SITUATIONS

Human beings are diverse and complex; so our philosophy, and even more so our literature, constantly inform us. Life was not simple in ancient and medieval times, but our awareness of its complexity is in some ways a modern phenomenon -- though one recognized by many writers before the coming of the modern age. Some writers would press this insight to the metaphysical level, and assert with Sartre that man is that creature who lacks a nature or essence of any sort. But such a move is self-destructive, since it makes a claim about human nature, i.e., that human beings are entities who lack a nature. Thus we do best to retain our awareness of human complexity and diversity without turning it into a metaphysical dogma.

Still, modern insight creates problems for moral thought -- problems that account in part for the persistent strain of anti-modernism in our culture. Complex and diverse human beings create, and find themselves in, complex and diverse situations, in which stock moral terms like *adultery*, *theft*, and *murder* may not seem adequate to the needs of moral judgment.[i] Yet it is necessary to make some firm moral judgments, say against killing human beings by reason of their ancestry, if decent social life is to be possible. In this chapter I display the full complexity of moral situations, before discussing the strategies employed to resolve moral questions.

Writing in a bioethical context, Carl Elliot has described the phenomenon to be analyzed very well:

A person's moral judgment is reflected in what he chooses to include in a description: whether he mentions that the patient's wife has visited her critically ill husband only twice over the past three weeks, whether he reports a bed shortage in the I[ntensive] C[are] U[nit], if he notes that the patient's children stand to inherit their dying man's estate, how he

describes the patient's prognosis, whether he brings up the option of palliative care, if he

notes that the nursing staff feels strongly that treatment should be stopped, whether he

mentions that the patient was an I[ntra]V[enous] drug abuser. One of the most interesting

and disturbing discoveries to be made in a medical ethics case conference is how one's

moral intuitions change as each player in the drama says his piece, as another perspective is

added to one's own.[ii]

2.1. *The Varieties of Moral Judgment*

The triad obligatory-permissible-forbidden is not adequate to the needs of moral judgment.

Theologians distinguish between mortal and venial sins, lawyers between felonies and

misdemeanors, secular moralists between serious offenses and peccadilloes. Less formally, there

are actions which are "within our rights," or for which no one would blame us, which are less than

admirable or heroic.

Nor does the evaluator always stand in the same relationship to the act or proposed act in

question. The most central form of evaluation concerns acts under consideration by the evaluator

himself: thus Kant imagines an unhappy man contemplating suicide, who asks first whether his

proposed action can be squared with the requirements of morality. At a remove from decision itself

is the role of the moral adviser, who usually can abstain from judgment, with the help of an

expression like *Follow your conscience*.

There are actions over and done with, such as the atomic bombing of Hiroshima and

Nagasaki, the evaluation of which lacks the practical urgency of the first two sorts. About such

actions the agent himself, a friend or spiritual counselor, and a third party all may make judgments.

And the culpability of the agent may be as important (or more so) than the legitimacy of his act.

Our argument must also address the judgments moral teachers, including parents, moralists, and religious leaders, must make. Such teachers need to combine honesty, responsibility, and concern for the well being of those whom they are instructing. For those who are incompetently instructed may rebel against the requirements of morality if too many demands are placed upon them, and they may also regard with contempt a morality that is presented as pliant to their every felt need. In such circumstances the most important distinction is that between justification and excuse -- a distinction habitually neglected by those who would go easy on others. But some excuses are agent-relative -- inexperience for example -- and others, such as duress, involve mitigating circumstances that are sometimes almost as good as justifications.

2.2. Action Kinds

Sorting out relevant from irrelevant detail is the first task of the moral evaluator, and this task is both challenging and has important implications for subsequent moral judgment. There is an important gap between a messy real-life situation and a "case of conscience" in which the problems of Titius and Bertha present themselves in neatly ordered fashion.

