes the US government turns to adopt the Protocol and we expect a truly global environmental action acting benevolently and harmoniously for the common good of all.

Notes

- 1 Peter Singer, *One World: The Ethics of Globalization* 2nd Edition (Princeton: Yale University Press, 2004).
- 2 Thomas Nagel puts forward an interesting analysis of the way we think and act both partially and impartially and argues how it plays in our political construction in his *Equality and Partiality* (Oxford: Oxford University Press, 1991). I try to bring some of his ideas to bear upon our environmental reflections in this paper.
- 3 *Equality and Partiality*, p.30.
- 4 *Equality and Partiality*, p.38.
- 5 *Equality and Partiality*, p.38.
- 6 *Equality and Partiality*, p.38.
- 7 Nagel fully understood that his discussion could be applied to global politics and economic, however, he is more cautious and sounds very conservative in retreating to the national border in view of the enormous gap between cultural, religious and value systems of human societies.
- 8 Cf. Peter Singer, *Practical Ethics*, Second Edition (Oxford: Oxford University Press, 1984).
- 9 Cf. Aldo Leopold, *A Sand County Almanac and Sketches Here and There* (New York: Oxford University Press).
- 10 *A Sand County Almanac and Sketches Here and There*, pp.224-225.
- 11 Cf. Baird Callicott, *Earth's Insight: A Survey of Ecological Ethics from the Mediterranean Basin to the Australian Outback* (Berkeley: University of California Press, 1994).
- 12 Baird Callicott has been a staunch defender of land ethic all along. I have made some critical comments on his evolution-ecological interpretation of land ethics in an earlier paper, 'The Fundamental Idea of a Confucian Environmental Ethics: A Critical Response to Callicott's Project' (in Chinese), published in the 25 issue of *Legein: Studies in Chinese Philosophy and Western Thought* (Taipei, Legein Monthly Publisher), pp.189-205. In a more recent paper, I made similar comments on Lisa Newton's land ethic in a conference, 'On Sustainable Development and the Relationship of Human being and the Nature: A Confucian Perspective' (in Chinese), presented at the Conference of Environmental Ethics, organized by The Graduate Institute of Philosophy, National Central University, Chungli, June 7, 2003. For Lisa Newton's explication of land ethic, please referred to her book, *Ethics and Sustainability: Sustainable Development and the Moral Life* (Upper Saddle River, N.J.: Prentice Hall, 2003).
- 13 I have incorporated Kant's idea of an autonomous person into the Confucian concept of a moral person.
- 14 Cf. Wing-tsit Chan (ed.) *A Source Book in Chinese Philosophy* (Princeton: Princeton University Press, 1963), pp.84-94.
- 15 Lisa Newton has brought into our pursuance of sustainable development the idea of acting on a personal worldview imperative, which was first introduced into ethics by Michael Boylan. Cf. *Ethics and Sustainability: Sustainable Development and the Moral Life*, pp.24-28.

Chapter 10

The Role of Environmental Aesthetics in the Environmental Ethics: An Intimation from Aldo Leopold's Land Ethic

Huang LI-YUN

Introduction

Joseph Brodsky, a Nobel Prize laureate, claims: "On the whole, every new aesthetic reality makes man's ethical reality more precise. For aesthetics is the mother of ethics."¹ Arnold Berleant and Allen Carlson extend his idea to the discourse of environmental aesthetics: First, the aesthetic interests generated from the environment are helpful for ethical goals, because the environment with fruitful positive aesthetic value not only could enhance the well-being of human beings, but also reduces physical, psychological and social illness. Secondly, the aesthetic value is an intrinsic good in itself, and could be the ideal for ethics. Furthermore, the environment is always an important object of aesthetic.²

From the perspective of environmental aesthetics, the aesthetic experiences resulting people's engagement with nature is lifelike and profound perception of mind. Such feeling and perception could not be justified in rational ethics. I take Brodsky's statement "aesthetics is the mother of ethics" as meaning that the most important thing in ethical practice is the real perception from the mind. That is, we should act in accordance to our aesthetic perception and not just obey ethical norms. The metaphor of mother means that true aesthetic experience is a motivation of ethics, to prompt people to achieve the aesthetics relationship with the environment, that is to practice ethics. Therefore, aesthetics is a source of ethical motives.

In general, environmental ethics tries to establish rational norms, and could not get into touch with the issue of "practical motivation." A rational norm could show what the ethical practice is, but could not promote an actual ethical action. Contemporary environmental aesthetics stresses humans' perception of and participation in the environment. Thus, in virtue of environmental aesthetics, we will be able to provide moral motivation for environmental ethics. So, in this article taking the hints from Aldo Leopold's Land ethic, I will raise a question. "Why did Leopold need to discuss conservation aesthetics in addition to his land ethics?" and inquire how aesthetics could be the source of the ethical actions.

I will first discuss contemporary scholar's discussions on about the role of environmental aesthetics in environmental ethics, in which the key point is whether aesthetic values can be the major motive of environmental conservation. Secondly, I will show that Rolston's theory has indicated aesthetic values are not sufficient for providing motives for environmental conservation. Thirdly, I will examine Rolston's thinking about participative aesthetics is the foundation of environmental ethics.

Meanwhile, I will also introduce and explain the three criteria of Leopold's land aesthetics and the relationship between perception and his conservation aesthetics. Finally, I will explain that the experience of human perceptions with nature in participative aesthetics is the original motivation which changes humans' attitude from environmentally indifferent to environmentally friendly humans' attitude to nature and triggers off humans' moral behaviors.

1. The Role of Aesthetic Value: A Bridge Between Environmental Ethics and Aesthetics

Leopold's Land Ethic proposes three mechanical features of biotic communities as the maxim of the land ethic. He says: "A thing is right when it tends to preserve the integrity, stability and beauty of the biotic community. It is wrong when it tends otherwise." But if these criteria are sufficient for providing the foundation of environmental protection, why did Leopold still need to propose Conservation Aesthetic? That means his turn from the environmental ethics to the environmental aesthetics. Before going further with this question, I will first present the ideas how J. B. Callicott and N. Hettinger show the role of beauty in the connection between environmental ethics and environmental aesthetics.

Callicott indicates that Leopold's *A Sand County Almanac* frames not only a "land ethic," but also an equally original and revolutionary "land aesthetics."³ Callicott holds that Leopold's land aesthetics is a new natural aesthetics. He shows the core of this new aesthetics -the beauty of the nature-in terms of three points. First, land aesthetics is to be informed by ecological and evolutionary natural history, it is genuinely autonomous natural aesthetics. In land aesthetics, natural beauty is not subordinate or derivative from artificial beauty.⁴ The appreciation of an environment's natural beauty is the result of the operation of our whole sensitivity. It involves the ears, the surface of the skin, the nose, the tongue-as well as the eyes, that is, it involves all sensory modalities. Most of all it involves the mind, the faculty of cognition.⁵

Second, he points out that land aesthetics has a sophisticated characteristic. Land aesthetics delineates a refined taste in natural environment and a cultivated natural sensibility.⁶ It is based on the evolutionary and ecological biology. He gives an example in the appreciation of a crane. If we can appreciate a crane with the knowledge aforementioned, the crane is not merely a bird because of its known, not directly sensed, phylogenetic antiquity; thus the experience of the crane will bring us a special aesthetic satisfaction.⁷ Between conceptual schemata and sensuous experience, there is a subtle interplay.

Third, the land aesthetics is not biased in favor of some natural communities or some places over others. Mountains, plains and wetlands all have the potential to be experienced as the natural beauty.⁸ Beauty exists in Nature universally.

It is interesting that Callicott considers the beauty of nature as originated from a refined "taste"; it isn't created by humans; it isn't mere a scenic beauty when we see a landscape; it is a result of the co-action of our sensitive and cognitive faculties. We have to enjoy in Nature with our knowledge of ecology, thus we could "refine" the

beauty of the Nature.

In the maxim provided by Leopold's Land Ethic, the beauty of the biotic community is an important criterion of the rightness or wrongness of actions. Callicott indicates that many more of our conservation and preservation decisions have been motivated by beauty rather than by duty. And he according to Leopold's definition of ethic: "a limitation on freedom of action in the struggle for existence," an ethic is onerous, burdensome while beauty is attractive, something to be loved and cherished.⁹ Beauty is more promotive than ethics for the conservation and preservation of the environment. Hence Callicott claims that land aesthetic can be the complement of the land ethic. Beauty could be a motive for the conservation and preservation of environment.

N. Hettinger has a similar idea that the beauty of the environment is a significant motive for environmental protection. In "Allen Carlson's Environmental Aesthetics and the Protection of the Environment," he mentioned Carlson's positive aesthetics. Carlson explains positive aesthetics as follows:

The natural environment, in so far as it is untouched by humans, has mainly positive aesthetic qualities; it is graceful, delicate, intense, unified, orderly, not dull, bland, insipid, incoherent, chaotic. All virgin nature in short is essentially aesthetically good. The appropriate or correct aesthetic appreciation of the natural world is basically positive and negative aesthetic judgments have little or no place.¹⁰

For Carlson, the aesthetic values of the pristine nature are nearly always positive and exist in Nature. What is more important is that the aesthetic qualities are possessed not only by nature in general, but by "each natural thing." Thus human alterations of nature must be exercised with caution, lest we degrade this substantial beauty.¹¹ It will be difficult that we could restore the same positive aesthetic values in artificial environment, so if we alter pristine environment and replace it by human-made environment, we might likely reduce the aesthetic value. According to consequentialism, it is wrong to reduce the total amount of value in the world. Consequently, Carlson's positive aesthetics will be a strong reason for the preservation and protection of nature.

Carlson did not directly address the connection between environmental aesthetics and environmental protection; his focus is always on helping us find aesthetic value in the environment and not on how such beauty should be used to help preserve it. However, Hettinger believes that Carlson suggests that the relation is straightforward. Thus the problem is not in convincing individuals to prevent ugliness and to appreciate and preserve natural beauty, but rather in helping them to discover the extent and the diversity of nature's aesthetic value.¹²

Carlson holds that our aesthetic appreciation of nature is helpful for determining, shaping and forming our ethical views about nature. He writes,

It is clear that we do not aesthetically appreciate simply with our five senses, but rather with an important part of our whole emotional and

psychological selves... what and how we aesthetically appreciate cannot but play a role in shaping our emotional and psychological being. This... helps determine what we think and do and what we think is correct for others to think and do. In short, our aesthetic appreciation is a significant factor in shaping and forming our ethical views.¹³

Hettinger explains that once we can properly recognize the aesthetic characteristics of a species, it will help us to form a more informed assessment of the moral issues, such as the protection of species. Exactly what kind of being was threatened with extinction becomes clearer, as does the value of such a being.¹⁴ He means that the language of aesthetics is more descriptive in comparison with the mere prescriptive language of ethics.

Equally, our viewpoint of environmental ethics will affect and alter our aesthetic appreciation of environment. Carlson's notion is that unsavory, ethically-charged life-values expressed by certain human environments make us unable to aesthetically appreciate them in a thick sense. The value of ethic and aesthetic is interwoven.

Hettinger also suggests that Carlson's positive aesthetics have a sophisticated characteristic. According to Carlson, we interpret nature as an orderly, harmonious, unified place in which we find and regular by natural science and it is where we find aesthetically pleased. In other words, the environment is harmonic with those of aesthetics, so the more environmental knowledge we have, the richer our aesthetic appropriation will be. He continued: "Environmental aesthetics is important to environmental ethics because these value types are especially allied in the environmental arena."¹⁵ Hettinger regards that Carlson's positive aesthetics can be a significant theory bolstering environmental conservation provide for environmental protection, and that is "fruitful, though not unproblematic, avenues for an aesthetic defense of the environment."¹⁶ To sum up, in the viewpoint of Hettinger and Carlson, the original reason for preserving and protecting environment is the aesthetic value of the environment.

For Callicott and Hettinger, the aesthetic value of environment provides the motive for preserving and protecting environment. They also explain how aesthetic values motive acts in the environment, and make itself a key point of the preservation and protection of environment. But are the judgments of aesthetic value pure subjective judgments? Janna Thompson alleges "If aesthetic value judgments are merely personal and subjective there will be no way to argue that everyone ought to learn to appreciate or regard natural beauty as worthy of preservation."¹⁷ If aesthetic values depend on subjective judgments, it will be contingent, not universal. Moreover, If aesthetic value is derived from subjective judgments, it will be criticized as anthropocentric.¹⁸ After all, does aesthetic values base on the aesthetic characterization of environment, or on the aesthetic ability of human?

In his paper "From beauty to duty: natural aesthetics and environmental ethics," Rolston indicates that aesthetic values provide a foundation for ethics indeed. But if aesthetic value depends on aesthetic preference of human beings, the motive and duty yielded from it will change with the human preference, and the

ethical foundation would be unstable.¹⁹ When we see natural thing from a aesthetic perspective; it is an object of our appreciation. We cast values on it; we discover the aesthetic characteristics from it, and make it an aesthetically valuable object; the key function of the value is the satisfaction of human interest.

Rolston indicates that aesthetic values yielded from the aesthetic experiences of humans are just the aesthetic preferences of humans. But if we see aesthetic values as the aesthetic characteristics of things, we will overvalue the aesthetic value of Nature, and demand the creative ability of Nature too much. That is, evaluating if something is deserved to preserve in its aesthetic value will make our appreciation of nature only focus on the aesthetic value. Does things lacking aesthetic value lack the value of preservation? The aesthetic value of things is also projected by humans! How could we transcend the subjective evaluation we cast on nature?

2. Beyond Aesthetic Value

Rolston suggests us considering two sorts of aesthetic qualities: aesthetic capacity and aesthetic property, beyond the judgment of the natural aesthetic value. The aesthetic ability is subjectively an experiential ability of human, and the aesthetic attribute exists objectively in environment. He holds that the aesthetic attribute has been there before human evaluate it; what we should do is just putting our experiences on it. Therefore, he argues that we can discuss the aesthetic attribute through our aesthetic experiences, instead of aesthetic value. The beauty of Nature relies on subjective experiences of human beings, but the value of it does not stop only on beauty. Rolston said:

The attributes under consideration are objectively there before humans come, but the attribution of value is subjective. The natural object causally affects the human subject, who is excited by the incoming data and translates these as aesthetic value, after which the object, the tree, appears as having value, rather as it appears to have green color. Aesthetic experience of nature can be epiphenomenal and incidental to natural functions, as it is when human arrive to enjoy fall leaf colors. But the experience can run deeper.²⁰

Rolston holds that besides aesthetic value and beauty, Nature has more other values and attributes, so we should transcend the aesthetic evaluation of Nature. Nature will open up more values and attributes because of our deepening of our experience to it. The value and aesthetic of nature do not depend on the discovery of human; they are just being there. What human should do is to develop the aesthetic ability, thus make us to experience nature deeply. Rolston proposed we could explore the development of human's subjective ability by a participative aesthetics, and deeply experience the objective values and attribute. Getting into the wild in an aesthetic participation, we will no longer just "see" the nature, but experience everything in all sensitivities: hearing, smelling, touching and tasting.

These profound experiences make us to concern our being in the wild, and

concern others in the same wild world. A proper respect and appreciation will happen to us in the concern of the wild; the aesthetics emerges from the concern involves duty and care. Biological knowledge is the foundation of the aesthetics emerged from the participation of nature. Rolston proposed:

This is ecological aesthetics, and ecology is vital relationships, a self at home in its world. I identify with the landscape on which I reside, my home territory. This 'interest' does lead me to care about its integrity, stability and beauty.²¹

Here Rolston combines the primary meaning 'eco(oeko)'(house/family) of ecology with that human concern of the Nature after we enlarge our aesthetic experience. And the integrity, stability and beauty are the component of the healthy ecosystems. Once we regard nature as our family, then we have duties to the family. Furthermore we have 'interest' to care and preserve them. In the family, aesthetics relate with ethics. Aesthetics enlarge the relationship of humans and environment, one kind of relation of inhabitant and habitation. Thus, logically or psychologically, we should not and do not destroy the family we belong to. Therefore, we have duty to preserve it based on the deeper appreciation and comprehension for the Nature. Rolston asks: "Can aesthetics be an adequate foundation for an environmental ethic?" He concludes, "Yes, increasingly, where aesthetics itself comes to find and to be founded on natural history."²²

Although, the ecological science could enrich humans' aesthetic experience, but if humans do not learn it from the environment. How can we have the deep comprehension for environment?

