

# m i n d f u l

UNIVERSITY OF TORONTO  
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ON HAPPINESS AND MORAL WORTH

Kathryn Mann

THE ETHICAL PENUMBRA:

WHEN PUBLIC INTEREST AND PRIVATE DUTIES COLLIDE

Jelena Madunic

MORAL COGNITIVISM, TRUTH AND NORMATIVITY

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ON MAKING THE “FREEDOM OF EXISTENTIALISM”  
ACCESSIBLE TO WOMEN

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*Mindful* is University of Toronto's student-run philosophical ethics journal. We are a peer review journal, focusing primarily on undergraduate papers. We focus on philosophical ethics, including (but not restricted to) applied ethics, meta-ethics, political philosophy, international justice, and bioethics. We publish annually through the support of various bodies at U of T. Distribution includes hardcopies which are available on campus, and we have an online publication. Our goal is to foster interest in the subject, and give students a chance to pit their work against that of their peers.

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# m i n d f u l

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# Introduction

Jeremy Willard  
*Mindful*, Editor-in-Chief

In our 2005-2006 issue we included special features in addition to those articles that we reviewed. For instance, that journal included a piece authored by the Director of the Centre for Ethics, Melissa Williams, entitled “*Homegrown Terrorism*” and *the Democratic Public Sphere*. Those interested in reading that article can find our 05/06 issue online at <http://www.chass.utoronto.ca/pcu/mindful.htm>. In this issue, however, we have included only peer reviewed articles.

The basic structure of our peer review for this issue is as follows. After the submission deadline, I divided up the articles and distributed them to my board of editors according to the specialty of each editor. I removed names to reduce bias. Each editor examined her or his articles closely and gave them grades according to a standardized schema determined beforehand. Briefly, a grade of one meant the paper was unacceptable, and a grade of five meant the paper was excellent, with few or no flaws and exhibiting original thought. When I received the graded papers I pooled those with the highest grades, and after a brief revision period four articles emerged as the best.

Although this year's issue is slim, a great deal of work went into it. The project could not have been accomplished without my eager and dutiful board of editors. Among them is Shahreen Reza, founder of *Mindful*, who used her brilliance and enthusiasm to initiate a project that I have come to care a great deal about. In addition, we are grateful to all those who supported the journal, including our financial supporters (listed below), Geof Seaborn, Donald Ainslie, Alisa Rim, Ashley Atkins and the rest of the PCU, Luke Stark (belated thanks from 2005-2006), the anonymous philosopher who permitted me to use his picture on our back cover, and anyone else we may have forgotten.

This year we took advantage of a project run by the University of Toronto Environment Resource Network (UTERN), which subsidizes the cost of printing a U of T publication using less wasteful paper and more environmentally friendly inks. Our enthusiasm to publish undergraduate work has been ever tainted by our concern about paper-use. This project has allowed us to produce a robust issue of *Mindful* with less damage to the environment. We encourage other publications at U of T to take advantage of this program (or consider using your own funds to be less wasteful), and we urge other universities to develop similar programs.

To conclude I offer a simple personal plea. As a university student you are probably at a juncture where for the first time you must decide how best to direct your life. Whether you are taking first year survey courses,

selecting programs, browsing the internet for grad schools, or considering career options, I'm certain there is an older person breathing over your shoulder "What are you training to be? What peg are you going to put into what hole?" Unfortunately, there is little encouragement to consider right and wrong when deciding your trajectory. The ample leisure and resources of the university grant you the opportunity not only to train in order to become a good lawyer, accountant, or film maker, but to incorporate a struggle for good into your life's plans. One ought to want to be a good person, not merely good with pegs.

#### Our Generous Donors

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**Boris Babic** completed a BA Honours in philosophy at York University in spring 2007, and is currently pursuing a JD at Harvard Law School. His paper received York University's Derek Hau Prize, awarded for the most excellent and insightful essay in a third or fourth year philosophy course.