Most moral judgments use "thick" act-descriptions such as *adultery*, *theft*, and *murder*; as well as more recent coinages such as *racist* and *irresponsible*. To condemn an act just as (morally) wrong is quite rare. The precise range of thick moral concepts is open to dispute, but there are core cases where users of such expressions concur in their judgments. That the Nazis murdered millions of Jews and others is a correct description of their conduct, though it would be rhetorical exaggeration to say that they murdered the soldiers the German army killed in combat. (On the other hand, *murder* is sometimes used to describe the wanton killing of a brute animal.) But such descriptions conceal a complex background. Adultery and theft are only possible within institutions of marriage and property. These institutions vary from time to time and from place to

place, and their present versions have been criticized, rightly or wrongly, on a number of grounds. Nothing follows immediately for personal morality from such criticisms. An institution of "half-open" marriage, in which the husband but not the wife is conventionally held at liberty to engage in extramarital relations, is unfair to women. But this unfairness does not immediately imply that husbands who take advantage of their liberty are guilty of adultery, or that women who respond in kind are not so guilty. Nor do criticisms of existing property relations, however justified, imply a license to steal. Yet to assert an absolute obligation to accept the definitions imposed by unjust institutions is to help guarantee their permanence.

Murder is somewhat different from adultery and theft. The distinction between living and dead, and between human beings and things (or brute animals) the concept of murder presupposes are not socially constructed in the same way the institutions of marriage and property are. But the concept of a person has a conventional aspect, while the institutions of marriage and property have at least some basis in nature. All we can say at this point in the argument is that our moral world has both natural and conventional aspects, that one aspect or the other may be more evident in a given situation.

We must also address the question«of nominalism: whether human acts form natural kinds, or whether descriptions such as *murder*, *theft*, and *adultery* are assigned to human behavior by convention. For many subcultures describe what are in some sense the same actions in very different terms, such as *weeding out the unfit* or *eliminating the king's enemies*, *liberation* (say, of a book from a shop), and *courtly love*. The metaphysical perspective adopted here is "safety net Platonism": the vagaries of our language and social practice are constrained by an objective structure, but we have no reason to suppose that this structure corresponds to that recognized by any natural language. On no account can an individual or a society by giving a previously

forbidden form of activity a pleasing name, escape the bad consequences to which it or its toleration may lead.

> John Finnis objects to the ordinary language/phenomenological approach to these issues:« Common speech [he writes], which is not systematically oriented toward precise moral understanding and is impressed by behavioral and consequential similarities and by legal categories is not a safe guide. It uses the action-related terms, including even *act* and *intention*, with an ambiguity which can be overcome only by careful attention to the importance of the end and means united in a proposal shaped by intelligent deliberation (however rapid), and adopted by choice.[iii]

And in particular he insists that what behavior looks like has little or nothing to do with its moral acceptability.

> The physical behavior and causality and outcome can be exactly the same, when completely different acts are done. ... Equally, acts can be identical in every way relevant to a moral absolute's nonevaluative act-description, even though the physical behavior differs very noticeably.[iv]

Against the behavioral and consequentialist emphases of common speech, even when it identifies acts as of a certain kind, he insists on a tradition that identifies acts by their objects, i.e., by their intentions, including the subordinate intentions called "means to an end."[v] But God alone knows a person's deepest intentions: (§ 1.3.04): for purposes of social life, we need criteria of intentionality that include, among other things, the look of an action and its expected consequences.[vi]

2.3. Consequences

Consequentialists hold that a favorable balance of consequences is the sole (or decisive) criterion of right conduct; that traditional moral language embodies useful rules of thumb, but that these rules should be neglected whenever one can calculate the consequences coolly, and finds that they favor a forbidden action. Not only the advocates of moral absolutes reject consequentialism: but also, from a different angle, by believers in what Samuel Scheffler has called, "an agent-centered prerogative" or "dispensation to devote more attention to one's own welfare than to the welfare of other people."[vii] But one not need to be a consequentialist to take consequences into account: most moral codes contain rules that can be overridden to avoid sufficiently bad consequences (respect for civil law is a plausible example), and hold that it is wrong to incur (or even seriously risk) very bad consequences except for a morally worthy end.

The consequences of our actions are complex and varied, and for some of our actions extend indefinitely forward in time. Those who beget or give birth to children are causally responsible for everything their remote descendants do. In the same way, those whose ideas gain acceptance are causally responsible for the uses to which they are put, even when (as is common) they would have regarded these uses with horror. And even more ordinary-seeming actions sometimes have unexpected long-range consequences.

In moral judgment we invoke, not just any consequences, but those consequences that the agent foresaw or ought to have foreseen. But what consequences we foresee, or believe that others ought to have foreseen, depends on our worldview and in particular on the kinds of causal relations we are likely to find probable. When we discuss the causes of war, crime, economic depression, totalitarian government, or epidemic disease, our explanations reflect our differing conceptions of people and their world. Nor are all consequences on the same moral level. Both law and morals

understand consequences differently when the action of another person intervenes.[viii] A related example is effects that depend on the emotional reactions of the agents or others, which are under varying degrees of voluntary control.