Leopold claims that Nature is the resource of pleasure. Human action in Nature are aesthetic exercises. But the pleasure is not the last goal of aesthetic exercises, rather it is to perceive the beauty of Natural. In Conservation Esthetic Leopold mentions the component of recreation, in which perception is the important capacity to find out the beauty of natural essentiality. He says:

The perception of the natural processes by which the land and the living things upon it have achieved their characteristic forms (evolution) and by which they maintain their existence (ecology).²³

By perceiving Nature, the important thing is that human could understand the special form of the creatures which it embodies and the way they existence. While Leopold claimed human perception is influenced by ecological science, but the latter does not just enrich human aesthetic experiences. However, it could make a change in the mental eye. Such mental eye is also human perception. Mental eye enables us to know the origin and operational mechanism of things, not just the appearance of things. Leopold observes the sandhill cranes in marsh and says:

Our ability to perceive quality in nature begins, as in art, with the pretty. It expands through successive stages of the beautiful to values as yet

uncaptured by language. The quality of cranes lies, I think in this higher gamut, as yet beyond the reach of words.”²⁴

Even though human capacity of perception begins to notice the beauty of Natures, to perceive the natural existence under the appearance of Nature is endless. We could not catch the existence of the crane by language, but by our mental eyes. It is the noumenon. Though Callicott thinks that Leopold had misappropriated the noumenon of Kant’s term, in Leopold’s usage, noumenon means the essence of natural things. And one thing’s essence is the motivational power to other things.²⁵ In Chihuahua and Sonora, he says:

The grouse is the noumenon of the north woods, the blue jay of the hickory groves, the whicky-jack of the muskegs, the pinonero of the juniper foothills. Ornithological texts do not record these facts. I suppose they are new to science, however obvious to the discerning scientist.²⁶

If the noumenon of things disappears, then the meaning of the existence of things also absent. If the grouse of north woods is dead, then the north woods lose the motive which they keep them alive. The beauty of the grouses and the north woods are not in the form or gesture what we see, it emerges from their essence, form the relationship between them. Perhaps we could say that, such essence is harmony, stability, integrity, and beauty. Though, if we could not catch truly the beauty of Nature, then things in Nature are just a phenomenon. We could not understand how important the meaning of grouse for the north woods. But if we perceive the harmony, stability, integrity, and beauty of the coexistent relation between grouse and north woods, then we would not hunt the grouse or log the woods arbitrarily. Also, when humans perceive the coexistent relation between humans and things in Nature, the way we treat them would not be arbitrary or dogmatic.

Humans coexist with things in Nature in what Leopold called “biotic communities,” and the integrity, stability, and beauty of biotic communities are the significant criteria to measure what kind of attitude we treat the biotic communities. If something is to preserve the biotic community in the light of the three criteria, then it is right, and it is wrong when it tends. But how humans understand the criteria of Leopold’s land ethic? It depends on the humans who participate in Nature and enlarge perceptions. In Conservation Aesthetic he claimed:

It is the expansion of transport without a corresponding growth of perception that threatens us with qualitative bankruptcy of the recreational process. Recreational development is a job not of building roads into lovely country, but of building receptivity into the sill unlovely human mind.²⁷

The important task of environmental esthetics is to enlarge the perception of humans. When we participate and experience Nature, we could perceive the co-

existence between Nature and us. We would know grouse is the noumenon of north woods. If grouse disappears, the north woods will also disappear; because the noumenon of the land is dead. Similarly, Callicott claims: "If they (the marshes, plains, swamps, lacks.....) be missing, so then the rosy glow of perfect health, as well as aesthetic excitement, is absent from the countryside."²⁸ The relationship between humans and environment is interactive. Humans do not exist independently in the environment; we and other creatures live in the common place or biotic community in Leopold's sense. That is what Berleant says: "humans are not as placed in environment, but as continuous with them."²⁹ Therefore, if they exist, humans exist; if they disappear, the environmental perception of humans will also disappear. Thus, Callicott says:

Like the elusive mountain lion and timber wolf, they need not be seen or heard to grace and enliven their respective habitats. It is enough merely to *know* they are present.³⁰

Nature does not exist merely for the aesthetic appreciation of humans, and humans participate in Nature not just to appreciate Nature. What is most important is to perceive that we and other creatures is being-with in a common place. Berleant recommends us: "The goal, then, is an expanded but discriminating awareness as part of a totally engaged organic, social life. This requires alertness, intelligence, and active involvement in the full scope of experience. The aesthetic sense of environment is a central aspect of such a life."³¹

Therefore in environmental aesthetics, we could enlarge the human perception of Nature, and when we participate in Nature, we could comprehend the coexistent relation between humans and Nature. Nature should not be regarded as commodities or resource. Once we comprehend the coexistent relation of humans and the other creatures, we will pose a different attitude. We enlarge the perception of Nature, and we will also feel the motivation of practical ethics. The perception shifts our attitude towards Nature³²-the attitude that treat Nature as treat ourselves, so the meaning of the land aesthetic is not just the "complement" of the land ethic. It is the motivational part of the land ethic.

Conclusion

In this article I focused on the aesthetics could be the source of ethical action. I consider Although Callicott, Hettinger, and Rolston regard the beauty of nature is the motivation to conservation and protect the environment, or to be the foundation of environmental ethic. Nevertheless as discussed above, if we regard that the beauty is the property of nature, then, we will overstress the aesthetic values of nature, we will overlooked where "no beauty" in the nature are..Nevertheless Rolston emphasis on the experiential capacity of humans, who have ability to "see" the values of nature, but in his views, the experiential capacity is built up ecological-science knowledge. Similarly, Leopold's "mental eye" is based on ecological science, but the most important is that humans could use the "mental eye" to perceive the holistic nature-

the noumenon. The beauty in the Leopold's view is not the characteristic of nature, but rather is a healthy ecosystem, where humans and nature coexisting. So, if the ecosystem is "beauty" for humans, then it is also "good" for nature. By this way, I have justified that environmental aesthetics could be an original foundation of environmental ethics, and beauty is the motivation of ethical practice.

Notes

- 1 Joseph Brodsky, "Nobel Lecture," translated by Barry Rubin.
<http://www.nobel.se/literature/laureates/1987/brodsky-lecture.html>.
- 2 Arnold Berleant and Allen Carlson, "Introduction," *The Journal of Aesthetics and Art Criticism*, V. 56, N.2, Spring 1998. p. 99.
- 3 J. Baird Callicott, "The Land Aesthetic," *Companion to A Sand County Almanac*, edited by J. Baird Callicott, U.S.A: The University of Wisconsin Press, 1987, p. 157.
- 4 *Ibid*, p. 168.
- 5 *Ibid*, p. 161.
- 6 *Ibid*, p. 168.
- 7 *Ibid*.
- 8 *Ibid*, p. 169.
- 9 *Ibid*, p. 158.
- 10 Allen Carlson, "Aesthetics and the environment," London: Routledge, 2000, p. 72.
- 11 Ned Hettinger, "Allen Carlson's Environmental Aesthetics and the Protection of the Environment," *Environmental Ethics* 27, no. 1 (Spring 2005): 57-76, p. 61.
- 12 *Ibid*, p. 60.
- 13 Carlson, *op. cit.*, p. p. 66-67.
- 14 Hettinger, *op. cit.*, p. 73.
- 15 *Ibid*.
- 16 *Ibid*, p. 57.
- 17 Requote form Ned Hettinger, "Objectivity in Environmental Aesthetics and Environmental Protection.," <http://www.cep.unt.edu/ISEE2/hettinger.pdf>.p. 1.
- 18 In fact Harold Formm for Leopold's Land Aesthetic has such question: "But aesthetic response is the most powerfully anthropocentric interest of all, produced as it is by the very nature and operation of our bodies and psyches: Harold form, "Aldo Leopold: Aesthetic 'Antheropocentrist,'" from ISLE 1.1 (Spring 1933); reprinted in *The Isle Reader*, University of Georgia Press, 2003.
- 19 Holmes Rolston, III, "From beauty to duty: Aesthetics of Nature and Environmental Ethics," edited by Arnold Berleant, *Environment and The Arts: perspectives on environment aesthetics*. Aldersht, Hants: Ashgate Publishing.
- 20 *Ibid*, p. 132-3.
- 21 *Ibid*, p. 139.
- 22 *Ibid*, p. 140.
- 23 Aldo Leopold, "Conservation aesthetic," *A Sand County Almanac*, New York: Oxford University press, 1949.p. 173.
- 24 *Ibid*, p. 96.
- 25 *Ibid*, p. 137.
- 26 *Ibid*, p. 138.
- 27 *Ibid*, p. 176-7.

- 28 J. Baird Callicott, "The Land Aesthetic," *Companion to A Sand County Almanac*, edited by J. Baird Callicott, U.S.A: The University of Wisconsin Press, 1987. p. 168.
- 29 Arnold Berleant, *The Aesthetics of Environment*, Philadelphia: Temple University, 1992, p. 10.
- 30 J. Baird Callicott, "The Land Aesthetic," edited by J. Baird Callicott, *Companion to A Sand County Almanac*, t, U.S.A: The University of Wisconsin Press, 1987. p. 167-8.
- 31 Arnold Berleant, *The Aesthetics of Environment*, Philadelphia: Temple University, 1992, p. 24.
- 32 Attitude is the tendency of body/mind when someone takes some kind of include: 1.explicit rationale and 2.specific action goal. The rationale is the belief. Shiau, Jenn-Bang, "On the Gap Between the Norm and Collective Action of Environment Ethics," R.O.C. *Journal of Humanities East/West*, National Central University press, vol.29, 2004, p. 179.

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Chapter 11

Reference or Construction?: An Attempt to Revise Integrative Social Contracts Theory

Takashi MASUBUCHI

Introduction

In business ethics Integrative Social Contracts Theory (ISCT) is an influential comprehensive theory. The reason for this is that ISCT is practical. The moral reasoning structure of ISCT is fairly in order and easy to apply to real business problems. In addition, ISCT uses existent ethical norms familiar to everyone. Therefore for practitioners, ISCT seems to be a useful device to make ethical decisions in everyday business activities. The other reason is a theoretical one. ISCT supports ethical pluralism and denies the privileged status of some substantial moral doctrines such as utilitarianism or deontology. So ISCT appears to be able to respect various moral values. In order to address global moral issues that business recently encounters, ISCT may seem effective.

Despite its usefulness and simplicity, I will argue that ISCT is not always practical. ISCT can not resolve complicated moral issues. If we attempt to apply ISCT decision making system to such issues, we could not make appropriate moral reasoning. Moreover, I will also argue that ISCT is not theoretically valid. The pluralistic property of ISCT leads to unacceptable non-determinacy. The reason for this is that ISCT is based on an inadequate understanding of social contract theory. Thus in order to remove this non-determinacy from ISCT, we need to improve ISCT by introducing valid understanding of social contract theory.

Therefore the purpose of this article is to propose a modified version of ISCT that is based on the adequate understanding of social contract theory. For this purpose, I develop my argument as following: First, I explain ISCT briefly. Second, I examine the criticisms to ISCT and to social contract theory per se. Third, I clarify that the understanding of social contract theory that ISCT adopts is invalid and I propose the appropriate understanding of social contract theory. Finally, I propose a modified version of ISCT based on the appropriate conception of social contract theory. If my attempt succeeds, revised version of ISCT would be more practical because this modification enables us to make clear moral reasoning.

1. Brief Sketch of ISCT

As the devices of moral thinking, ISCT sets up two kinds of norms. One is called 'Hypernorms,' which are norms that would be accepted as universal moral laws. The other kind of norms is specified as 'authentic norms,' which are norms established in specific economic communities by recognition of individuals of each community. In

other words, we can see Hypernorms as macro social contracts and authentic norms as micro ones.

In ISCT, those two kinds of norms function hierarchically. Suppose we encounter some moral problem. In order to solve the problem, ISCT first requires us to refer authentic norms involved. The reason why we should refer to them first is that ISCT emphasizes significance of autonomy in community. According to ISCT, each economic community has the authority to enact its own moral norms. These norms are usually more specific than hypernorms so that they prescribe our course of actions more concretely. ISCT requires us to find authentic norms at the first stage of our moral reasoning. If we find some applicable authentic norm, it is supposed to be a prospective moral norm that we should obey.

In order for this authentic norm to become the norm that we finally have to obey, it must be qualified by another test. As we see above, since authentic norms are established by the agreement of community members, they are not always right because it is likely for everyone in a community to agree with wrong moral norms. In such cases an agreement does not guarantee the rightness of the norms. So ISCT has another test in order to confirm the legitimacy of authentic norms. The test requires checking authentic norms against hypernorms.

In this sense hypernorms play the role of touchstone. Once we have identified an applicable authentic norm, ISCT requires us to confirm whether it is consistent with hypernorms next. If it is consistent, the authentic norm is recognized as legitimate and we are bound to act according to it.

In short, ISCT is a kind of two-level moral theory. At the first level, ISCT assumes authentic norms, that is, a class of substantial norms underpinned by agreement of local communities. At this level, our moral reasoning takes a form of reference. What we should do here is to search for existing norms applicable to the moral issue in question. At the second level, ISCT presumes hypernorms, a class of general and unsubstantial norms accepted universally. At this level, as well as the first level, our moral reasoning takes a form of reference. What we should do here is also to search for universal norms to confirm the legitimacy of authentic norms identified at the first level. Through those two steps, we can finally single out the moral norm that we should obey.

As we saw above, at a first glance the structure of ISCT seems relatively simple. What ISCT requires is to identify existing authentic norms and hypernorms involved. If we can identify those norms, then all we have to do is to confirm the consistency between specific moral claims and two kinds of norms. This simple structure may attract business persons who engage in making ethical decision-making systems in the firm.

However, when examining ISCT in detail, we come across many questions. And those questions involve not only validity of ISCT but also that of social contract theory which ISCT based on. In the next section I examine the criticism on ISCT and social contract theory.

2. Criticism to ISCT and Social Contract Theory

2.1. Criticism to ISCT

As to ISCT, the most primitive questions are those: What hypernorms are. How can we identify hypernorms? What makes norms hypernorms?

Although there are many other questions about ISCT, the most important problem is, I suppose, that ISCT could not address the moral issues which have no applicable norms. ISCT fundamentally presupposes that there exist some substantial norms applicable to various moral issues. But in practice we often find no agreed norm exists in our community when we encounter specific moral problems. In such cases it seems impossible to use ISCT to solve the moral problems. Replying to this criticism Donaldson and Dunfee, the advocators of ISCT, argue that ISCT can work well in such situation. According to them, the countermeasures are following.

If we cannot find authentic norms applicable to specific moral issue, then ISCT initially requires us to seek out hypernorms that is directly applicable to the issue. When we cannot find applicable hypernorms, in turn, ISCT directs us to apply other similar community's authentic norms. If those authentic norms are not available, ISCT finally prescribe us to follow the actor's own moral belief. This process could encapsulate in the following three solutions.

Solution 1. Seek out hypernorms directly applicable to the issue.

If not available,

Solution 2. Seek out authentic norms of other but similar communities.

If not available,

Solution 3. Follow actors' own moral belief.

Those solutions seem inappropriate and ad-hoc. Look at Solution1. As mentioned above, in ISCT hypernorms are characterized as general and unsubstantial. This 'thin' characteristic of hypernorms is supposed to give us no action-guiding effect in a particular moral problem. But in solution1, we are required to find out hypernorms which are 'directly applicable to' some moral issues. What 'directly applicable' means is, I suppose, that hypernorms have action guiding power in particular moral problem. In this respect ISCT seems to give hypernorms action-guiding power. But this view runs in clear contradiction to the premise which ISCT upholds in the first place. Thus Solution1 is hard to maintain. Solution2 is also hard to recognize because the reason why a community should accept the other community's norm is not evident. In ISCT the source of legitimacy of authentic norms consists in the community members' agreement. But other community's authentic norms clearly lack its own member's agreement. Thus solution2 has no reason for us to recognize its legitimacy. Finally, Solution3 seems feasible but lacks a ground of justification as well as solution2. Implementing Solution3 means making moral rightness depend on moral belief of each individual. Since moral belief is essentially subjective, however, if we accept solution3 as a valid course of action, we might be forced to recognize subjective moral beliefs as an appropriate source

of morality. Therefore Solution3 seems to jeopardize the significance of ISCT as a moral theory.

So far we saw that ISCT had theoretical invalidities and did not always function well as a moral reasoning system. Then why ISCT does not work well? In this regard Boatright points out that the reason lies in its interpretation of moral reasoning.¹ He argues that in ISCT moral reasoning is regarded as a matter of applying general ethical principles to particular moral problem. This notion of moral reasoning seems to be very common. Indeed, when we encounter some moral issues, we would deduce valid course of action from an already established moral principle. Insofar as we believe this is the only form of moral reasoning, whatever improvements ISCT contemplates, it seems impossible to deal with the moral problems which do not have established applicable moral norms.

This line of thought may lead us to adopt some substantial moral theory, such as utilitarianism, as the source of morality. Simultaneously, this may mean abandonment of social contract theory as a ground of ISCT. Since ISCT is based on social contract theory and the theory, in definition, has no substantial moral principle. So if we want to establish decisive moral theory, we have to introduce substantive moral theory and rule out social contract theory. But if we proceed in this direction, ISCT would lose its advantages, which include caring for plural moral values, avoiding 'Moral Imperialism' and respecting the autonomy of local communities and so on. Now we seem to face a dilemma. If we attempt to persist in ISCT it seems that we have to abide by non-determinacy of ISCT. On the other hand if we dismiss ISCT and adopt some substantive moral theory, we have to lose the advantages that social contract theory has.

The key to deal with this problem in ISCT is, I suppose, to examine whether application of moral principles is the only one valid form of moral reasoning. If we could propose another valid form of moral reasoning, then we could defend or improve ISCT based on it. So the next question amounts to what the alternative valid form moral reasoning is. In my view, it consists in the different kind of understanding of social contract theory. So far we have taken the way of moral reasoning in social contract theory as following the norms which had already been agreed by members in some society. This may be the common understanding about social contract theory. And in this respect social contract theory has been criticized. But I argue that there exists another type of social contract theory. In the next section, in order to demonstrate the validity of that alternative interpretation of social contract theory, I would like to examine this common criticism to social contract theory.