I now consider six sorts of consequence of special importance for moral judgment. The first are the consequences of proposing or accepting a moral rule (or principle, or ideal, or...), either for oneself or for some community in which one has an authoritative role. Such rules, if accepted and adhered to within a group, have effects different from those of their acceptance by a series of individuals, and even more so from that of the behavior the rule would counsel if not embodied in an accepted practice. Moreover, such rules have a certain independence from the considerations that motivate their acceptance. For that reason, there can be a slippery slope, by which an apparently minor departure from previous understandings has consequences, good or bad, far exceeding the intentions or expectations of its proponents.

A second set of consequences has to do with the abandonment of a conventional principle previously accepted, for example the tacit understandings that make a written constitution possible. All conventional rules are sometimes violated, but if enough people, or enough important people, violate them with impunity they cease to have conventional force. The customary principles of a group form at least a rough system, though some social scientists have exaggerated their coherence. Hence conventional rules tend to lose their force together. The violation of one conventional rule provokes the violation of others -- whether in retaliation, in self-protection, or by virtue of the maxim, *If they can do that, we can do this*. The resulting condition is remedied only by the development of fresh conventions, variously related to the old ones. This development is always a difficult process, and sometimes a highly painful one. It may be somewhat less so, however, if we can believe that the norms established reflect something more than individual or collective will.

If our conventions were entirely beneficent, their collapse would be an unmitigated disaster; if they were entirely malignant, their collapse would be a good (and the fact that an act was in breach of social convention a reason for doing it). In fact the conventions of all societies, our own included, are in part beneficent and in part malignant: if they were entirely malignant, no one would support them; if they were entirely beneficent, no one would challenge them -- except perhaps for transparently base motives.   Nonetheless, since our conventions are, whatever their merits, the only conventions we have, considerable prudence is called for in dealing with proposals to displace or revise them.

Let us suppose that we should accept the present system of conventions -- or reform them only so far as the system of conventions itself makes reform possible. The issue then arises, how great a burden may be placed on individuals to sustain a system of conventions, particularly when these individuals have been unjustly disadvantaged by these conventions. In practice, there is no clear correlation between social advantage and felt loyalty to a society and its practices. But where such loyalty exists, it includes a devotion to the norms of a society greater than their consequentialist basis alone would warrant.

Third, there are costs of deliberation. Deliberation that explores the full complexity of moral situations risks paralysis -- the more so, the more appreciative of such complexity we are. Even if we do not dither until the occasion for action has passed, expenditure of time and energy on prolonged deliberation has significant costs. Certain sorts of deliberation also entail special costs: a society in which politicians routinely deliberate about the elimination of their opponents suffers significant harms independent on their acting on their deliberations. For those who engage in such deliberations will assume that others are doing the same thing, and protect themselves accordingly.

A climate of distrust will be the inevitable result. Hence there can be benefits to entrenching a moral rule against possible revision of any sort.

Fourth, every decision we make has an effect on the sort of people we are. To respond to a situation in a certain way, say to yield to a temptation, is to become the sort of person who responds in that way. In part this is metaphysics: we define ourselves by our acts. But in part the contingencies of habit-formation are involved. But this effect results not only from our intentions, and but also, though to a lesser degree, from the risks and the foreseen bad consequences we accept.

Fifth, there are consequences that arise, not from the facts as such, but from people's opinion of the facts, including the conclusions they are likely, unless well schooled in "advanced" *mores*, to draw from certain circumstances. For example, if a woman visits a man in his hotel room after midnight, he is likely to conclude that she has consented to intercourse, although she may not in fact have done so.

Sixth, consequences flow from people's opinions of what is good and right, even if this opinion is in fact misguided. If I do something another person believes to be wrong, and he learns of it, I may make it easier for him to follow suit -- perhaps by doing things that are wrong apart from his opinions. The same is true of myself, insofar as my pre-reflective attitudes are not entirely within my power. These considerations also operate on an abstract level, insofar as emphasis on the complexity and ambiguity of human situations may make it easier for people to rationalize actions that are in fact unambiguously wrong.