2.2. Criticism to Social Contract Theory

Social contract theory has been criticized for presupposing moral principles that should be deduced from the theory itself. For instance, Kymlicka demonstrates this exemplifying Rawls' theory of justice. He points out that theory of justice can vary by individual in terms of his /her disposition. This fact results in various descriptions of original position. For example,

...If contractors are disposed to gamble, they might choose utilitarian principles which maximize the utility each contractor is likely to have in society, but which create the risk that they may end up being one of the people who is sacrificed for the greater good of others.²

According to Kymlicka, in Rawls' theory the description of original position can vary in terms of individual's dispositions. Thus contractors have to choose the suitable description in order to enter into social contract. But this decision can not be made from the social contract itself. Instead, this decision can be made by some moral principles which contractors already have had in their mind. Moreover, if this characteristic of original position were decided by preexist moral principles shared with contractors, all of them would obey the principle without any social contract. If this is the case, the concept of social contract is redundant in moral reasoning. What really functions as criteria is substantial moral values that had been shared with contractors in advance rather than social contracts. In this view social contract theory is finally reduced to substantial moral theory such as Kantian deontology or utilitarianism in response to shared moral theory of contractors. In this sense critics to social contract theory argue that the notion of social contract does not work independently from some substantive moral theory.

According to this interpretation of social contract theory, what contractors should do first is to refer to the preexist norms shared in society. I shall call this conception of social contract theory a 'referential view.' Apparently, ISCT is based on this view. Hypernorms are construed as macro social contracts and authentic norms as micro social contracts. Both norms are supposed to exist before moral reasoning takes place. When we encounter moral issues, as we saw above, ISCT requires us to seek for the authentic norms applicable to the problems. In addition to this, we are required to confirm whether the authentic norms are consistent with Hypernorms involved. This scheme of ISCT typically represents referential view of social contract theory. Thus we have to admit that ISCT is not immune to criticism that claims social contract is redundant.

Perhaps the criticism described above is correct if we accept that referential view is the only appropriate understanding of social contract theory. But I do not think that referential view is the solo appropriate interpretation of social contract theory. Instead, I believe that there is another understanding of social contract theory. And I also believe that if we accept it, we can modify ISCT without losing its advantages. In order to do so, however, we have to reconsider the understandings of social contract theory. I will deal with the task in the next section.

3. Constructive View of Social Contract Theory

In this section I attempt to offer a different valid form of moral reasoning which could be derived from social contract theory. To do this, I would like to begin with examining Kymlicka's criticism mentioned in previous section.

Examining the criticism carefully, we realize that it depends on a particular understanding of moral reasoning. According to this understanding, moral reasoning

means the consistency between a certain moral statement and a certain moral doctrine. If we accept this understanding, when we encounter moral issues, we have to ask to ourselves, for example, that ‘Does this course of action lead to the maximization of utilities of parties involved?’ or ‘Is my action universalizable?’ However, I do not think that it is the only way of moral reasoning. Instead, when encountered moral issues, we often ask to ourselves ‘Can my course of action convince others?’ In this form of moral reasoning, the leading consideration is to constitute a common moral arrangement. To establish such an arrangement, we seek to find out a suitable moral reason to convince others involved. Thus, in this case substantive moral doctrines have secondary or instrumental status in the moral reasoning. As Scanlon stated, we can construe the moral reasoning as exhibiting the reason that ‘no one could reasonably reject’³ rather than as proving consistency with some moral doctrine.

If this form of moral reasoning is accepted, we can offer another understanding of moral reasoning based on social contract theory. In this form of moral reasoning, the main activity of contractors is to seek to construct (or constitute) moral arrangement based on mutual agreement. This kind of arrangement depends on the various moral considerations such as respect for rights and interests of individuals involved or fairness among all concerned and so on. It does not exclusively depend on a particular moral theory or value. It may use some specific moral values or theory as long as no one can reasonably reject it. But it does not allow particular moral doctrine to give the privileged status. In other words, in this type of moral reasoning, we can respect plural moral values. Moreover this view of moral reasoning regards moral conclusions as plastic or changeable rather than fixed or invariable. In this view moral reasoning is not the application of immortal moral law. Instead, in this view moral reasoning is represented as a proposal of a candidate of moral arrangement for collective moral decision making aiming at agreement. The leading consideration of this moral reasoning is to establish the arrangement or norm that no one can reasonably reject. We call this conception of social contract theory as a ‘constructive view’ opposed to ‘referential view.’

If we accept the constructive view, we could rebut the dispute to social contract theory. The key of the criticism to social contract theory has been that social contract theory inevitably needs some substantial moral theory. This criticism depends on the notion that perceives moral reasoning as proving the consistency between moral statements and some moral theory. But if we construe moral reasoning as proposing the agreeable moral arrangement, freely choosing among the plural moral values, social contract theory could avoid being called redundancy theory and eschew moral monism. Moreover, since the referential view of social contract theory is the cause of malfunction of ISCT when there exists no single authentic norm, by introducing the constructive view into ISCT and revise it, we can expect making ISCT become more valid and practical. In the next section, I attempt this task, namely, improving moral reasoning system of ISCT.

4. Incorporating the Constructive View into ISCT

To summarize, so far I argued that ISCT was underdetermined when no applicable norms exist. Then we ascertained that this defect in ISCT originated in a common understanding of social contract theory, that is, the referential view. The referential view is based on a particular notion of moral reasoning, which regards moral reasoning as consistency with some specific moral doctrine or standard. Opposed to this view, I proposed that we can understand moral reasoning as constituting common moral norms. If we adopt the latter interpretation of moral reasoning, we reconstruct social contract theory in a different way. According to this understanding of social contract theory, say, the constructive view, when we encounter moral problems, what we should do is to create the norms that all parties could agree to obey instead of referring to any specific moral doctrine that had already been shared within individuals involved.

Some may ask what ‘construct’ exactly means. We need to reply to this question. As I mentioned in the previous section, I take it that the morally right action means to act according to the reason which no one can reasonably reject. Thus what we should clarify is the conditions making such reasons undeniable. As such, I suppose two conditions are required. First, undeniable reasons must be the ones that take the interests and rights of all parties involved in the moral issue in question into account. We should not *unconditionally* ignore the interests or rights of particular individuals or group who would be affected from the moral problem. We have to care for all interests and rights as far as possible. Second, undeniable reasons also should not be the ones that favor particular party at the expense of others. If a certain reason benefits a certain party and undermines important interests or rights of other parties, then the reason is wrong. This second condition works as a complement to the first condition. Although it is most desirable that the interests and rights of all concerned are fully realized, it is often impossible. In such case we have to choose someone’s interest or right over others.’ Then we need some criteria for prioritization. I believe that the second condition is qualified as such criteria. Because the matter of prioritization implies fair distribution of the interest or right realization, the most persuasive reason must involve the notion of prevention of a harsh difference. The second condition guarantees to make a reason persuasive because it forbids the disproportionate difference between the chosen and the unchosen. To summarize, the undeniable reason needs two conditions. First condition is equal treatment to the interests and rights of all parties involved. Second is prevention of a harsh difference.

If a moral reason satisfies those two conditions, that is, if a moral reason reflects interests and rights of all concerned and does not favor a particular party at the expense of others, then the reason must be recognized as valid. So when we encounter moral issues that have no existing applicable norms, we have to tailor some norm that satisfies those conditions. To do this, what we have to do first is to identify all parties and their important interests. Second, we need to take those interests into account in moral reasoning. Third, we should estimate whose interests

or rights are the most important and who should abide by relatively disadvantageous treatment comparing each interest and right. Through those steps we could construct acceptable new norms. While Scanlon call this activity “shaping” role of the aim of justifiability to others,’ I would call this pattern of norm setting activity ‘constructive.’ That is what I mean by the word ‘constructive.’⁴

The constructive view could address the situations that have no existent norm more satisfactorily than the referential view. As we have seen in section 2.1., when we come across the no-existing-norm situations, ISCT leads us to proceed with solution 1 to solution 3. But solution 1 and 2 are essentially reference-type reasoning and referents are not necessarily appropriate. Moreover, solution 3 concedes completely subjective moral judgment. Thus we cannot expect making appropriate moral judgment with ISCT at the no-existing-norm situations. If we want to obtain an appropriate norm in such situations, we have to adopt the other form of moral reasoning that enables us to create moral norms from fundamental and common values, such as important interests, basic human rights and so on. To do this within ISCT framework, I argue that ISCT should incorporate the constructive view into its decision making system, replacing solution 1 to 3.

As I mentioned earlier, ISCT is fundamentally a kind of two-level moral theory. It uses authentic norms at the first level judgment and hypernorms at the second level. It seems impossible for us to deny the existence of conventional valid norms and most of these norms are so stable that we can rely on them in our moral judgment. Thus the former part of ISCT is acceptable.

But latter part which consists of the solution 1 to 3 is problematic. As I pointed out, when we enter into no-existing-norm situations, what we ought to do is not referring to other communities’ norms but constructing new norms within our community. For this purpose, I propose an alternative decision making process. It replaces solution 1 to 3 with the four-step process below.

If we cannot identify applicable authentic norms and hypernorms, take the following steps.

- Step 1. Identifying all the parties involved in the moral problem.
- Step 2. Mapping important interests and rights of parties involved.
- Step 3. Weighing each interest and right by considering differences among the parties involved and prioritizing among them.
- Step 4. Establishing norms which reflect priority of interests and rights.

What is the difference between two methods? I will examine it with the case in the next section.

5. Case

So far I examined the shortcomings of ISCT and proposed an alternative way of moral reasoning. Since the argument was somewhat theoretical, we focus on a case to which Donaldson and Dunfee applied ISCT in this section.⁵

The case we pick up here is about financial scandals. In 1990s and early

2000s, securities firms were thriving on the new business scheme using investment bank department. The structure of this scheme is following: The main business of investment bank department is issuing new stocks of client firms. If the stock price rises, it can gain profit. So in order to raise the stock price, the investment bank department needs to inform investors that their client firms are in a good shape. But analysis of performance of firms and issuing analyst reports for investors is the business of securities analysts. Usually, securities analysts belong to the research department in securities firms. Thus it is essential for the investment bank department to keep in good terms with analysts because stock prices are susceptible to analyst reports. To get cooperation of analysts, the investment bank department began to pay a huge amount of fees to analysts when stock price successfully rose due to the analyst reports.

Then conflict of interests emerged for analysts. Fundamentally, analysts are required to work for investors' interests. They are obliged to issue accurate analyst reports. In the new business scheme appeared in 1990s, however, analysts became required to contribute to the profit of investment bank department. Moreover, due to a huge amount of fees from investment bank department, analysts came to face a dilemma between self-interest and investors' interest.

Unfortunately, in early 2000s this conflict led to the big scandal in the United States. Some analysts wrote false reports by the pressure coming from investment bank and by a large amount of fees. As a result, a large number of investors who trust the reports suffered serious financial losses. Donaldson and Dunfee analyze this problem with the ISCT framework. According to their analysis, this problem falls under the case of a no-existing-norm situation. Donaldson and Dunfee hold that there *was* an authentic norm in security industry. Until 1980s those who engaged in security dealings believed that the research department and the investment department should be isolated. They all supported this isolation policy which is called "Chinese Wall." But recent innovation of business model has changed their norms. Quite a few business persons have come to believe that the new business model should be regarded as legitimate. Donaldson and Dunfee claim that the number of supporter is so huge that it is impossible to identify an authentic norm in security industry.

Applying to the ISCT decision making process, in turn, Donaldson and Dunfee attempt to find out applicable hypernorms in this problem. As the applicable hypernorm, they offer what they call an "efficiency hypernorm" which says 'Utilize efficiently resources in which society has a stake.'⁶ Donaldson and Dunfee claim that this hypernorm applies to the Chinese Wall problem. While the new business scheme has brought prosperity to the security industry, it has also brought about inaccurate analyst reports. But if we consider this problem from the standpoint of market efficiency, that is, of efficiency hypernorm, we find this business scheme undermine the market structure. The reason for this lies in the importance of accuracy of information. The accuracy of information is a necessary condition for the efficient market system. And without efficient market system, it is impossible to distribute goods through the market. Comparing advantage and disadvantage brought about the new business scheme, the disastrous effect of this scheme to the

market should be taken more seriously than its positive effect, namely, profitability. Based on this reasoning, Donaldson and Dunfee conclude that it is more desirable to preserve the old Chinese Wall policy than to abandon it.

Is this reasoning appropriate? There seems to be many questions to be examined. But the most important defect of ISCT is that it is too norm-centered to apply to actual moral problems. In ISCT what matters is consistency between some ethical statement and existing norms. In the case of Chinese Wall, moral judgment has been done by confirming whether the statement “there is no need to preserve Chinese Wall policy” is consistent with the efficiency hypernorm. However, what really matters is not statement-norm consistency but evaluation among substantive moral values involved. When we can not find out shared norms, it is no use to seek out uncertain hypernorms as efficiency hypernorm. Rather, what we have to do first is, following my four-step decision making process, to clarify interests or rights of the parties involved and priority among them. More specifically, in Chinese Wall case, what we have to identify is interests of three parties.

Those are,

- 1) The interest of investors (financial loss caused by false analyst reports)
- 2) The interest of securities firm (profit from investment bank department)
- 3) The interest of securities analysts (fees from the investment bank department)

Applying my four-step decision making process to this case, what should we do next is to weigh those interests, and then make priority according to their importance. Whose interest is the most important one to be protected? Taking the situation in which the Chinese Wall problem occurred into account, it must be the interest of investors because it is the investors who suffered a most serious losses. Moreover those losses are due to false information and the analysts and the investment bank departments made enormous profits at the cost of investors. From the standpoint of prevention of a harsh difference, it seems plausible to conclude that the isolation between the analyst and the investment department should be kept.

Although ISCT and my revised ISCT decision making process both reached the same conclusion in the Chinese Wall case, there is a significant difference between the two. In ISCT Donaldson and Dunfee often use efficiency hypernorm as a ‘trump.’ The source of legitimacy of the efficiency hypernorm lies in utility optimization in whole economic society. This shows that ISCT is fundamentally a variation of aggregative moral theories. Generally speaking, aggregative moral theory cannot consider the significance of individual’s interests, rights and so on. In the Chinese Wall case, for example, if the number of suffered investors is very small and the benefits of analysts and securities firms are enormous, ISCT would have to admit that the Chinese Wall policy is inadequate. Contrary to this, my four-step process could care for the minority because it focuses on substantive property of each interest. Even though the number of sufferers is small, if the interest in question is important, our decision making process can save them. In this respect my revised version of ISCT has much significance.

Conclusion

In this article I have attempted clarify a valid moral reasoning process based on social contract theory. In this attempt I focused on ISCT and tried to revise some part of it. In order to improve ISCT from this point of view, I distinguished two conceptions of social contract theory, namely, a referential view and a constructive view. ISCT has adopted the referential view so that it could not address the moral issues effectively that have no applicable norms involved. In order to overcome this difficulty I introduced constructive view into ISCT and replaced solution1 to 3 with the four-step decision making process offered in the last part of section.4.

The advantage of this revised ISCT is following: First, revised ISCT could avoid invalid reference to other community norms (solution 1). Even if other communities have authentic norms to a particular moral problem, it could not always be applied to the community that does not have authentic norms. Revised ISCT need not refer to other community's norms. So we can eschew invalid analogous moral reasoning. Second, we can avoid making subjective moral judgment (solution 3). According to the original ISCT, if solution 1 and 2 are not feasible, we are allowed to make moral judgment according to our own belief. But this allows us arbitrary moral judgment. The revised ISCT could exclude this arbitrariness.

Two reasons mentioned above represent negative reasons for revised ISCT. Consider the positive reason. The revised ISCT, first and foremost, represents more appropriate form of moral reasoning than original one. As Donaldson and Dunfee themselves admit⁷, moral reasoning is not a mere application of existing moral norms or moral doctrines. That is only half of moral reasoning. Moral reasoning often entails amending traditional norms or creating brand-new norms. If we are to live up to those requirements, we need to reconstruct ISCT in order to cope with norm amendment and creation. To do this, I set up the four-step decision making process by which we could deal with no-existing-norm situation. Moreover, as I explained in the previous section, if we adopt the revised ISCT, then we could protect minorities' interests. In those respects it seems useful to revise ISCT in the way we propose.

Notes

- 1 Boatright (2000), pp. 459-60.
- 2 Kymlicka (2001), p. 193.
- 3 Scanlon (1998), p. 157
- 4 I owe much to T.M.Scanlon about this part. For detailed argument, see Scanlon (1998), pp. 194-7.
- 5 Donaldson & Dunfee (2002).
- 6 Donaldson & Dunfee (1999), p. 130.
- 7 Donaldson & Dunfee (2000), p. 483.

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Chapter 12

Re-examination of the Relationship between PR and Marketing: Agency and Corporate PR Practitioners' Ethical Considerations of Marketing PR

Serra İnci ÇELEBI

Introduction

Some scholars have raised the ethical concerns of public relations and questioned whether or not over-reliance on media relations harmed PR (Tobin, 2004) and if PR industry was ever needed regulations (Moloney, 1999). PR requires long-term efforts for building trust and credibility and the only solution for the creation of trust is doing the right thing (quoted in Stoff, 2002). As Liese Hutchison, the ethics officer for the St. Louis chapter of the Public Relations Society of America (PRSA), says (quoted in Stoff, 2002, p. 15):

We are going to get pressure from client and employers. It is up to the public relations practitioner to tell the client what is not right. We shouldn't bow to pressure. If we are going to be a 'yes' person, we shouldn't be in public relations. People who are 'yes persons' are the ones giving the profession a bad name.

Thomas (2002) notes that PR's 'relationship building' part has been left behind as PR merged with advertising and marketing. Lages and Simkin (2003, p. 299) disclose that:

Public relations academics trying to build a specific theoretical framework for the discipline reject marketing PR as a limited and misleading view of the practice. Public relations academics consider that when deployed solely as a marketing tool, public relations are reduced to a short term, non-strategic technical task, far from its managerial potential.

Since the early 1990s, PR's (public relations) strategies and tactics have been started to be used for marketing purposes and "marketing public relations" (MPR), as a new terminology was a necessity in order to separate "marketing focused PR" from "corporate oriented PR (CPR)." This new use of PR offered the marketers new opportunities such as a more cost-effective and credible way of promoting the products. However, the uses of MPR, alongside the other promotional activities (e.g. advertising, sales promotion, and personal selling) also accelerated the spread of unethical practises. Because, the changing of definitions and roles of PR from cor-

porate orientation to marketing orientation created different interpretations and, in turn, a misunderstanding of this business. Several studies (Kim, 2003; Lieber, 2008) have examined the ethical considerations of PR from a PR perspective, but little has been done for the ethical consideration of MPR specifically and from a distinction of agency and corporate PR practitioners' perspectives. Comparing and contrasting agency and corporate PR practitioners' opinions is important, because there is a perceptual difference between agency PR practitioner (a practitioner who work for an independent PR consultancy) and corporate PR practitioner (a practitioner who work for an internal -in house- PR department) upon many issues regarding their opinions on greater consumer activism, recession, industry regulations, and other situations ("Effects of recession," 1992). In addition to this, Jefkins (2000) believes that corporate practitioners are less expert than agency practitioners and Kotler and Armstrong (1996) support Jefkins' statement and confirm that this is because agencies employ more qualified staff who is experts in their fields than the corporations' own staff.

The purpose of this study is therefore two fold: (1) to investigate agency and corporate PR practitioners' perceptions and usage of MPR activities; and (2) to examine agency and corporate PR practitioners' opinions upon the ethical concerns of MPR.

1. Ethical Concerns of PR in General and MPR in Particular

"The best PR is never noticed." (Stauber and Rampton, 1995, p. 2)

L'Etang (2003, p. 59) defines that "Ethics are based on fundamental principles and universal requirements which determine the right and the good. They are not relative concepts." So, ethics and their applications shouldn't change from one person to another in terms of age, gender, occupation, social status, poverty or wealth.

Code of ethics for public relations and code of ethics for journalism are highly interrelated since the practice of paying members of the press is an ethical issue for both sides. Awad (1987) believes that this payment for placement of articles and news releases will soon shift the focal point of public relations from 'communication orientation' to 'publicity creation.' Some publications' applications of running new product publicity for companies that are also advertisers in those publications, has been also a long standing ethical debate (Stanley, 1977). The boundaries blur between advertising and editorial content with an increase in advertorials (ads that look like news) and infomercials (thirty minute ads that resemble programming). It has been a growing issue about where to draw the line in between and how to recognize them (Patterson & Wilkins, 1991).

In addition to the significant link between journalism and PR ethics, there is an important correlation between organizational ethics and ethical public relations activities. Bovet (1993, p. 24) remarks that:

It's arguable that every question of business ethics that comes to light in the press is a public relations issue, since the organization's reputation is at stake. So

in a large sense, every business scandal involves the public relations field and its practitioners.

Ecology, environmental consciousness, and corporate social responsibility are fashionable corporate concerns and they are the reasons why organizations increasingly adopt the 'open system theory' and do not see themselves in the 'closed system' (Leeper, 1996). The *New York Times* states that some companies such as Ford and General Electric spend millions of dollars to promote their products via greenwashing¹ so that their customers feel comfortable about buying their products ("It's easy," 2005). Schwadel (1989, p. B1) supports the climate of opinion which is written in the *New York Times* and agrees that:

Retail stores have discovered there are profits in "green" ad claims. Consumers, they've found, are increasingly concerned about the environment, so the stores are capitalizing on those concerns with their own claims of environmental consciousness. Critics, however, feel that many or most of those claims are nothing but hollow hype, and that it is wrong to tout environmentalism in order to promote further consumption.

Information above shows how today's companies try to manipulate the customer's mind by such claims in order to gain competitive advantage. With its many applications, most PR activities which result in publicity are becoming propaganda. Propaganda invites doubt, uncertainty, and disagreement. PR, on the other hand, must be a credible way of communication (Jefkins, 1998). The acceptance of Video News Release (VNRs) by television stations, for example, invites suspicion and disagreement. The production of VNRs by PR agencies and their use by many television stations raised the ethical issues and questioned what news is. Most of the time, the source of the video has no identification. The stations which use VNR materials need to tell where it came from. Telling the source of news is important because, for example, whaling video the station used came from Greenpeace or from the Coalition to Support Whaling creates different impressions on viewers ("The nightly news," 2004).

Other ethical concerns in the PR business include the issues below:

- Large advertising agencies have acquired many public relations firms which gave the pressure on the shoulders of PR professionals to contribute for profits (Edelman, 1992).
- Some articles including an endorsement (especially a doctor's name) may be published without the endorser's awareness and approval. This is called as 'ghostwriting' and is another major problem as the person who is used as endorser often has no idea about what is written (Linning, 2004).
- The switching from one brand to another due to offers of a bigger fee and defending clients who are indefensible and beyond a reasonable rehabilitation such as performing PR activities for a bad product (Edelman, 1992).

“It could... be said that the holy books of the world’s religions contain a form of public relations, in that ancient scribes were seeking to create an understanding of their faiths” (Jefkins, 1998, p. 2). Apparently, PR is not a new job as the first religions of the world tried to create an understanding about faith. For Miyamoto (1996), Jesus Christ identified target publics and adjusted messages to teach them, publicity appeared and made speeches, and created special events. By using fundamental public relations techniques, He used the two-step flow theory of communications. PR’s early activities were based on the creation of such an understanding and giving an insight to the public about faiths and during that time period, there was nothing related to lies, misleadings, cover ups, and manipulations.

Skinner, Mersham, and Valin (2003, p. 16) state that “Public relations practitioners are often cast as ‘social conscience’ of the organization, playing a role in the development of ethical standards within institutions.” However, it is almost impossible to keep up the reputation of companies, products and brands with distrustful public relations activities. That is, while PR’s reputation is at risk, it is getting difficult to enhance the organization’s reputation by PR. There is an urgent need for honesty, integrity, and full disclosure for PR applications. Because of this urgent need, many scholars raised the ethical issues in conferences and in interactive chat rooms, many opened interactive websites (e.g. PR Watch, Spinwatch) to display to the public how reality is distorted by the use of PR, and the Public Relations of Society of America (PRSA) reformulated its code of ethics in PR and recognized February as ‘Ethics Month’ (Stoff, 2002). However, the PR business needs the full commitment of more practitioners towards ethical standards.

Jempson (2005) claims that some ethical concerns arise from misunderstanding of the role of PR by the management of many companies. If the management believes that PR exists to create good relationships, trust will obviously be important. However, if the management feels that PR exists to complement other promotional activities, media manipulation will be the necessary part of the game. Therefore, it could be concluded that those unethical concerns were enhanced by the changing of definitions and roles of PR from corporate orientation to marketing orientation.

Definition of corporate public relations includes key terminologies of goodwill, mutual understanding, and reputation. Increased competition, global brands, new information technologies, and sophisticated consumer behaviors led marketers to reconsider public relations as an important promotional tool within the marketing mix. Prior to the book written by Harris (1991a) titled *The Marketer’s Guide to Public Relations: How Today’s Top Companies are Using the New PR to Gain a Competitive Edge*, there appears to be little or no formal debate and definition of what is today called marketing PR. The term of marketing public relations – shortly MPR- has been given by Harris (1991a, p. 12; also see 1998, p. 21) and has been defined as “the process of planning, executing, and evaluating programs that encourage purchase and consumer satisfaction through credible communication of information and impressions that identify companies and their products with the needs, wants, concerns, and interests of consumers.” In the terminology of MPR, we can, for the first time, see that a definition of public relations was allowed to include the key words of marketing: ‘needs’ and ‘wants.’ Like all persuasive communica-

tions, MPR seeks return on investment (ROI). Although, the statement of ‘credible communication of information and impressions’ has been included and underlined in his definition of MPR by Harris, this new description and role of PR give emphasis to marketing and sales and therefore underscore persuasion. Ethical concerns arose when this understanding between an organization and its publics was created by persuasive PR more than informative PR. In addition to informative aspects of PR, persuading and mobilizing target market have become important in marketing PR (Linning, 2004). Messina (2007) provides ‘ethical persuasion’ as a solution and fundamental to the ethics of persuasion. He acknowledges the importance of integrating the concept of ethical persuasion into public relations and defines ethical persuasion as “An attempt through communication to influence knowledge, attitude or behavior of an audience through presentation of a view that addresses and allows the audience to make voluntary, informed, rational and reflective judgements” (p. 33).

Beaudoin (2004, pp. 370-371) suggests that:

Public relations, in order to be effective in such an evolving context, must seek ethical commonalities between the corporate world, public institutions, and NGOs. Each must show respect for three basic ethical rules: being a responsible organization that will issue truthful information (a basis for the questioning of ‘spin doctors’); being a representative organization founded on the legitimate interest of a constituency (a basis for the questioning of propaganda); and being a responsive organization in that it displays respect for the ‘attention factor,’ that posture of organizations which do not disregard the interests of publics affected by any aspect of their action (a basis for the questioning of legal force).

Those unethical behaviors can be passed over with ethical applications of individuals and recommitting themselves (Odedele, 2004). The preceding literature was designed to display the ethical concerns of PR in general and MPR in particular. The related questions are as follow:

RQ1: To what degree agency and corporate PR practitioners agree upon the unethical applications in MPR business?

RQ2: According to agency and corporate PR practitioners, what is the most common unethical application in MPR business in Turkey?

2. The Relationship between PR & Marketing

The relationship between PR and marketing has received greater attention (Kotler & Mindak, 1978; Harris, 1991a; Lobsenz, 1991; Harris, 1993; Grunig & Grunig, 1998; Harris, 1998; Varey, 1998; Kocabaş, Elden, & Çelebi, 1999; Vincent, 1999; Hart, 2000; Saffir, 2000; Sherwing & Avila, 2001). Among them, in 1978, Kotler and Mindak addressed the relationship among public relations, public affairs, and marketing by asking “Where does marketing end and public relations begin?”

Where does public relations end and public affairs begin?” (p. 13) in an article titled Marketing and Public Relations in the *Journal of Marketing*. Kotler and Mindak (1978, pp. 16-19) were first to outline five alternative arrangements between marketing and PR. The summary of the models of relationship is as below (see also Grunig & Grunig, 1998, p. 143):

1. Separate but equal functions (Marketing and public relations have different functions, perspectives, and capabilities).
2. Equal but overlapping functions (Both are important and separate functions but they share some terrain, particularly product publicity and customer relations; in addition, public relations serve as a ‘watchdog’ on the social responsibility of marketing).
3. Marketing as the dominant function (Marketing manages the relationship with all publics in the same way as the relationship with customers-‘mega-marketing’).
4. Public relations as the dominant function (If public relations build relationship with all key publics of the organization, then programmers to build relationships with customers, i.e. marketing, would be subset of public relations).
5. Marketing and public relations as the same function (Public relations and marketing converge in concepts and methodologies and a single department manages the external affairs of the company).

In light of literature review, the following research question was formulated:

RQ3: According to corporate and agency PR practitioners which one of five models (which have been mentioned by Kotler and Mindak in 1978) does best describe and which one of them does least describe the nature of the working relationship between PR and marketing?

3. PR, MPR, and CPR Defined and Distinguished

Given the attention paid to the relationship between marketing and PR, it may be necessary to define public relations, marketing public relations and corporate public relations in furthering more robust explanations.

According to British Institute of Public Relations (IPR): “Public relations is the planned and sustained effort to establish and maintain goodwill and mutual understanding between an organization and its publics” (quoted in Jefkins, 1998, p. 6) Due to the fact that PR is considered as a cost-effective promotional method relative to advertising and other promotional activities, there is a tendency to see PR as ‘free advertising.’ For this reason, Jefkins (1998) states that PR is not free advertising, as PR activities are time and energy consuming and those are represented by wages.

In addition to his longer definition of MPR, in 1998, Harris also created a shorter definition to define it: “Marketing public relations is the use of public relations strategies and techniques to achieve marketing objectives” (p. 21).

Goldman (1992) differs CPR and MPR in various ways and states that CPR is a management tool, concerning with strategy, dealing with internal publics (officers and employers), and usually communicating via bulletins, newsletters, and annual reports. However, MPR is a marketing tool, concerning with marketing strategy (directly related to buying and selling), dealing with external publics (customers, suppliers, and distributors), and usually communicating via media and more or less with public events.

MPR is defined by scholars and researchers; whereas, it may not be defined and differentiated in the same way by practitioners who have experiences in the field, but may have lack of theoretical background. So, having defined and discussed the differences among PR, CPR, and MPR from the scholars' perspectives, the second question below aims to discover if definitional difference of MPR exist between Turkish practitioners and scholarly written literature.

RQ4: Do corporate and agency PR practitioners define MPR as it is scholarly defined?

4. MPR Tactics

There are many uses of MPR ranging from introducing new products to re-launching old products, creating trust, and building person to person relationships (Harris, 1991a; 1991b; 1993; 1998; "No PR," 1995). Almost 90% of MPR activities are said to be used to introduce a new product to the market place (Harris, 1991a). Özkoçak (2003) in his investigation of marketing practitioners' perceptions and the uses of MPR found that Turkish practitioners needed MPR activities for introducing new products more than other purposes. More research is needed to gain an insight on which MPR tactics are commonly used in introducing a new product; so, the research question was designed to gather the answer of this:

RQ5: According to corporate and agency PR practitioners, which MPR tactics are more important for launching a new product in a campaign?

5. Methodology

5.1. The Instrument

A survey conducted in the form of a questionnaire. The survey instrument was including demographic question in addition to a 40 item in the questionnaire that asked PR practitioners to indicate their reactions to definitions, implications, and ethical concerns of MPR. Cronbach's alpha was found as 0.795. Apart from demographic questions, a five-point Likert scale rating was employed with scales ranging from 'strongly disagree' to 'strongly agree,' from 'very uncommon practice' to 'very common practice' and from 'strongly unimportant' to 'strongly important.' The questions were designed to ask the practitioners' opinions on various subjects and the questions were formed by the review of the literature.

5.2. Data Collection

After the literature review of MPR concept and its ethical dimensions, it was decided that an exploratory study would be an advantageous and a study with people who are in charge of PR activities in their organizations and in consultancies would seem to be necessary. The research sample was selected from the member list of the members of the Association of Public Relations in Turkey (TÜHİD). Purposive sampling method was employed to conduct the study. 102 member agencies of the Association of Public Relations were contacted by telephone and their participation was asked by explaining the purpose of the study. 8 of them participated in the study by telephone interview at the time of the research. Each question was explained to them one by one and the study was conducted in Turkish. 96 of them said on the telephone that they preferred giving their opinions by electronic mail. After the questionnaire had been e-mailed them, their participation was encouraged by reminding them twice. In one months' time, the questionnaires had been e-mailed to the members three times and 21 of them returned the questionnaires back. The response rate is 28.43%. By excluding 4 practitioners of which were neither agency nor corporate practitioners; 12 agency practitioners and 12 corporate practitioners were selected from the total of 29 practitioners responded.

5.3. Data Processing

“Significant at .05 level ($p < .05$) simply means that the probability of a relationship as strong as the one observed being attributable to sampling error alone is no more than 5 in 100” (Babbie, 1990, p. 298). “Traditionally, the .05 level is selected for consumer research projects, .01 for quality assurance, and .10 for political polling” (Lind, Marchal, & Mason, 2002, p. 338). The significance level depends somewhat on the purpose of the research (Frey, Botan, & Kreps, 2000). In order not to miss the important points of the results of this study, it is wanted to be 90% confident that the null hypothesis is false. The results of the t-tests were significant at $p < .10$ level and one sample t-test for overall findings and independent sample t-test for findings for corporate and agency practitioners were exercised. The data gathered through the e-mail survey were entered to and analyzed by the SPSS. The findings are shown in tables in the following section.

5.4. Limitations and Suggestions

Agency and corporate PR practitioners' hectic and demanding job style and their positions forcing them to work with deadlines reduced the response rate of the study. Thus, the sample size of 24 can be larger in other studies. This study is based on discovering whether or not perceptions, applications, and some ethical problems-which have been scholarly written- exist in Turkey and revealing corporate and agency PR practitioners' opinions on them; therefore, a survey method was used to gather data. An in-depth interview or a focus group may be helpful for examining the different aspects and dimensions of MPR and ethical concerns of this business which have not been scholarly mentioned or written before.