Hedonism evaluates consequences in terms of pain and pleasure; it supposes that all pleasures and all pains can be assimilated for methodological purposes to the simplest items within each class -- the pleasure of an infant playing with a glass of water in the one case, toothache pain

in the other. A more adequate account of subjective vales shows that they are diverse, incommensurable, and unstable. Something that pleases a person intensely may leave him with a feeling of weariness and disgust.[ix] We may be drawn to an experience in one part of our souls, while repelled by it in another.   Other forms of welfarism -- say those that define the good as desire-satisfaction -- are open to objections of the same sort.

"Perfectionist" moral philosophers have appealed to a plurality of objective goods, such as knowledge and friendship, to escape these problems; the problem of comparing these goods for the purposes of moral reasoning then becomes acute. And the shift from welfarism to perfectionism complicates moral reasoning in many other ways as well. (For example, Rawls's "Maximin" strategy makes no sense on perfectionist premises, though the claims of equality may be felt in some other way.)[x]

2.4. Intention

The most popular distinction among non-consequentialist moralists is that between foreseen and intended consequences, enshrined in the principle of double effect. This distinction makes it possible to argue that it is legitimate for a physician to give a dying patient morphine that will shorten his life, and to omit life-preserving measures judged extraordinary (say open-heart surgery on someone suffering from Alzheimer's Disease); but not to do something with the specific purposes of hastening a patient's death. These arguments are most naturally addressed to those making decisions, who are presumed to be aware of their own intentions and plans of action. For purposes of third-person morality, the distinction between acting and refraining provides a rough guide to the deeper moral distinction.[xi]

But the intention/foresight distinction conceals a number of complexities. It is legitimate to give morphine to a person dying in great pain, but not to remove his head to ease pains in it, not

because (or not only because) death is more certain in the second case than in the first. Rather, decapitation just is killing while giving medicine for pain has a different significance. Decisions such as to cease giving water and nutrients through tubes require more discussion, but the examples given are the reference points from which the relevant arguments can proceed.

Two theoretical questions arise from such discussions. First, whence arise the limitations on redescription of actions necessary to the argument? Second, to what extent are such limitations permanent features of human life, and to what extent do they change as history unfolds? Thus we reach, by another route, a question crucial to this study: whether the conditions of human life can be limitlessly re-described to advance our agendas; and if not what the limits are, how they are grounded, and how they can be found.

I have said that human beings are presumed to be aware of their own intentions and plans of action. This is not quite so: muddle and self-deception about one's intentions are as possible as are muddle and self-deception about one's affections. Sometimes muddle of this sort is especially pertinent to double-effect issues. If there is an effect I should welcome but which I cannot in good conscience pursue, say the death of an elderly and troublesome relative from whom I expect an inheritance, it will be easy for me to conceal from myself the extent to which my patterns of behavior tend toward bringing it about, and even are shaped by a desire for it. There are people, like King David, who have a knack for getting others to do their dirty work for them while avoiding personal responsibility. Hence while a morality of consequences opens all the problems of an uncertain future and of comparing incomparable goods, a morality of intentions opens all the mysteries of the human heart.

2.5. Symbols

One of the more frustrating features of moral and political debate is the persistence of issues about which men and women feel strongly, but which the skeptical mind is likely to dismiss as trivial or as a mask for something more serious. The American obsession with skin color, which in some ways afflicts anti-racists more than it does racists,[xii] is one example; concern about hair length in men, and skirt length in women, is another. Religion has generated many disputes about details of observance -- precisely how one receives Communion, for example -- with which the worldly are impatient. Scholarship, too, has its petty issues: whether footnotes belong at the margin or at the end of the text (or in both places) for example.

A form of Marxism that has many conservative adherents holds that economic issues are central, while other issues (styles of dress, for example) are peripheral. But attempts to find the "real" issues behind apparently trivial questions encounter many difficulties. Economic motives, such as the desire to support a family, economic institutions, such as money and property, technologies, such as birth control pills, and economic phenomena, such as the behavior of the stock market -- all have significant cultural and psychological dimensions. Brecht said, *Erst kommt das Fressen*, but human eating (*Essen* as opposed to *Fressen*) has an enduring cultural dimension: people have to be more than ordinarily hungry to eat dog-food, and those whose diet is adequate and even healthy, but cannot afford a special meal to celebrate a holiday, are importantly deprived. And eating other people's leavings is felt to be degrading, even though it is neither immoral nor (necessarily) unhealthy.[xiii]

Considerations of sanitation apart, the disposal of human remains might seem a trivial issue. But the way we deal with a person's corpse defines our relationship to him, which continues to be morally important after his death. Creon and Antigone were fighting about something real, not just

attempting to exert power over one another. Sex, too, has a powerful symbolic dimension,[xiv] not

reducible to the sensations experienced at orgasm (or anything else). One reason for this fact is that

men and women have the power to create new life -- a fact about human sexuality that affects our

feelings even when reproduction is unlikely or impossible.[xv]

 Finally, controversy about the details of religious observance cannot be dismissed as minor.