6. Findings

Demographic Profile of the Respondents

50% of the respondents were corporate practitioners working as PR practitioners at the private sector and the other 50% of the respondents were agency practitioners working as executives of PR consultancies.

Table 1: Corporate Practitioner vs. Agency Practitioner

Demographics	Frequency	%
Agency Practitioner	12	50.0
Corporate Practitioner	12	50.0
Total	24	100.0

6.1. Unethical Applications

According to the overall findings, the support was given to the statement on ‘Payment for placement of articles and news releases will soon shift the focal point of PR from communication orientation to publicity creation’ (M=3.57; SD=1.46) (See Table 2).

Table 2: Unethical Applications according to Overall Findings

Unethical Applications	Mean	Std. Deviation	t-value	Sig.
The uses of PR for marketing purposes increased the volume of unethical practices	1.47	.51	-14.289	.000*
MPR caused to the misuse of news releases, VNRs, ANRs	2.50	1.38	-1.771	.090*
The majority of today’s companies try to manipulate the customer’s mind by deceitful claims and false testimonials	2.29	1.12	-3.093	.005*
If the management feels that PR exists to complement other promotional activities, media manipulation will be the necessary part of the game	3.13	1.17	.530	.601
Unethical concerns were enhanced by the changing of definitions and roles of PR from CPR to MPR	2.58	1.38	-1.479	.153
Payment for placement of articles and news releases will soon shift the focal point of PR from ‘communication orientation’ to ‘publicity creation’	3.57	1.46	1.783	.090*
PR’s relationship building part has been left behind as PR merged with advertising and marketing	2.40	1.25	-2.200	.039*

Unethical Applications	Mean	Std. Deviation	t-value	Sig.
Large advertising agencies have acquired many PR firms which gave the pressure on the shoulders of professionals to contribute for profits	2.95	1.39	-.160	.874

*Significant at $p < .10$

Note: A five-point Likert scale was used, where 5=strongly agree and 1=strongly disagree

The statement on ‘The majority of today’s companies try to manipulate the customer’s mind by deceitful claims and false testimonials’ [agency practitioner (M=1.83; SD=.93) vs. corporate practitioner (M=2.75; SD=1.13)] and on ‘PR’s relationship building part has been left behind as PR merged with advertising and marketing’ [agency practitioner (M=1.80; SD=.91) vs. corporate practitioner (M=2.91; SD=1.31)] got the lowest level of mean score and therefore support by both agency and corporate practitioners (See Table 3).

Table 3: Unethical Applications according to being Agency or Corporate PR Practitioner

Unethical applications		Mean	Std. deviation	t-value	Sig.
The uses of PR for marketing purposes increased the volume of unethical practices	Agency practitioner	1.45	.52	-.209	.837
	Corporate Practitioner	1.50	.52		
MPR caused to the misuse of news releases, VNRs, ANRs	Agency practitioner	2.50	1.08	.000	1.000
	Corporate Practitioner	2.50	1.67		
If the management feels that PR exists to complement other promotional activities, media manipulation will be the necessary part of the game	Agency practitioner	3.00	1.09	-.503	.620
	Corporate Practitioner	3.25	1.28		
The majority of today’s companies try to manipulate the customer’s mind by deceitful claims and false testimonials	Agency practitioner	1.83	.93	-2.154	.042*
	Corporate Practitioner	2.75	1.13		
Unethical concerns were enhanced by the changing of definitions and roels of PR from CPR to MPR	Agency practitioner	2.16	1.26	-1.520	.143
	Corporate Practitioner	3.00	1.41		
Payment for placement of articles and news releases will soon shift the focal point of PR from ‘communciation orientation’ to ‘publicity creation’	Agency practitioner	3.20	1.93	-1.074	.304
	Corporate Practitioner	3.90	.83		

Unethical applications		Mean	Std. deviation	t-value	Sig.
PR's relationship building part has been left behind as PR merged with advertising and marketing	Agency practitioner	1.80	.91	-2.340	.030*
	Corporate Practitioner	2.91	1.31		
Large advertising agencies have acquired many PR firms which gave the pressure on the shoulders of professionals to contribute for profits	Agency practitioner	2.50	1.26	-1.489	.154
	Corporate Practitioner	3.40	1.42		

*Significant at $p < .10$

Note: A five-point Likert scale was used, where 5=strongly agree and 1=strongly disagree

6.2. The Common Unethical Applications in Turkey

The overall findings show the practitioners agreed that 'running a new product publicity for companies that are also advertisers in those publications' ($M=3.70$; $SD=1.23$) was the most common unethical MPR practice in Turkey. However, they didn't agree that 'MPR activities have been maintained for bad products' ($M=2.33$; $SD=1.16$) (See Table 4). The result doesn't show a significant difference according to being agency or corporate practitioner.

Table 4: Unethical Applications in Turkey

Unethical Applications in Turkey	Mean	Std. Deviation	t-value	Sig.
MPR activities have been maintained for bad products	2.33	1.16	-2.798	.010*
Corporate social responsibility has become a cosmetic addition	3.20	1.44	.707	.487
Defending clients who are indefensible	2.83	1.34	-.609	.548
Receiving money for a published item which blurs the line between commercial and editorial material	2.62	1.37	-1.334	.195
Running new product publicity for companies that are also advertisers in those publications	3.70	1.23	2.815	.010*
Some articles including an endorsement (especially a doctor's name) may be published without the endorser's approval	2.79	1.25	-.816	.423

*Significant at $p < .10$

Note: A five-point Likert scale was used, where 5=very common practice and 1=very uncommon practice

6.3. The Working Relationship between PR and Marketing

In order to determine corporate and agency practitioners' perceptions for the working relationship between marketing and PR, an independent t-test analysis was employed. A significant result was found for the second model which is based on the notion that PR and marketing is separate functions but some of their functions are overlapping and for the fourth model on PR as the dominant function ($p < .10$). Corporate practitioners agreed that 'the nature of the working relationship between PR and marketing' was best described by the second model ($M=3.91$; $SD=1.24$) in addition to the fourth model ($M=3.50$; $SD=1.31$); while, agency practitioners didn't agree with both model (2nd: $M=2.70$; $SD=1.41$ and 4th: $M=2.50$; $SD=1.08$) as their mean scores were lower than 3.00. As a result, corporate and agency practitioners didn't agree on the same model for the working relationship.

Table 5: the Five Models for PR and Marketing

Models	Practitioners	Mean	Std. deviation	t-value	Sig.
Separate but equal functions	Agency practitioner	3.30	1.49	-.825	.419
	Corporate Practitioner	3.83	1.52		
Separate but overlapping functions	Agency practitioner	2.70	1.41	-2.120	.048*
	Corporate Practitioner	3.91	1.24		
Marketing as the dominant function	Agency practitioner	3.00	1.33	1.334	.198
	Corporate Practitioner	2.25	1.28		
PR as the dominant function	Agency practitioner	2.50	1.08	-1.959	.064*
	Corporate Practitioner	3.50	1.31		
Marketing and PR as the same function	Agency practitioner	1.90	1.44	-1.126	.274
	Corporate Practitioner	2.58	1.37		

*Significant at $p < .10$

Note: A five-point Likert scale was used, where 5=strongly agree and 1=strongly disagree

6.4. The Definitions of MPR

Among the various definitions supplied to the practitioners, there was a significant result for two different definitions. Corporate practitioners defined MPR as 'It is a communication activity working for reinforcing company image' ($M=4.33$; $SD=.88$); but, agency practitioners were uncertain ($M=3.00$; $SD=1.47$) about this statement that if it was the definition of MPR. Besides, both corporate ($M=2.16$; $SD=1.52$) and agency ($M=1.27$; $SD=.64$) practitioners disagreed with the definition seeing MPR as free advertising.

Table 6: the Definitions of MPR

Definitions	Practitioners	Mean	Std.	deviation	t-value Sig.
MPR is the use of PR strategies and techniques to achieve marketing objectives	Agency practitioner	4.41	.90	1.591	.126
	Corporate Practitioner	3.75	1.13		
MPR is a marketing tool concerning with marketing strategy, dealing with external publics and communicating via media	Agency practitioner	3.08	1.08	.000	1.000
	Corporate Practitioner	3.08	1.62		
MPR is a PR activity	Agency practitioner	3.54	1.43	.083	.934
	Corporate Practitioner	3.50	1.16		
MPR is a marketing activity	Agency practitioner	3.08	1.31	.146	.885
	Corporate Practitioner	3.00	1.47		
MPR is sales promotion	Agency practitioner	2.25	1.05	-.712	.487
	Corporate Practitioner	2.54	.93		
MPR is personal selling	Agency practitioner	1.41	.79	-.832	.414
	Corporate Practitioner	1.75	1.13		
MPR is advertising	Agency practitioner	1.54	.68	-1.480	.159
	Corporate Practitioner	2.25	1.48		
MPR is free advertising	Agency practitioner	1.27	.64	-1.854	.087*
	Corporate Practitioner	2.16	1.52		
MPR is a communication activity working for enhancing brand image	Agency practitioner	3.91	1.31	-.946	.354
	Corporate Practitioner	4.33	.77		
MPR is a communication activity working for reinforcing company image	Agency practitioner	3.00	1.47	-2.680	.014*
	Corporate Practitioner	4.33	.88		

Significant at $p < .10$

Note: A five-point Likert scale was used, where 5=strongly agree and 1=strongly disagree

6.5. The Most Important Tactics of MPR for Launching a New Product

Overall findings exhibit that among the various tactics selected for launching a new product to a marketplace, ‘News releases, VNRs, and ANRs’ (M=4.66, SD=.56), ‘expert columns’ (M=4.45; SD=.72), and ‘articles’ (M=4.12; SD=1.03) were found to be the most important tactics.

Table 7: the Tactics of MPR according to Overall Findings

Tactics	Mean	Std. deviation	t-value	Sig.
Sponsorship	3.69	1.32	2.510	.020*
Social responsibility	3.66	1.16	2.798	.010*
Articles	4.12	1.03	5.326	.000*
Grand openings	3.83	1.16	3.498	.002*
Contests	3.41	.82	2.460	.022*
Sampling of products	3.75	.94	3.892	.001*
News releases, VNRs, ANRs	4.66	.56	14.460	.000*
Expert columns	4.45	.72	9.908	.000*
Exhibits	3.37	1.09	1.676	.107
Award ceremonies	3.20	1.10	.926	.364
Educational seminars	3.75	1.11	3.301	.003*

*Significant at $p < .10$

Note: A five-point Likert scale was used, where 5=strongly important and 1=strongly unimportant

Agency and corporate PR practitioners assessed the various tactics for launching a new product and gave different emphasis and importance upon them. The result was significant for ‘award ceremonies,’ ‘social responsibility campaigns,’ and exhibits ($p < .10$), as it can be seen in Table 8. Corporate practitioners agreed that ‘social responsibility campaigns’ (M=4.16, SD=.83), ‘award ceremonies’ (M=3.83; SD=.93), and exhibits (M=3.75; SD=1.21) were found to be the most important tactics for launching a new product to a marketplace. Agency practitioners, on the other hand, were uncertain about the importance of using social responsibility campaigns (M=3.16; SD=1.26) and exhibits (M=3.00; SD=.85) and they disagreed that award ceremonies (M=2.58; SD=.90) were important tactics for launching a new product.

Table 8: the Tactics of MPR according to being Corporate or Agency PR Practitioner

Tactics		Mean	Std. Deviation	t-value	Sig.
Sponsorship	Agency practitioner	3.36	1.28	-1.158	.260
	Corporate Practitioner	4.00	1.34		
Social responsibility campaigns	Agency practitioner	3.16	1.26	-2.283	.032*
	Corporate Practitioner	4.16	.83		

Tactics		Mean	Std. Deviation	t-value	Sig.
Articles	Agency practitioner	4.33	.77	.986	.335
	Corporate Practitioner	3.91	1.24		
Grand openings	Agency practitioner	3.83	1.19	.000	1.000
	Corporate Practitioner	3.83	1.19		
Contests	Agency practitioner	3.58	.99	.983	.336
	Corporate Practitioner	3.25	.62		
Sampling of products	Agency practitioner	3.66	.98	-.425	.675
	Corporate Practitioner	3.83	.93		
News releases, VNRs, ANRs	Agency practitioner	4.58	.51	-.715	.482
	Corporate Practitioner	4.75	.62		
Expert columns	Agency practitioner	4.41	.90	-.277	.784
	Corporate Practitioner	4.50	.52		
Exhibits	Agency practitioner	3.00	.85	-1.750	.094*
	Corporate Practitioner	3.75	1.21		
Award ceremonies	Agency practitioner	2.58	.90	-3.331	.003*
	Corporate Practitioner	3.83	.93		
Educational seminars	Agency practitioner	3.58	.99	-.726	.476
	Corporate Practitioner	3.91	1.24		

*Significant at $p < .10$

Note: A five-point Likert scale was used, where 5=strongly important and 1=strongly unimportant

Concluding Discussion

This article has focused on explaining the perceptions and usage of MPR as well as its ethical dilemma. It has therefore concentrated on showing that the use of PR for marketing purposes (MPR) has accelerated the spread of unethical practices. The practitioners didn't agree that 'MPR activities have been maintained for bad products'; but there is an agreement that 'Running new product publicity for companies that are also advertisers in those publications' is the common unethical application in Turkey and this result provides support for Stanley (1977).

The practitioners agreed that 'payment for placement of articles and news releases will soon shift the focal point of PR from communication orientation to publicity creation,' as Awad predicted in 1987. Acceptance of this statement revealed that 'the practice of paying members of the press was an important ethical issue for both journalists and PR practitioners' (Linning, 2004). The practitioners also agreed that for launching a new product, they used some MPR techniques more than others such as news releases, VNRs, ANRs, expert columns, and articles. In other

words, the use of PR for marketing purposes has made PR practitioners work more closely with their journalistic partners. This wide spread partnership has resulted in creation and distribution of hundreds of news daily. A good relationship between a PR practitioner and a journalist has been forefront of what is newsworthy and what is not and it was an indicator of what is published and what is not. Eventually, these circumstances gave birth to the payment of third parties who have an absolute control over the published items. Receiving money for a published item has been blurring the fine line between commercial and editorial materials and making them less distinctive which have been fostered by the use of PR for marketing and sales purposes.

The current study confirms that PR has been and will be used for marketing purposes and there is nothing wrong with its usage, as long as it is practiced ethically. Easing the move of goods from company to consumers, lowering the cost of promotional activities, and increasing the credibility of persuasive communications were the main reasons of including PR to the 4Ps of marketing. But, in its history, PR has been evolved in an unintended way. Therefore, there is an urgent need and cooperation for more responsible attitudes and behaviors by both journalists and PR practitioners. Constant practicing of unethical work puts the company at risk and is hazardous to its reputation. It also gives a bad name for the PR industry as spin doctors (skilled practitioners of deceptive and manipulative tactics) and is harmful for the public and society in general.

In examining the relationship between public relations and marketing functions, the practitioners were asked to give their opinions on 5 models of which best describe the nature of the working relationship between the two functions. Corporate practitioners identified the most appropriate model to describe this relationship as the one in which ‘Marketing and public relations are separate fields; but, some functions of them are overlapping.’ Corporate practitioners also agreed that the second best model was the one where PR is viewed as the dominant function in its relationship with marketing. However, agency practitioners didn’t agree with corporate practitioners on both models.

The study found that corporate practitioners defined MPR as ‘a communication activity working for reinforcing company image’; while agency practitioners were uncertain on this definition. The result shows that corporate practitioners confuse the definition of CPR with MPR. Because, ‘a communication activity working for reinforcing company image’ can be the definition of either PR or CPR, but not MPR. MPR, on the other hands, particularly works for reinforcing brand image which, in turn, results in contribution to company image enhancement.

Both corporate and agency practitioners disagreed with the definition that ‘MPR is free advertising’ and this disagreement provides support for Jefkins (1998) who states that PR is not free advertising and there is nothing free with PR activities which consume time, energy, and wages. Although the practitioners came to the conclusion that MPR is not free advertising, as a result of this study, it is seen that the practitioners don’t define MPR the way it is defined by Harris (1998) or Goldman (1992).

According to the overall findings, for launching a new product in a campaign,

some tactics were more important than others. The most important tactics were based on the ones which were highly related to news making. 'News releases, VNRs, and ANRs' in addition to 'expert columns' and 'articles' were found to be the most valued tactics when the concern is on launching a new product. In addition to this, social responsibility campaigns, award ceremonies, and exhibits were seen as the most important tactics of MPR by corporate practitioners; although they were not viewed as the appropriate tactics by agency practitioners. The result displays us that agency practitioners show more professional approach as they do not agree with corporate practitioners that social responsibility campaigns, exhibits, and award ceremonies are necessary tactics in the first place, when the concern is launching a new product. This result supports the climate of opinion that agency practitioners have more experiences with various clients than corporate practitioners, and therefore they can compare those tactics with each other, evaluate them professionally and select them carefully (Kotler & Armstrong, 1996; Jefkins, 2000).

Note

- 1 The text titled Greenwash (n.d.) of the Wikipedia, the free encyclopedia, explains the term as "Greenwashing was coined by suburban NY environmentalist Jay Westerveld in 1986, in an essay regarding the hotel industry's practice of placing green placards in each room, promoting reuse of guest-towels, ostensibly to "save the environment" (Usage section, ¶ 1). "This is often portrayed by changing the name or label of a product, to give the feeling of nature, for example putting an image of a forest on a bottle of harmful chemicals. Environmentalists often use *greenwashing* to describe the actions of energy companies, which are traditionally the largest polluters" (Usage section, ¶ 2).

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Chapter 13

Unearthing the Roots of Objective Reporting: The Integral Contributions of Walter Lippmann and Max Weber

Masatoshi KURIYAMA

Introduction

It is widely accepted that *objective reporting* is the norm in American and British journalism. However, there are a lot of criticisms of this approach to journalistic reporting. The criticisms are: (1) *objective reporting* fails to tell the whole truth; (2) the rhetoric of *objectivity* tends to be hypocritical and deceitful; (3) news reporting is essentially subjective rather than objective and (4) news reporting is more often interpretive reporting (MacDougall 1963, 186ff.) than straight (objective) reporting. Jeremy Iggers, who had a long career with the Minneapolis Star Tribune and is one of the staunchest critics, argues that the idea of *objective reporting* ‘may be dead’ or ‘widely discredited’ (Iggers 1998, 81). If this is indeed the case, one may well ask why those journalists who remain committed to outdated *objective reporting* do so.

The criticisms of *objectivity* are raised on both theoretical and practical grounds. Regarding the theoretical, the validity of the concept of *objectivity* itself is brought into question because of the essential subjectivity of news reporting, and denial of the subjective-objective (or value-fact) relationship, by which one can judge facts or events in the world. As for the practical, the incompleteness or impossibility of objectivity in journalists’ daily tasks indicates a hypocritical objectivity or something known as Tuchman’s strategic ritual (Tuchman 1972). Michael Schudson points out that *objective reporting* has become an ideal in journalism and that the subjectivity of news reporting is regarded as inevitable, because both advocates and opponents of *objectivity* in journalism take relativist positions in defense of the arbitrariness of their values (Schudson 1978, 157-158). Do journalists have to care about such an old-fashioned ideal to do their job?

In this article, in order to explore the philosophical background of *objective reporting*, the focal point is the *concept of objectivity*, especially in the early stages of journalism when such a concept functioned as the norm in American journalism. The objective of this article is to provide a rough sketch of the concept of *objectivity*. This will improve our understanding of the concept and how its effective utilization helps solve some of the problems which today’s journalists confront. In order to meet the objective, Walter Lippmann’s and Max Weber’s concepts of *objectivity* will be examined. Initially, three definitions of *objectivity* will be considered (Section 1). Secondly, an analysis of Walter Lippmann’s concept of *objectivity* will be undertaken to further clarify the concept, and then this will be compared with the previous three definitions of *objectivity* (Section 2). Thirdly, in order to elucidate

the concept of *objectivity* and *objective reporting*, particularly as it pertains to when journalism was just developing as a profession, the Weberian concept of *objectivity* will be discussed (Section 3). Finally, it will be suggested that the relationship between Lippmann's and Weber's notions of objectivity leads to a new theory of *objective reporting*, which can be called the 'Lippmann-Weber model' (Section 4).

1. Three Types of *Objectivity*

Objective reporting or the *objectivity* of news reporting manifests itself in many forms such as truthful, relevant, balanced, non-partisan and neutral reporting. However, one of the most famous and simplest definitions of *objectivity* is, according to Schudson, 'the view that one can and should separate facts from values' (Schudson 1990, 3). The same type of definition has already been offered by the Commission on Freedom of the Press, which states that 'the press must identify fact as fact and opinion as opinion' (the Commission on Freedom of the Press 1947, 22). This definition is still considered to be a standard one among journalists and scholars in our time. For example, Iggers points out that 'the improved ethical character of contemporary journalism is apparent in the separation of news from opinion,' which is 'dictated by the standard of objectivity' (Iggers, 57).

The issue surrounding the concept of *objectivity* involves how and the extent to which facts can be separated from values in news reporting. Facts stand beyond 'the influences of any individual's personal preferences,' whereas values represent an individual's 'set of preferences' about the world (Schudson, 3). Subsequently, Schudson asks, 'How is this possible? How can we stand outside ourselves to make statements about the world? This is the basic question regarding objectivity' (4).

According to Schudson, there are three types and definitions of *objectivity*. The *types* are not the sub-categories of *objectivity* like truth, impartiality, relevance, balance or neutrality, but instead represent the substantive character of *objectivity* itself. The first type of *objectivity* is naive empiricism. This type of *objectivity* proposes that one's 'statements about the world can be tested by others' independent observations of a common, external world' which is, 'available for all of us to know through our senses'; essentially, 'it is the world itself.' Schudson contends that naive empiricism is 'not at all dead, but in fact survives, at least on some occasions, in all of us' (5).

The second type of *objectivity* is most closely associated with Max Weber's notion of *objectivity*. This type of *objectivity* is based on the idea that one's statements about the world are trustworthy 'if he or she is self-conscious about his or her own subjective preferences open about them, and committed to keeping them removed from scientific statements.' Schudson regards this type of *objectivity* as 'an important version of objectivity,' (ibid.) although he hesitates to believe in Weberian value-free sociology (2).

The third type is based on the idea of so-called science's insistence on corrigibility (Rudner 1966, 77). One's statements can be trusted 'if they are submitted to established rules of inter-subjective consensus, the ordered, collective criticism of a scientific community' (5-6).¹ In Schudson's opinion, the third type of

objectivity exercises a deep influence on, not only science and philosophy, but also our daily life in general (6-7).

As noted above, there are three types of ideas which are considered to define *objectivity*. The question to be asked here is which of these ideas did the advocates of *objective reporting* regard as the *objectivity* of journalism in its early developmental phase? In an effort to answer the question, the next section focuses on the views of a pioneer of modern day journalism, Walter Lippmann.

2. Lippmann's Idea of *Objectivity*

Lippmann was 'the wisest and most forceful spokesman for the ideals objectivity' in the first few decades of the 20th century, according to Schudson. Lippmann and his contemporaries did not regard the method of *objective reporting* as naive empiricism. People in those days, especially after World War I, faced a deep skepticism about their own cognitive capability in the world (Schudson 1978, 149-151, 1990, 260-262). The theory of *objective reporting* was born, not from confidence in human reason or natural science, but from a deep distrust in the cognitive capacity of human beings.

In Lippmann's 'Public Opinion' there are a lot of ways to understand the concept of *objectivity* which he may have had. On the subjectivity of the human mind, he writes, 'Looking back, we can see how indirectly we know the environment in which nevertheless we live' (Lippmann 1960, 4). Lippmann also argues that we cannot approach directly the facts in our world, on which we have to make political judgments (29). If this is so, how can we evaluate the (so-called) *objectivity* of our knowledge about the world?

Lippmann describes the *objectivity* of journalists in the following way: 'News and truth are not the same thing, and must be clearly distinguished' (358). He also writes, 'His [i.e. author's version of the truth] is only his version. How can he demonstrate the truth as he sees it? He cannot demonstrate it' (360). That is to say, news is not truly objective, and a journalist cannot prove that his article or report is objective. Furthermore, Lippmann contends that the *objectivity* of journalists' reporting lacks a method of testing. He remarks that, 'the absence of these exact tests accounts, I think, for the character of the profession' (359).

A serious question arises from Lippmann's argument: if a journalist cannot evaluate the *objectivity* of his or her article, how can he or she support the norm of *objectivity*? Lippmann provides answers to this question on three different levels; one is at that of the individual, another is the epistemic and the last is the institutional.

At an individual (or at each journalist's) level an awareness of one's own subjectivity is required. He writes, 'As our minds become deeply aware of their own subjectivism, we find a zest in objective method that is not otherwise there' (409). If this is the case, the role of journalists is to show 'the uncertain character of the truth' to the public, and to encourage social scientists to make 'more usable formulations of social facts' and to encourage statesmen to establish 'more visible institutions' (361). Thus, journalism involves 'being aware of' the subjectivity of news reporting

(Lippmann and Merz 1920, 41-42). Schudson points out that such *objectivity* remains more of an ideal than a method (Schudson 1978, 155, 1990, 268).

At the epistemic level, Lippmann's expectations regarding social science are the focal point. Lippmann is hopeful for the future of social science (Lippmann, 376) and he believes that news reporting requires a 'constant testing' (Lippmann and Merz, 32). But the method of social science in the early twentieth century is, according to Lippmann, 'far from perfect' because the social scientists have not worked out their own efficient and reliable methods in the same way that the physical scientists have (Lippmann 373-374, 416).²

At the institutional level, Lippmann suggests that the foundation of (1) nonpartisan research institutes and (2) an international nonpartisan news agency are required (Lippmann 1920, 82). In his opinion, a fundamental reform of the social system is necessary for journalism to be objective. 'The better the institutions, the more all interests concerned are formally represented, the more issues are disentangled, the more objective criteria are introduced, the more perfectly an affair can be presented as news' (Lippmann 1960, 363).

The advantages of Lippmann's three answers can be summarized in the following two points. First, he clearly recognizes the reporter's (and so any person's) subjectivity, and rejects any naive empiricism. Second, he points out the incompleteness of social science and the necessity to reform both science and social institutions. However, even if these improvements could be realized, he contends that certain problems would still remain. Schudson pointed out that Lippmann's *objectivity* was more theoretical than practical (Schudson 1978, 155). Social science is under constructed and social institutes are unfulfilled as yet. Furthermore, social scientists lack a method by which news reporting can be properly evaluated. Unfortunately, Lippmann does not specify which type of *objectivity* will fulfill the function of social science in the future and by which every phase of news reporting can be properly evaluated.

Schudson suggests, however, that Lippmann's *objectivity* is the second type; an *objectiveness* that can be associated with Weber's concept: Lippmann supported the version of objectivity reminiscent of Weber's self-conscious subjectivity or 'the method of heroism' (Schudson 1990, 266).³ Lippmann's self-consciousness of subjectivity is somewhat similar to Weber's self-consciousness of one's own values. But Schudson provides no further explanation. Is Weber's notion of *objectivity* somehow related to Lippmann's form of *objectivity*? To clarify this, an examination of Weber's articles entitled, 'Objectivity in Social Science and Social Policy' (1904) and 'The Meaning of *value-free* in Sociology and Economics' (1917) is in order.

3. Weber's Concept of Objectivity and Social Science

In 'Objectivity in Social Science and Social Policy,' Weber argues for the specific methods of social science, which are in several important respects different from the methods of natural sciences. According to Weber, the difference between two sciences is not only in terms of their methods, but also in terms of the objects with which they deal. Weber argues that social science should deal with ideals and

value-judgements, and he asks, 'What is the meaning and purpose of the scientific criticism of ideals and value-judgements?' (Weber 1968, 149)

Weber contends that the elements of human conduct are referred to as the categories of either ends or means. The first role of social science is (1) to analyze the appropriate relationship between ends and means. The second role corresponds to the first one in that it is, (2) to analyze derivative consequences, or costs for the means to end conduct. Thirdly, social science (3) understands (*Verstehen*) the significance (*Bedeutung*) of the desired ends and the ideas, which underlie the ends. Finally, social science (4) judges the ideas critically (149-151). Among these four tasks, significance and understanding are the most characteristic concepts of Weber's methodology for social sciences (173).⁴ The reason for this is that the significance of cultural phenomena cannot be derived or rendered by a system of analytical laws, i.e. a law of natural science, because it presupposes value-concepts. Weber identifies social science as cultural science, and the concept of culture is based on a concept of value (175).⁵ Weber's value-free sociology has often been misunderstood as value-omitted science.⁶ The most important points may be summarized as the following five conditions:

- a) Value-free sociology is not value-omitted but value-included (as remarked above).
- b) Scholars (writers) and readers should be sharply aware of the criteria from which the value-judgment is derived (156, 498).⁷
- c) If this obligation is strictly fulfilled, value-judgments are not only harmless, but also useful and sometimes required (156, 503).
- d) It cannot be the task of social science, but of social philosophy to derive value-judgments (501, 507-508).
- e) Social science brings out the significance of the value-judgment and evaluates its relevant means to ends structural and derivative effects.

Value-free means a self-conscious, rational and relevant attitude toward values, not an indifference to them. Weber remarks that it is by no means acceptable to suggest one's preference under the pretext of eliminating all practical value-judgment, as if the facts 'speak for themselves.' He calls these pseudo-value-free attitudes (495, 498). Value-free theory is a fundamental form of ethics which has been strongly postulated for everyone who is engaged in research activities for social science.

Weber's argument is summarized as follows: (1) Social science has its own methodology, according to its own objects, that is, ideals and values. (2) The methods of social science involve (a) observers being sharply aware of their own value-judgments, in order to distinguish the values which they examine as the objects of social science from their own values, (b) analyzing the causal relationships of means and ends which are desired, and (c) arriving at a rational understanding of the ideas and the values as given ends.

4. Applicable to Objective Reporting?

Having considered Lippmann's idea of *objective reporting* (Section 2) and Weber's idea and method of social science (Section 3), it is conceivable that there exists a close relationship between them. Lippmann's first definition at an individual level corresponds to Weber's awareness of observers' own value-judgments. It constitutes the method of sociology and news reporting. However, there is a considerable difference between Weber's concept of value and Lippmann's idea of subjectivity. Whereas, Lippmann's subjectivity refers to only that of an observer or a reporter, Weber's value represents both the observer's (or reporter's) value and the value of object which he investigates.

Lippmann's second answer, at an epistemic level, corresponds to the concepts of analysis and understanding, which constitute Weber's sociology. Both of them suggest the method of social science. Lippmann expects that the methods of science, for example, a constant testing, ensure journalistic *objectivity* (Section 2). Although Lippmann refers to 'testing' as the method of science in general, it is easy to conceive of collaboration between journalists and sociologists in an effort to improve *objective reporting* in each of their fields. The meaning of 'testing' is not the same as that of the natural sciences in a strict sense. It includes interpretations of the facts and values of human acts, which should be evaluated by both the journalists and the social scientists.

Weber goes into detail about the methodology of sociology, which is essentially different from that of the natural sciences, arguing that the values (subjectivity) include the objects of social science. If sociologists deal with the same objects as journalists, the news also inevitably includes values. News reporting does not treat raw facts but complex phenomena of human activities. Therefore, an effort must be made to acquire a better understanding of the social facts, which are value-oriented, using the sociological ideas and methods.

From the foregoing analysis, a new theory of *objective reporting* can be derived, which can be called the 'Lippmann-Weber model.' This model has four conditions, which are as follows.

1. Journalists should be aware of their own subjectivity and their own value-judgments, not because they should preclude values, but because they should acquire a sharp consciousness of both their own values and the values associated with the facts which they report.
2. News reporting should not be value-omitted, but should be *value-included*. The news of mankind and society inevitably includes values.
3. News reporters should understand and explain the values of the facts which they describe in their articles. They should also judge these values, if necessary.
4. Social scientists should test the news. The constant testing can raise quality standards of objective reporting.

The subjectivity (value-judgments) of reporters is not a defect, but instead is a constructive way to gauge and reflect on the social facts and events, which include values. The news reporters can make ‘the facts’ more understandable. The reason for this is that the reporters do not examine raw facts, but rather more and more complex phenomena, which inevitably include the values of society and human behavior. *Objective reporting* needs to be tested constantly because the reporters cannot acquire an absolute *objectivity* in their news reporting. For this purpose, journalists and sociologists can collaborate to develop a more objective understanding of human activities.

Conclusion

In this article, in order to revise our understanding of *objective reporting* in the early stage of American journalism, the concepts of *objective reporting* and *objectivity* were examined. In Section 1, several meanings of *objectivity* in news reporting were reviewed in order to clarify the traditional understanding of the concept of *objectivity*. In Section 2, Walter Lippmann’s notion of *objectivity* was investigated. This yielded Lippmann’s conceptual understanding of *objectivity* on three levels, as well as facilitated a connection to Weber’s understanding of *objectivity*. In Section 3, Weber’s meaning of *objectivity* and sociology were examined in order to clarify the meaning of ‘value-free,’ which is integral to understanding Weber’s sociology. In Section 4, a relationship between Weber’s and Lippmann’s arguments was delineated; not strictly, but in a general manner. The ‘Lippmann-Weber model’ was proposed for the purpose of improving the theoretical understanding of *objective reporting*. This model still remains a rough sketch, and requires a closer examination in future research to establish the practical norms of *objective reporting*, which in turn will contribute to a sounder foundation of professional journalism. For example, one promising way is to explore the similarities and the differences between the concepts, which Weber and Lippmann portrayed, and the current usage of each of the concepts. By examining this issue, hopefully, we can further understand the relationship between the theory and the practical applications of *objective reporting* as a norm for journalists of the current era.

Notes

- 1 The meaning of the theory is precisely the same as Karl R. Popper’s Sixth thesis in his paper ‘The Logic of Social Science,’ which was replied to by Theodor W. Adorno in a conference held by the German Sociological Association, 1961. Popper states that ‘The so-called objectivity of science lies in the objectivity of the critical method. This means, above all, that no theory is above criticism’ (Adorno and Popper 1976, 89-90). This is considered to be one of the most sophisticated (not naive) theories of empirical scientists and philosophers.
- 2 Lippmann uses the term ‘physical science’ as the correlative of social science. He presumably means natural science or empirical science in general.
- 3 Schudson’s *Origins of the Ideal of Objectivity in the Professions* (Schudson 1990) is a prototype of *Discovering the News* (Schudson 1978). His reference to Max Weber is omitted

in the latter.