A service is not merely entertainment for the laity while they wait to receive the desired

theological, moral, or political message (or are dispensed valid sacraments). A service may also

convey an undesired message of its own, e.g., that the doctrines preached are fantasies designed to

console the losers of this world but to be ignored in "real" life.[xvi]

2.6. *Tradition, Convention, and Change*

 The social environment of action affects moral judgment in a number of ways. In the first

place, the language in which we frame moral issues -- not only the language of "Ten

Commandments" morality, but also philosophers' expressions such as *duty* and *happiness* -- is both

conventional and traditional. It carries with it a freight of conventional understandings that can be

canceled only with difficulty. Expounders of Aristotle have constantly to explain that for him

virtue does not mean chiefly sexual self-restraint, and *prudence* does not mean chiefly caution. Nor

is the word *morality* innocent: it carries with it a possibly undesired suggested that sexual issues

are the most important moral questions.

 Second, the consequences of our actions depend in part on how others interpret them. An

otherwise innocent act may be wrong because another person will interpret it in a morally

corrupting way; this consequence is traditionally called *scandal*

 Third, insofar as an action has a symbolic dimension, its moral acceptability depends on the

conventions of meaning prevalent within one's world. Whether it is a lie to describe a jolly

heterosexual as "gay" depends on one's time, place, and audience. Likewise the symbolic

ramifications of sexual practices, and of ways of disposing of human remains, depend in part on

how the agent and others understand them. Conventions affect even what a person can intend: I

cannot say, "Jones is a depraved criminal who ought to be extirpated for the good of society," or

spit in his face, while intending to express my love and admiration for him.

Fourth, not everyone can do everything. Human beings have responded to this problem by

defining a number of social roles, including those of husband, mother, and social critic,

performance of which can be assessed according to common standards. What these roles are, and

what the requirements of the role morality attached to each of them is, depends largely on

convention.

Finally, our conventions and traditions may preserve moral insights. On any account sifting

is required, but to reject the wisdom of the ages altogether is to give oneself the impossible task of

creating the moral and social world afresh. In morality as in science we are sailors who must repair

our vessel on the open sea: there is no Archimedean point outside our practice from which our

morality can be re-evaluated. Hence methodological conservatism is the only alternative to a

paralyzing skepticism: criticism, however radical, must begin with an examination of the status

quo.

But people begin in very different places. And many people these days suggest that our

ship has sprung so many leaks that it is beyond the possibility of repair, indeed that it was un-

seaworthy from the beginning. Only an examination of the difficulties and of our resources

(personal as well as collective) for meeting them can begin to provide an answer to such critics.[xvii] I

have not so far distinguished between three different elements in our social norms. One is the

ephemeral domain of taste and fashion. The second consists longer-lived conventions such as

political constitutions, which nonetheless have limited span of life. The third includes those even

longer-lasting traditions for which their adherents claim permanent validity. On any account,

identification of the third class requires selectivity; those who defend traditional sexual morality do

not mean to include the view that, since boys will be boys, it is just as well that there is a class of

loose women for them to be boys with. There is nothing wrong with this procedure, but it requires

principles of evaluation and not just the citation of authorities.

Not everyone is the beneficiary of the same tradition. The whole world is now Western, in a

trashy, least common denominator way, but beneath this surface a multitude of local, communal,

regional, and national traditions persist. Each agent must make the best of what is given him, but

what is given each of us varies from individual to individual.

All societies change, but one can imagine a society in which change took place so slowly

that human beings were unaware of it, or so quickly and decisively that memory of former ways of

life was lost. But we live in a world in which both change and the consciousness of change are all

pervasive. To examine other possibilities is merely to underline how different we are from people

in a highly traditional society, for example. We stand rather in an uncomfortable relationship to our

cultural and religious past, as witness our surfeit of translations of the Bible.

What is crucial for present purposes is the different ways people react to change. Some

embrace it with enthusiasm, and endeavor to drive others, sometimes brutally, "kicking and

screaming into the Twentieth Century." Others seek a refuge from the modern world, secured

among other things by stringent moral rules. Still others attempt a more discriminating response.