- 4 Weber writes; '(understanding is) a problem of a specifically different type from those which the schemes of the exact natural sciences in general can or seek to solve' (Weber 1968, 173). Therefore, Weber is regarded as one of anti-naturalists. However, such a 'label' is ambiguous. It is interesting that Popper, regarded as one of naturalists, reaches much the same conclusion about the role of social science as Weber does. He argues that (1) everyone including scientists is inevitably value-oriented, and social science treats both (2) the specific type of causal relations (he calls the 'situational logic') and (3) the description (understanding) of specific events as such (Popper 1957, 143ff., Adorno and Popper, 1976, 102ff.).
- 5 Here, Weber considers that the concept of value underlies the concept of significance or understanding. However, later he regards significance and understanding as more basic concepts than value (Weber 1968, 69).
- 6 Schudson reports one of the value-free disputes in which both of supporters and opponents misunderstand the concept of value-free (Schudson 1990, 2).
- 7 That is, the scholar should be aware of what sort of value he/she really esteems. At the same time he/she should distinguish his/her own values from the values he/she refers to, and explain to his/her audience. Readers should also be aware of this likewise.

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Chapter 14

An Evaluation of the Graduate-level Ethics Training of Scientists in the United States.

Heather P. TARLETON

Introduction

It has been argued that ethics education for researchers should emphasize both philosophical tradition and practical application. Instructor(s) should have interdisciplinary experiences in and understandings of ethics in science and research (Veatch, 1977). Offering a course in ethics that is separate and distinct from other science courses, but that consistently reinforces the relevance of philosophical tradition to scientific research, is advantageous 1) in that students learn to discern between ethics (independent sub-discipline) and “non moral values” (variable set of values); 2) so that the link between discipline and contemporary application is visible; and 3) so that ethics influences research decisions instead of research interests influencing decisions about what is ethical (Mahowald and Mahowald, 1982; McInerney et al., 1983). Little has changed in ethics education in the United States since the late 1970’s and early 1980’s, when these suggestions were put forth. In 2002, Neil Manilton authored a book entitled *Academic Ethics: Problems and Materials on Professional Conduct and Shared Governance* and noted that “most doctoral programs [still] fail to educate students about academic ethics so that knowledge of it is eroding” (Langbert and de Russy, 2005). There is considerable debate concerning the best way to deliver ethics education to science students. Ethics-based courses are offered in graduate and professional schools; however, universities frequently take one of two approaches to content. In medical schools, students often focus on Hippocratic duty, patient rights, and clinical trials. In graduate schools the focus centers on institutional review boards (IRBs), patents and intellectual property and on biomedical case studies. There is very little, if any, attention paid to the ethics training of graduate students conducting scientific research in non-biomedical areas. The content of these existing courses might be beneficial for students. It is difficult to proclaim a benefit, as there is an absence of evaluation of effectiveness or impact. Even if proper assessment and evaluation shows positive impact on content knowledge and behavior modification, there are still significant doubts about whether such a narrow curriculum, void of philosophical foundation, can sufficiently equip and educate this next generation of science and engineering students in ethics and integrity.

1. The Current Context for Ethics Education in the United States

Ethics training in the United States has not advanced within a single discipline, let

alone across all disciplines. But scientific research has. Multidisciplinary research fields, such as nanotechnology and psychoneuroimmunology, and interdisciplinary research grants and programs, such as the National Science Foundation's (NSF) IGERT program, are emerging at a rapid clip. Researchers from different backgrounds are coming together to collaborate and to benefit from each other's expertise in solving common problems. This is of great advantage to research, but it presents the scientific community with a "problem of many hands." As mentioned previously, physical scientists receive almost no training in ethics and integrity, because such training is not seen as pressing or relevant in comparison to didactic courses in, say, engineering or mathematics. Life scientists are exposed to opportunities to learn bioethics and they also have IRBs set protocol and regulations. On one hand, the IRB system ensures homogeneity in procedure and oversight. On the other hand, it results in a dynamic in which the IRB acts as a "role advisor" giving researchers both the means and the ends, instead of just the means. The average researcher follows these rules and does not ask questions or have a venue to participate in decision-making. Within this dynamic the researcher is essentially relieved of their autonomy, since both means and ends are dictated, but still held accountable for all consequences. Neuroscientists are assumed to have a more enlightened and integrated relationship to ethics, because of their work with animals and humans. However, unless you are a virtue ethicist, then one cannot blur the line and equate humane treatment with research ethic. A neuroscientist can treat animals with care, but they do not necessarily have an understanding of what ethics is and are not necessarily engaged in basic discussions about the ethics of neuroscience. The researchers that tend to be well trained in research ethics and integrity hail from the social sciences and public health sciences. These are fields in which researchers frequently engage in Socratic scenarios of "what ought we to do." These ethically trained scientists often participate in collaborative research groups and in interdisciplinary projects, but they should not assume the responsibility of educating their colleagues or be held accountable for the actions of others engaged in research. It furthers the problem of many hands and, if the training of the social scientist or public health scientist is not comprehensive or integrated, it can also result in the blind leading the blind into a ditch.

Hazel O'Leary, former energy secretary for the Clinton administration, recently highlighted one of these ditches. In reports from the 1950's, de-classified during her tenure, it was revealed that the Atomic Energy Commission (AEC) funded a project in which researchers from Harvard and from the Massachusetts Institute of Technology (MIT) fed radioactive milk to approximately two dozen mentally handicapped children. This project is an early example of multidisciplinary collaboration between medical and physical scientists in conjunction with social scientists and public health analysts within the AEC. The AEC case study is well known amongst biomedical researchers but physical science students are completely unaware. One could propose numerous explanations for how an experiment of this nature and magnitude could gain acceptance at the federal level and across academic disciplines. However, the most important objective in reviewing this case study is to look retrospectively at what took place and at who was involved and ensure that

history does not repeat itself. The most prudent step forward with this case would be to act in a prophylactic manner and exercise academic prudence in providing all science researchers with proper ethics education, regardless of disciplines.

2. The Framework for Ethics Education for Science and Engineering

The emergence of interdisciplinary collaborations introduces researchers to new environments and to colleagues from a milieu of backgrounds. This leaves the researcher without the usual bearings by which s/he might usually make ethical decisions. Ethical dilemmas and issues of integrity are also becoming increasingly prevalent in academic research. The legal and political interest in academic research and the ramifications of misconduct and conflict of interest are significant, as researchers are now, more than ever, held to rigid and unforgiving standards of accountability. “I did not know” is no longer an acceptable rebuttal to allegations. Accordingly, those who are entering academia and research need training in ethics and integrity. Many universities are requiring training in ethics and/or integrity for faculty, staff, and students in response to requirements put forth in National Institutes of Health (NIH) grant guidelines; therefore, most courses are aimed at biomedical and life science students. This “teaching to the agenda” is exactly what Mahowald and Mahowald warned against in the early 1980’s. The question remains as to whether or not these programs will also educate according to a script determined by federal mandates or if they will, instead, teach ethics and integrity for academia’s sake and from a pedagogical perspective.

To generate innovative models for ethics education specifically for natural and physical scientists, the NSF issues an annual call for proposals with the theme of “Ethics Education in Science and Engineering.” The framework developed for a proposal submitted by this author was that of an education research project entitled “Developing an Interface for Science and Ethics,” or DISE. As an education project the main goal is to teach the next generation of U.S. researchers about interfacing as scientists with colleagues in other scientific fields, as well as in public policy, and philosophy. The idea is that scientists will begin to operate as boundary-spanning agents at the interface between research and policy and ethic, instead of having to rely on political middlemen who are unable to speak the language of either research or ethics. As a research project, the primary goal is to generate cohort-based data on best practices for teaching ethics and to identify what methods work under what circumstances.

The DISE curriculum builds upon students’ existing understanding of science and prowess in research by introducing relevant topics and issues in ethics and policy. For example, stem cell research is a rapidly growing segment of developmental biology. Navigating and contributing to stem cell research necessitates far more than a scientific knowledge of stem cell biology. Stem cell research itself is entrenched in a larger socio-cultural debate, which has deep historical roots dating back to the recombinant DNA, in vitro fertilization, and abortion controversies, and its therapeutic potential is also intertwined with issues of ethics, scientific integrity, distributive justice, regulation, and commercialization.

Nanoscience and global warming are also examples of research topics, where students need interdisciplinary preparation in identifying and addressing social and ethical issues. A student's understanding of science and engineering is incomplete if issues of access, poverty, population dynamics, political and cultural barriers, ethics, and accountability are ignored or excluded from the conversation. Within the multi-dimensional DISE model, it is expected that students will learn ethics and policy and be able to apply their understanding to solve problems. Material is presented within a scientific context and not in an abstract manner. Students also will 1) become independent learners, which is an important skill to develop for graduate school and in preparation for eventually becoming a principal investigator in research; 2) understand the broader utility of their research, and; 3) hone their ability to interact with policy makers and the general public about contemporary research and its wider social implications.

3. The Outcome of Ethics Education

In a national sample of natural and physical science students (67% physical sciences), 51.4% of students in their senior year of undergraduate education or in graduate school have taken an ethics course. Physical science students tend to be less aware of ethics course offerings on campus, which is not surprising in light of the influence that the NIH agenda has on campus course offerings. Despite over half of the population reporting some training in ethics, 55% cannot identify an ethical dilemma in research and 21% are not confident or are incorrect in their identification. A majority of students report that they make decisions based on church, parents or faculty advisors. The students surveyed also do not have a sense of basic theories like utilitarianism, social contract theory, virtue ethics, or the categorical imperative. While scientific researchers are not expected to be well versed in the minute details of philosophical theory, an understanding of these basic theories provides a foundation for decision-making and demonstrates that ethics is not esoteric. In the absence of an integrated understanding of ethics, we observe that students avoid making decisions and are unable to create valid and sound arguments. Consequently, we see that students use terminology like "cost-benefit analysis" and "snowball effect" in discussions of research ethics, but without an understanding of utilitarian ethics or of Kantian ethics there is little weight to the arguments posed. Additionally, the almost uniform way in which we see students agree that cultural relativism is a politically liberal view reflects an influence of popular culture. It also speaks to the tension among Americans to be considered as socially inoffensive or politically correct instead of being perceived to have socio-cultural bias.

The DISE program sought to counter some of these trends by preparing students for graduate careers and the issues in research conduct, conflict of interest, accountability and publishing (to name a few) that they will undoubtedly encounter (Folse, 1991; Heitman, 2000). Over the course of 6-weeks, eight instructors from various philosophical, social science, life science and physical science disciplines sought to 1) educate students about ethics through traditional philosophical theories; 2) explore ethical topics across a broad range of scientific and engineering

disciplines; and 3) train students in actively applying ethical theories to address contemporary issues. The students, in general, had a tremendous appreciation for the variety in perspectives. One of the students from the life sciences remarked that receiving ethics training from individuals from different disciplines “in itself enhances my learning experience and allows me to engage questions differently.” One of the strengths of DISE was not only the inclusion of ethics instructors from diverse disciplinary backgrounds but also the inclusion of students from across scientific disciplines. The program was beneficial for all students, but had a significant impact on physical science students. With life science students, our goal was to provide comprehensive ethics education. We sought to add a foundation to some of the content they have already been exposed to and to train them in critical decision-making and in integrating ethics into research. Unlike most of the natural and life science students, many physical science students were encountering ethics for the first time so the magnitude of the exposure was greater and, consequently, their intellectual development was marked. One physical science student commented at the beginning of the training “as a mathematician, I do not feel that there are very many ethical issues that involve my possible areas of research. Perhaps I am uninformed, but I have yet to hear of any controversial ethical issues that involved a mathematical discovery or mathematician’s research.” By the end of his ethics training, and most importantly after his interaction with a physical science researcher who could expound on the relevance of ethics to physical science research, this student reconstructed his approach to research ethics. The student noted, “his [Dr. Robert Hampshire, an engineer and mathematician] lecture was a perfect transition to our shift on environmental issues and engineering, but what was most beneficial was his non-life science perspective on ethics in research.”

The cohort of DISE students had an increase in level of interest in research ethics and increased confidence in their mastery of the subject at the conclusion of the program. In response to the question of “Since completing DISE, have you noticed an increase in the way you pick up/reflect on/think critically about issues in scientific research?” 83.3% of students reported that they have noticed an increase in how quickly they can identify an issue, which is an indicator of retention and integration of content. Over 80% of students also reported that they have engaged other research colleagues in discussions about ethics in science and engineering. This is a reflection of interest in the material but also of persistence and flexibility in understanding. This quantitative analysis of content retention and quantifiable increases in comprehension and application are valuable for curriculum design and evaluation. However, because DISE takes a holistic approach to ethics education, it is important to also consider the qualitative and anecdotal evidence provided by the students:

“This week our main topic of debate has been obligation and responsibility. I have to admit that I was slightly astonished at the inability of our group to come to a consensus about whether researchers have an obligation to its society. I guess for me there has never been a question, and I assumed as a future researcher, no matter how naive, we all initially felt the same.”

“I’ve done numerous research projects. How can I expect to inform others when

I do not know all the sides of the argument? How can I begin to behave ethically if I do not know the source of my funding and their principles/guidelines/rules? Then I begin to think, how many others begin graduate school without this information? How can we let such information slip through the cracks? I can't help but wonder how many unethical situations or catastrophes could we have avoided? Man, that's disturbing!"

This feedback demonstrates students acquired characteristics of intellectual growth, self-reflection, and integration of content and that they also have an awareness of the importance of ethics in a research community.

Conclusion

In a recent publication, Norton Wise (2006) addresses science, trust and objectivity. Wise cites two approaches: the academic-commercial distinction and the pure-applied distinction. The former was articulated by Henry Rowland in 1895 and argues, "university research and education should answer to a higher moral purpose, that the search for truth epitomized by the sciences served to produce citizens with integrity and discipline." The latter was articulated a few decades later by Vannevar Bush who stated that the great contribution of science is the flow of research from the pure to the applied, from university to industry. Although Wise poses the two approaches as in conflict with one another, for the purposes of ethics education, I argue that they both illustrate a need for systematic and comprehensive ethical training for all natural, life and physical science researchers. I also argue that the logical place for this training to occur is within an academic institution. The argument for teaching ethics to science researchers is simple. Graduate students and postdoctoral researchers become faculty and principal investigators. Rowland recognized this in his academic-commercial distinction. These trainees become the key decision makers for the scientific communities and govern the research environment within their own labs, research groups and also in both academic and commercial institutions. Scientific researchers need to understand the basic tenets of the appearance principle, conflicts of interest standards, accountability, responsibility (hierarchical and collective), and the ethics of oversight (prospective and retrospective) so that ethics shapes the direction of research instead of research shaping the direction of ethics. If we look to Don Price's spectrum of truth to accountability as a measure for urgency in ethics education, then we see that scientists, just as Bush argued, are moving to the right and towards increased accountability. Scientists are no longer viewed as clandestine researchers and their involvement in public life, global matters and industry has increased dramatically over the past 50 years. They are incorporated in major projects with far reaching social and political impacts. A scientist that has only received didactic training within the vacuum of their discipline will be ill prepared to tackle issues that arise in research ethics.

In conclusion, it is imperative that graduate researchers across all scientific disciplines receive comprehensive ethics education. Langbert and de Russy note "a lack of emphasis on ethics in graduate programs leads to skepticism about the

necessity of learning about ethics and about how to teach it” (2005). Additionally, if we continue to operate from the stance that non-biomedical researchers do not need ethics training, then those same non-biomedical researchers will assume that ethics is irrelevant to them and behave accordingly. Some critics of ethics education in science and engineering might argue that it is “silly to teach philosophy to scientists” and pose the question of “what are they going to do with something like Kantian ethics.” I would counter that argument as a paternalistic and pedagogically irresponsible approach to education. We should hold ethics education with as much regard as we hold history or political science. Although we do not expect all students to understand every detail of history or of political theory, we do recognize that in order to function in society, there are key concepts that should be understood. Students should know what kind of government they live under and how it works. They should have a general awareness of when it was founded and under what circumstances. Without these basic tenants, we are only providing students with enough content knowledge for them to simply get by. We are not allowing them to exist as autonomous agents or enabling them to participate in dialogue. In the end, we cannot expect this next generation and future generations of scientific researchers to make ethical decisions and assume responsibility for their actions if we have not giving them the appropriate tools and helped them navigate research ethics.

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Chapter 15

Professional Ethics Education for School Teachers in Japan

Tetsu UENO

Introduction

This report is intended to raise the issue (for discussion) of how to effectively implement professional ethical education in teacher training courses at university using the case study method. Maruyama reported that the following salient factors were hindering the implementation of an effective ethics program in Japanese teacher training courses (Maruyama & Ueno 2007): (1) a tendency to blithely regard teachers as persons of integrity; (2) a predilection within the Japanese culture to avoid contentious discussion, the epitome of ethics' debates; (3) the lack of an effective teaching method for professional ethics education and (4) the fact that lectures are often delivered to an inordinately large number of students at one time. I believe this assessment is right on the mark. However, based on my experience teaching engineering students about ethics in the faculty of engineering, teachers' ethics education in the faculty of literature, nurses' ethics education at a nursing university, and artists' ethics education at a vocational school, I feel that teachers' ethics education lends itself better to the case study method than other professional groups' ethics education programs (at institutions of higher education).