And such divergent responses lead to the classic situation of ideological deadlock, in which

considerations A finds persuasive B finds irrelevant, or even supportive of the opposite conclusion.

An exchange between Finnis and his liberal opponents, on the cognate issue of infallible teachings on moral issues, illuminates the considerations at work here. The liberals adduce the complexity of modern moral problems to cast doubt upon the possibility of finding definitive answers to modern moral problems by appeal to revelation. Finnis sees an argument from *some* to *all* here, or more exactly an argument from

(1) Some moral issues are too complex for definitive judgment.

(2) All moral issues are too complex for definitive judgment.

And he concludes, "Glassanding non sequiturs which seem more at home in politics are to be found, remarkably, in serious theological books, and they serve for a time"[xviii] -- an example, no doubt, of the nonpolitical style he thinks appropriate for theological reflection.

But the liberals' point is not a mere non sequitur, though it is not as decisive as they perhaps think. Modern problems are not only complex but interacting: the sort of family structure we have (or ought to have) is in part a function of the sort of economic structure we have (or ought to have), and vice versa. And education, government, and other aspects of our collective life also have an impact on families. Under such circumstances, one might well doubt the capacity of human beings to fix for all time moral requirements concerning marriage, or to discover that God has done so. But one might also conclude that, without infallibly taught moral norms, moral judgment would be impossible. And the same argument will apply to exceptionless norms.

2.7. The Heterogeneity of Morality

Charles E. Larmore argues "we do best to see morality, at its deepest level, as a motley of ultimate commitments. As a result we should acknowledge that moral conflict can be ineliminable" (xi).[xix] Hence the possibility of a moral blind alley, in which I can honor one of my ultimate

commitments only by breaching another, haunts contemporary reflection on moral issues.[xx]

Larmore believes that his observation supports a self-consciously modern approach to moral and political issues.

But in fact Larmore's recognition of complexity undermines his response to Alasdair MacIntyre's anti-modernist arguments. Uncharitably attributing a foundationalist moral epistemology to MacIntyre, Larmore maintains that "contextualism -- the view that a disputed belief is sufficiently justified if justified by appeal to other beliefs not challenged by the particular dispute" (29) -- is as reasonable an epistemology for morals as it is for science. This may be so, but it does not answer MacIntyre.

For MacIntyre is contending that the context of modern morality has been shattered -- that the rise of the officially neutral state and the sundering of morality from its religious setting, as well as the decline of Aristotle's influence in philosophy, have created a world in which emotivism, whatever its flaws as a philosophical theory, is a correct description of how moral argument actually proceeds. When we find ourselves in disputes which threaten to widen until our entire picture of the universe is at issue, standard liberals put an end to reflection by invoking a ban on "imposing one's values" on other people.

Examination of our considered judgments reveals three sorts of standard: consequentialist standards, which hold us responsible for how the world goes, so far as that is within our power; deontological restrictions on action, such as the prohibition on lying; and partial commitments to friends, family, and (for example) colleges and universities. These principles stand at a considerable remove from the rules of "Ten Commandments" morality; two or three of them, and possibly other considerations as well, may support a single commonsense rule. Conflicts between each of these requirements and any of the others are possible (ch. 6). In the absence of a general

theory of how to resolve such conflicts, or a belief about the world that limits their possibility, we are faced with two unappealing prospects. One is a possibly unlimited assemblage of moral blind alleys; the other is a morality composed entirely of situational judgments.[xxi] In either case the deconstruction of the Western ethical tradition is well underway.

 2.8. *Individual Variation*

A common attempt to defend actions other people think wrong goes as follows. Such conduct would be wrong if ordinary people did it, but I -- and a few others like me -- are different in ways that make it permissible (and perhaps sometimes even obligatory) for us.[xxii] This argument will not do as it stands, since it means that any moral requirement whatever can be evaded by pleading individual difference. And, while human beings differ enormously in temperament, they do not group themselves into psychological types such that principles that apply to persons of one type cannot be applied to persons of another.

Homosexuality, to use the most common example of radical human difference, is a highly various phenomenon, associated with a variety of other personality traits, and in the production of which differing mixtures of choice, genetic difference, and environmental influence combine. And many of those who take part in homosexual relations, or are tempted to do so, will come to prefer the opposite sex upon maturity or release from prison, or would have preferred the opposite sex but for bitter personal experiences.

In addition to differences of desire of the sort just mentioned, people also differ in the sorts of person they admire and want to become. These differences of ideal are at least partly moral in character, though they lack the purity of Kant's reverence for the moral law. Some people are more capable of sophisticated moral analysis than others, and of acting on conclusions that conflict with their own inclinations or the *mores* of society. People also differ in decision-making styles: some

people cut through difficulties on the way to their ends, whereas others multiply complications for fear of having left out any relevant consideration. These differences extend also to the sphere of morals: some people are temperamentally lax, whereas others are temperamentally scrupulous. Finally, people stand in different relations to the conventions and traditions of society: they differ in background, subsequent moral influences, and present situation of comfort or disadvantage. The bad Catholic, the non-practicing, unbelieving Jew, and the agnostic Protestant are very different sorts of people.

The simplest way in which we take differences among human beings into account in moral judgment is in admitting excuses -- some of which almost, though not quite, count as justifications. Some people, for reasons not their fault, find some rules of morality hard to recognize or, if they do recognize them, hard to observe. If we think of moral requirements as analogous to penal laws, the difference between excuse and justification will tend to disappear, since that many people find a criminal law too hard to keep is a reason for repealing it (though of course not always a decisive reason). But this analogy has distinct limitations; moral standards are not only methods of social control, but also describe elements of a life worthy of a human being.

It is not, however, possible to limit the impact of human differences on morality to questions of excuse. The advisability of self-improvement campaigns, diets for example, depends in part on a person's capacity to follow through with them -- and thus on his (and his adviser's) estimate of his probable future actions. One might well hesitate to end, or to urge another to end, a monogamous though from a moral point of view less than ideal sexual relationship, if the result were to be a life of promiscuity. A crucial issue is how far this line of thought can be pressed without exempting some people, by reason of their peculiar personalities, from observing the requirements of morality.

2.9. Concluding Remarks

It is now possible to cut back the complexity of moral situations a little.[xxiii] It is not necessary to formulate moral rules to cover naturally impossible situations, such as those involving kittens injected to produce super-cats with human intelligence;[xxiv] or which presume knowledge that human beings cannot have, such that if I have sexual intercourse now, my great-great-grandson will be a mass murderer (and I will not have a great-great-granddaughter whose good deeds outweigh his crimes).

There can be no practical need for rules covering such cases, and any result one reaches for them will sound odd, if only because of the oddness of the situation envisaged.[xxv] Moreover capacity for moral judgment arises in the world as it is, and there is no reason to suppose that it extends to possible worlds other than our own. Hence a moral code will be sufficiently defended if it applies satisfactorily to all naturally possible situations, including only those forms of knowledge of which human beings are naturally capable.

It is possible to strengthen this conclusion, and exclude from consideration even some naturally possible situations. Ursula K. LeGuin[xxvi] imagines a race of intelligent androgynies, each of which is capable of both begetting and bearing a child. These beings undergo an estrus cycle, and have no institution of marriage. (Their only important conventional rule about sexual behavior requires "brothers" to separate after one of them has given birth to a child.) Such beings may be naturally impossible, say for reasons involving hormones, but even if they are possible we need not worry about them when we formulate our principles concerning sex, reproduction, and family life. For we have no practical dealings with such creatures, and they are structurally discontinuous with us in respects relevant to these domains of morality. The same would not be true, however, of our

principles governing violence and deceit, procedural principles such as *Accept traditional rules that withstand scrutiny* or general moral principles as such *Never use a rational being as a mere means*.

Actual situations are unsettling enough, without the help of science fiction. Hence we need not be concerned here with a contention such as Kai Nielsen's, that "As the world goes, there are good grounds for holding that judicial killings [of innocent people] are morally intolerable, though ... if the world (including human beings) were very different, such killings could be something that ought to be done."[xxvii] For our moral rules -- including those which traditional morality designates as absolute -- are tied to a world similar, at least in its most important aspects, to our own.

NOTES

[i] We may call this sort of approach "Ten Commandments" morality, though the literal Ten Commandments are not always at issue (they contain no general ban on lying).

[ii] "Where Ethics Comes from and What to Do about It," *Hastings Center Report* 22 (July-August 1992): 28.

[iii] *Moral Absolutes* (Washington, D.C.: Catholic University of America Press, 1991), p. 72.

[iv] Ibid., pp. 38-9

[v]Ibid., esp. § III.3 (also p. 66).