This report features actual class situations in Japan drawn from engineers' ethics education and nurses' ethics education. My intent is to show the limitations of the lecture-style class session in a large auditorium. Next, the benefits of a participative style class are discussed using actual instances from an ethics education class for art students taking advantage of the case study method. I am going to emphasize here that the key to a successful participative style class is placing the students in small groups. Finally the significance and potential of teachers' ethics education are discussed, with reference to my own practice in teachers' ethics education.

1. Ethics Education for Engineers in Japan

1.1. Social Background and Reason for the Introduction of Ethics Education for Engineers

Two waves of citizen's movements in the US, one after World War I and the second in the 1970s, both based on a sense of social justice for the socially vulnerable person's rights, caused the development of engineering ethics education in the United States.

After World War I, electrical products, cars, high rises, and traffic transportation

systems developed rapidly in the United States and gave rise to accidents concerning engineering projects, such as defective boilers and defective vehicles. A subsequent second wave was precipitated in the middle of the 1970s as a consequence of the civil rights movement, environmental pollution and defective products due to industrialization. Citizens, who didn't have technical knowledge, inquired into business and product liability and consumers started to criticize enterprises and engineers.

In Japan, engineering ethics education was introduced not by protests of citizens against industry and government, but by the leadership of industry and government. Preceded by several accidents due to engineering faults in the latter half of the 1990s^{1,2}, the Asia Pacific Ocean Conference (APEC) requested that training of Japanese engineers be at an international level.

At an APEC working group meeting in 1994, Australia proposed that the qualification of an engineer in each APEC country required completion of an education program for engineers that is publicly recognized, includes business experience, continuing education and training and the observance of the ethical code for an engineer. The Japan Accreditation Board for Engineering Education (JABEE) was established in 1999 and the law of engineers (Gijutsushi-hou) was revised in 2001 (see Sugimoto 2006), creating a process of accreditation by an external organization of the education programs for engineers, including the subject of engineering ethics, in institutions of higher education.

1.2. Program and Methods of Ethics Education for Engineers

The new 'Engineering Criteria 2000,' which have been adopted by the Accreditation Board for Engineering and Technology (ABET) since 2001, require that an engineering education program needs to demonstrate that all of its graduates have 'an understanding of professional and ethical responsibility.' JABEE also has specifically required the 'ability to be conscious of responsibility to society as an engineer, for example, understanding and responsibility of how the technology has an impact and effect on society and nature' as one of the aims of an engineering education program.

Compared to the Japanese programs, engineering ethics education in the United States does not adopt 'presentation of the exemplary attitude of engineers to be conscious of the moral character of the profession' but rather the training of better judgment, e.g. to enable engineers to deal with two conflicting values, as a method of professional ethics education (see Schinzinger & Martin 2000). In contrast, engineering ethics education in Japan aims at the promotion of the 'ability to think ahead to anticipate possible consequences of their actions as professionals' and 'ability to think effectively about consequences of their actions as professionals and to decide what is ethically right.'

The pedagogy of engineering ethics in Japan is modeled on the case method that was initially adopted in engineering ethics education in the United States. The following educational methods are valued: Training engineers' moral judgment by case method and discussion, and 'Getting the indicator of action from reflection in relation to the situation.'

The case-study method that trains problem solving by using cases of various and realistic ethical dilemmas is a particularly popular approach. 42 books on engineering ethics, including translated books, have been published in Japan by July 2007. Forty of those books were published after 1999. Moreover, a collection of cases is appended to all these books.

Three different types of cases can be found in the engineering ethics education literature: Cases of real events, virtual cases and fictitious cases that the student creates by himself/herself. In all three types of cases, it is not important to be 'analyzing and evaluating the case as the third person' but 'thinking how we respond as a real moral actor.' Therefore, it is necessary to integrate group and panel discussion and role play into a course. Furthermore, to encourage the learner's independent ideas, the student is to investigate and analyze the facts and to write a short essay in which she has to declare her opinion (Fudano 2004).

1.3. Problems of Ethics Education for Engineers in Japan

However, the reality is different from the ideal. In spite of imitating the method of the engineering ethics education of the United States, the present engineering ethics education in Japan amounts to only the presentation of an exemplary attitude of the engineer to be conscious of the moral character of the profession. Since engineering ethics education was imposed by government and industries in Japan, a paternalistic attitude is dominant: 'This is what you should learn!' 'Do as your teacher says!' But if a critical and independent viewpoint is not encouraged, students will value RESULT more than the PROCESS of discussion and work. They will prioritize knowing only the 'correct' answer and will deem it the best solution. Although the advantage of a discussion-based case method is to encourage students to have creative ideas, the process of consideration through discussion is often omitted because both students and teachers think that it is time-consuming.

In addition, there is the serious problem of training teachers to use the methods of case-study and role-playing which, we believe, requires special training. Furthermore, there are usually too many students taught in a large lecture room. If teachers are required to use the case method and role-playing, they should be aware that this is only effectively done in a small group and not with hundreds of students.

Another serious problem is that an objective method to evaluate the ethical judgment of students has not been established and that standards of evaluation are not uniform. Each teacher is left with whatever type of evaluation he or she chooses, for example, measuring the knowledge of the ethical code or measuring the analytical ability of an ethical case in a paper or the result of a portfolio concerning an ethical dilemma.

2. Ethics Education for Nurses in Japan

2.1. Social Background and Reason for Introduction of Ethics Education for Nurses

In the United States, training for advanced practice nurses has been in place since the 1990s. The American Association of Colleges in Nursing (AACN) lists the

following items of professional ethics for advanced practice nurses in a master's course: 'Ethics and legal problems are included in a general core curriculum of the graduate school,' 'Interdisciplinary working is one of the features of the nursing practice in millennium in the future' and 'Critical thinking, problem-solving ability, cooperation and communications skills are indispensable to promote such practices' (see Hong 2002).

There are currently 156 universities with a faculty of nursing in Japan. Nursing ethics education in Japan was introduced in the first half of the 1990s; many faculties of nursing in universities and 4-year colleges of nursing established this area of study to improve the specialty of nursing.

The challenge for the faculty of nursing for the four-year system was to elevate the specialty of nurse, who had been treated as 'a mere assistant to doctor' and 'a factotum in the hospital,' and to build up their position as a profession. Ostensibly, this was because of the general social acknowledgement that nurses need advanced knowledge and technology in order to respond to an ever more complex medical environment. The real reasons for the greater professionalization of nursing, however, were the result of political demands by the Japanese Nursing Association. As a matter of fact, the movement toward establishment of the Faculty of Nursing in universities after the 1990s was influenced strongly by 'The Law concerning the promotion of employment for nurses' that was approved in June 1992 (see Hashimoto 2000).

Certified Nurse Specialist (CNS) is one of the qualifications for the advanced nursing practitioners in Japan now. In order to achieve this level a practitioner must demonstrate qualification in excellent practice, consultation, coordination, ethical considerations, education, and research activities, and to either complete a master's degree or have clinical experience in defined areas.³ Nursing ethics education was introduced to the faculties of nursing as one of the most effective methods for improving a nurse's specialty under such new social conditions.

2.2. Program and Methods of Ethics Education for Nurses

The basis of nursing education is the following: 'Development of character and ethics as a nurse,' 'Promotion of flexible sensibility and intellectual thinking ability' and 'Basic study of problem-solving methods' (Nakao 2005).

The nursing ethics education also imitated the practice of nursing education in the United States. For instance, the 'Model theory of ten stage steps' by Joyce E. Thompson and Henry O. Thompson (see Thompson & Thompson 1981) and the 'Decision-making model for Ethical and Cultural Diversity in Nursing Practice' by Sara T. Fry (see Fry 1994) are frequently cited.

The purpose of ethics education for a nurse in Japan was to improve the specialty of nursing as already described. Specifically, it was aimed at refining ethical judgment in caring, which is at the centre of activities for a nurse.

Nursing in Japan is also a profession that has difficulty basing its ethical decisions on some objective ethical validity. This is different from ethics education for doctors and lawyers which assume their decisions to be based on some general-even standardized-principle; solving a specific problem may be considered beneath

them. However, a nurse encounters the dilemmas of an all-round player in the hospital who has to work at complex situations. Moreover, a nurse could be required to do something that is not ethically justified. There are few actions in the daily practice of nurses that simply correspond to some abstract ideal of ethical validity that does not consider context. Accordingly, the nursing ethics education in Japan has emphasized ‘Training for better judgment.’ This has not been adopted just as a method of ethics education but also as a method of training for communication skills. This is favored instead of a ‘search for the standard to vindicate an act objectively’ by recognizing a patient’s demands in a specific and interpersonal relationship.

The case-study method has been adopted as a method of nursing ethics education as well as in engineering ethics education in Japan because it enables students to pay attention to specific contexts and interpersonal relationships in the situation where an ethical problem can arise, and it enhances their ability to make creative judgments. Many textbooks which are used in nursing ethics education classes cover a range of dilemmas that nurses face in clinical situations.

2.3. Problems of Ethics Education for Nurses in Japan

There are three advantages to the case-study method where students examine dilemmas in a clinical situation. Firstly, students can apply what they have learned to an actual scenario, and they are able to make judgments from a selection of possible solutions. Consequently, good service to patients is achieved. Secondly, students gain confidence as future nurses if they are required to discuss with two or more peers various aspects and senses of values concerning patient care. Thirdly, the study of nursing ethics creates the possibility of enhancing the quality of nursing care.

On the other hand, the case method has its limitations. In nursing ethics education, this method can be a failure if it becomes a fixed pattern of problem solving. Because students are implicitly induced to think about their actions as an ‘ideal nurse,’ and because the case method encourages them to consider many sides of a problem, it is inevitable that they become overwhelmed by the varieties of judgments they can potentially make. In reality, clinical scenarios where nursing care is necessary are individual, uncertain and complex and it is no exaggeration to say that the same situation never occurs twice. As such, there are no exact patterns of decision-making to be learned nor applied.

Another problem with the case method for nurses might be that it would be helpful for them to consider viewpoints other than those of the nurse in solving a problem. But the material used in the case method in nursing education is based on clinical practice, and on the collective wisdom of nurses, and thus does not consider any other perspective than that of the nurse.

3. Problems and Perspectives of Professional Ethics Education in Japan

Not surprisingly, there was no opposition to beginning the professional ethics education programs in these areas; however, the fact that administrators hastened

to make professional ethics education a required course has caused a number of problems that need to be addressed. For example, professional ethics' courses are being taught by instructors who lack special training in ethics education and whose lectures are being delivered in large auditoriums to large audiences of more than 300 students. Actually, these monologues before a large number of students can engender students' indifference as manifested by whispering or dozing off in class, or opting to study for tests for other subjects.

Within society at large, there are even some who contend that teachers' ethics education is unnecessary. The main reason is that even today it is regarded as common sense by most people that 'those who have been trained to be teachers are men and women of integrity.' Even learned education specialists have questioned the necessity of teachers' ethics education.

Ironically, this has inspired some instructors and scholars to try to develop alternative approaches to lecture-style classes, keying on small class discussion concerning case studies rife with ethical conundrums. Some scholars feel that it is better to focus on the method of study itself rather than the specific content of the courses.

4. The Potential of Participative Style Classes

I consider the case study method to be the most effective way to teach professional ethics education in higher education. There are several reasons for this, as I shall explain. A professional ethics education course featuring simulated real-life situations can be extremely beneficial for teacher trainees who have little teaching experience because it can instruct them how to cope with some of the ethical dilemmas that will inevitably occur.

It provides an opportunity for students to not only study ethical issues, but also to practice asserting their opinions confidently, especially if they should espouse a view contrary to the majority. The students soon realize that their values can be adjusted or refined and that their confidence can be bolstered through discussion with others. The instructors too, benefit from teaching these classes. One example involves realizing that even the creative approaches of unconventional teacher trainees can lead to new viewpoints and solutions to former daunting problems.

Ultimately, as the instructors witness the teacher trainees, attending the case study class, displaying hope, encouraging each other, offering positive feedback, and promoting a constructively critical attitude, the case study approach should prove to be quite fruitful and popular.

5. Small Group Education is Essential

In order to realize the aforementioned benefits, the class has to be limited to around 30 students.

I had the experience of teaching 130 nursing students using the case study method. The cases published in the nurses' ethics textbook were used, and despite the large number of students in the class the group discussion provided an

opportunity to broaden views. However, during the class discussion, a gap developed between the vocal students and silent students, causing the majority of the silent students to drop out of the discussion, and the atmosphere of the class drastically changed.

Conversely, I have taught ethics to students majoring in Art where both group discussion and class discussion were successful. The case study used in the Art class was an actual plagiarism case involving a Japanese artist copying a foreign artist's work. The students were so caught up in the discussion that they continued the discussion even after the class ended. Some factors that may have contributed to the success of the class were that the class was a small group of 15 students, and almost half of the students were in their late 20s with work experience, and the abstract concepts of 'truth, goodness and beauty' appealed to them aesthetically.

6. Practicing Teachers' Ethics Education Based on Case Method Studies

Since last spring, I have been in charge of two case study courses of teachers' ethics education at two universities. The majority of the students were about to receive certification to teach Political Economics in high school, and there were no more than 20 students in the classes. Their academic levels ranged from third year undergraduates to master's degree students. Based on these fruitful teaching experiences, I am confident that the case study method is an effective means of teaching teachers' ethics education.

The following case study is an original scenario I frequently use in my teachers' ethics education course.

[Title of the Case: A High School Student in the Third Year Who Fails to Pay Tuition Fees]

Mr. Terao is a temporary substitute high school teacher for a female teacher on a maternity leave, and is hired for the period of one year. Mr. Terao is in charge of the 3rd year class at the high school, and a female student called Yuki is the only student who hasn't paid tuition for the year. Yuki is a high achiever, has a pleasant personality, and has been studying diligently these three years. Yuki's parents are divorced, and she lives with her mother who is currently somewhat alcohol-dependent. The homeroom teacher, Mr. Terao, has repeatedly visited Yuki's home to persuade the mother to pay the tuition fee, but it will take another month or so before the payment is made.

One week before the date of the graduation ceremony, the headmaster told Mr. Terao, 'Yuki, a student in the class you are in charge of, has not completed payment of the tuition fee, so it is not possible for her to be present at the graduation ceremony nor to receive the diploma.' Mr. Terao felt sorry for Yuki, so he implored the headmaster to, 'Please make an exception and allow Yuki to attend the graduation ceremony and receive

the diploma in advance of the final payment.’ But the headmaster would not give in, saying ‘Setting a bad precedent would do harm to the high school.’

[Question]

In this situation, what can Mr. Terao do so that Yuki, Yuki’s mother, the headmaster and the homeroom teacher, Mr. Terao, himself can all be content to a certain extent at the same time?

This case study can provide opportunities to discuss many different themes, but I normally use it for the purpose of ‘looking for a creative opening to fulfill the professional and ethical responsibilities among conflicted yet responsible parties.’ Provided that the students are in the third year of the undergraduate course or older, the students can exercise ‘multidimensional analysis from the different viewpoints of each character considering what they really want, and map the dilemma between the interests of the organization and the interests of individuals, evaluating which should take priority’ or ‘look for a solution to systemic issues such as by preparing procedural manuals in advance to help process routine conflicts of interest consistently.’

Conclusion

It is my personal view that case study-based teachers’ ethics education needs to resolve at least the following two issues to become widespread. The first issue is that there are too few case studies suitable for teachers’ ethics education. As well, there are hardly any case study materials or teaching manuals available. The second issue is how to explain the significance of teaching professional ethics education to students of the faculty of education, at university, who have very little working experience in such a way as to satisfy public opinion. Unless such issues are resolved, teachers’ ethics education using the case study method will only be left to the individual efforts of an insightful few.

Notes

- 1 On September 30, 1999 an accident happened at a small fuel preparation plant operated by Japan Nuclear Fuel Conversion Co. (JCO), a subsidiary of Sumitomo Metals and Mining, in the village of Tokai-mura, 130 km northeast of Tokyo. Two workers died as a result of radiation exposure. The particular JCO plant at Tokai was commissioned in 1988 and processes up to 3 tones per year of uranium enriched up to 20% uranium-235 (235U), much more than in ordinary nuclear power reactors (see Sugimoto & Taki 2001).
- 2 The concealment recall by Mitsubishi Motors disclosed by the accident of damage of the tire hub of the trailer. On January 10, 2002 the tire came off from a large-scale trailer that carried heavy equipment, it knocked against the walking housewife and she died. Two sons who had been walking together also did a light injury. The cause was the damage of the tire hub of the trailer. It was generated by 57 in total after 1992, and the wheel dropped out by the hub

damage accident of the large-sized car by 51. Mitsubishi Motors kept consistently saying that the cause were poor maintenance on the user side (see Sugimoto 2005).

- 3 'Development of human resources with advanced specialization' in HP of the Japanese Nursing Association (2006). Accessed 10 August 2007. Available at <http://www.nurse.or.jp/jna/english/nursing/development.html#administrator>.

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