[vi] See my *Ethics of Homicide* (Ithaca, N.Y.: Cornell University Press, 1978; paperback ed. Notre Dame: University of Notre Dame Press, 1990), ch. 4.

[vii] *The Rejection of Consequentialism* (Oxford: Clarendon Press, 1982), pp. 15, 16n.4. For a consequentialist response, see Shelly Kagan, *The Limits of Morality* (Oxford: Oxford University Press, 1989).

[viii] See H.L.A. Hart and A.M. Honoré, Causation in the Law (Oxford: Oxford University Press, 1962).

[ix] As Plato has memorably shown. "Leotius son of Agathon, on his way up from the Pireaus under the outer side of the northern wall, becoming aware of the dead bodies that lay at the place of public execution at the same time felt a desire to see them and a repugnance and aversion, and ... for a long time he resisted and veiled his head, but overpowered in despite of all by his desire, with wide staring eyes he rushed up to the corpses and cried, There, ye wretches, take your fill of the

fine spectacle!" Republic 439e-440a, Paul Shorey trans. In *Collected Dialogues*, Edith Hamilton and Huntington Cairns eds. (New York: Pantheon, 1963), p. 682.

x See Thomas Hurka, "Consequentialism and Content," *American Philosophical Quarterly* 29 (January 1992): 71-8.

xi See my article, "Acting and Refraining/Intention and Foresight," *Dialogue*, spring, 1987

xii Some people insist that *people of color* is the only acceptable term for black people (or for nonwhites generally), while condemning the use of *colored people* as proof of bigotry.

xiii Another example: employees with a strong union (and seniority privileges) sometimes receive their wages while doing nothing after the plant at which they were working closes. (They have to report to "work," and so cannot use their leisure for any creative purpose.) While better than starvation, this solution is unsatisfactory.

xiv The symbolic dimensions of human acts, sexual or other, has been somewhat neglected by English-speaking philosophers. But Alan Donagan, *The Theory of Morality* (Chicago: University of Chicago Press, 1977), p. 107, condemns some sexual acts as "life-denying in their imaginative significance."

xv See my article, "Birth, Copulation, and Death," *New Scholasticism*, summer, 1985.

xvi Thomas Day, *Why Catholics Can't Sing* (New York: Crossroad, 1992) confirmed my views on this point.

xvii On the concept of continuing a tradition, and the suggestion that a tradition may be exhausted, see Yuval Lurie, "Wittgenstein on Culture and Civilization," *Inquiry* 32 (1989): 375-97.

xviii *Moral Absolutes*, pp. 92-3.

xix Parenthetical references in this section are to Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987).

xx See for example Michael Walzer, "Political Action: the Problem of Dirty Hands," *War and Moral Responsibility*, Marshall Cohen, Thomas Nagel, and Thomas Scanlon, eds. (Princeton: Prince-ton University Press, 1974), pp. 62-82.

xxi Larmore maintains that "a ... decision where violating our deontological duty for the sake of some particularistic commitment would amount to physically harming or even killing another (who was innocent) ... is next to impermissible" except "in the case where failure to heed the principle of partiality would bring us to avoid a similar deontological prohibition" (p. 144). I am not sure how this conclusion, which subordinates particular commitments to deontology, is to be squared with an insistence on the radical heterogeneity of moral principles.

xxii See for example Charles E. Curran, *Tradition and Transition in Moral Theology* (Notre Dame: University of Notre Dame Press, 1979), ch. 3.

xxiii If anything, I have understated this complexity; I have for example ignored the possibility that some acts might be denounced as moral abominations. As Jeffrey Stout reminds us, "where sacrilege and sodomy fail to offend, necrophilia, bestiality, and cannibalism often succeed." (*Ethics After Babel* [Boston: Beacon Press, 1988], p. 146.) Perhaps this dimension of situations can be assimilated to their symbolic aspect.

xxiv Hence the writer conceded too much to Michael Tooley in his *Ethics of Homicide*, e.g., pp. 95-96.

xxv Miracles pose a problem here, but we have no right to count on their occurrence. And a God who gives us supernatural knowledge of the future will presumably instruct us how to act on it.

xxvi *The Left Hand of Darkness* (New York: Ace, 1983).

xxvii "Against Moral Conservatism," in Joram Graf Haber ed., *Absolutism and its Consequentialist Critics* (Lanham, Md.: Rowman and Littlefield, 1994), p. 169.