**Jelena Madunic** is now in the second year of a JD at University of Toronto's Faculty of Law. She was a Trinity College Provost's Scholar, won the Trinity College Prize in Ethics, Society and Law; She is the former president of the Trinity College Overseas Development through Education Committee, and of the Ethics, Society and Law Student Association; Jelena volunteers at the Faculty of Law's community legal clinic, and is a member of the Sierra Leone Research Group; In the summer of 2007, Jelena received a grant from the Faculty of Law International Human Rights Program to complete an internship at the International Criminal Tribunal for the Former Yugoslavia in the Hague. She hopes to pursue a career in public international law. She is also a former editor of this journal.

**Kathryn Mann** is in her final year at University College at the University of Toronto in the undergraduate mathematics and philosophy specialist program. She was 2007 editor-in-chief of the University of Toronto undergraduate philosophy journal *Noesis*, published a couple of book reviews on works related to logic and philosophy of mathematics in the journal *Metascience* (one jointly, one forthcoming), and participated in the "Socrates Project" philosophy teaching program at U of T. Taking a cue from Plato, who asked that none ignorant in geometry enter his academy, Kathryn intends to pursue graduate studies in pure math before eventually returning to matters of philosophy.

**Rupali Sharma** completed her BA at Northwestern University, Chicago, in June 2007 with majors in political science and gender studies and a minor in philosophy. Her paper received an award from the English Department at NU. She works full-time at a domestic violence shelter as a resident advocate/case manager and plans to attend law school for a JD/PhD in 1-2 years. She was also editor-in-chief of *juice!*, NU's first feminist publication.

# ON HAPPINESS AND MORAL WORTH

Kathryn Mann

## **Abstract**

This paper takes up a problem in Kant's ethical theory: the separation of moral value from other values and in particular the separation of moral worth from personal pleasure. This problem has led to a widespread misinterpretation of Kant, which I address and critique here. I offer my own alternative interpretation and I argue for Kant's thesis that morality is a good separate and above personal happiness by means of a novel and modern example.

This paper addresses a common misinterpretation of Kant's moral theory. The problem begins with a passage from the *Groundwork of the Metaphysic of Morals*. Kant writes,

There are many persons who are so sympathetically constituted that, without any further motive of vanity or self-interest, they find an inner pleasure in spreading joy around them and can rejoice in the satisfaction of others as their own work. But I (1) maintain that in such a case an action of this kind, however dutiful and amiable it may be, has nevertheless no true moral worth.<sup>1</sup>

Kant seems to be saying that when someone does what brings him pleasure, no matter how well placed or appropriate his inclinations may be, his actions are not moral. An absurd conclusion? Schiller certainly thought so and responded in verse,

Gladly I serve my friends, but alas I do it with pleasure  
Hence I am plagued with doubt that I am not a virtuous person.  
To this the answer is given:  
Surely, your only recourse is to try to despise them entirely,  
And then with aversion do what your duty enjoins you to do<sup>2</sup> !

Ever since, proponents of Kant's moral theory have been trying to come up with a satisfactory response to Schiller's mocking. The result has been some creative (mis)interpretations of what Kant really meant by 1.

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<sup>1</sup> Immanuel Kant, *Groundwork of the Metaphysic of Morals*, trans. H. J. Paton (New York, Harper & Row 1964), 398. Pagination refers to the standard edition issued by the Royal Prussian Academy.

<sup>2</sup> F. Schiller, trans. H. Paton in *The Categorical Imperative* (London: Hutchinson & Co. 1953), 48

The most straightforward defense of Kant in light of Schiller is to argue that Schiller has simply got Kant wrong. This works on one level – Kant would certainly not think it moral to try and despise one’s friends in order to be able to act out of duty, no more than anyone would think it right to set his neighbour’s house on fire in order to be able to exhibit great virtue by saving the family from the flames. But this does not resolve the whole issue, for Schiller’s remark points to a deeper problem with Kant’s moral theory: did Kant really believe that doing good *out of a desire to do so* renders your act morally worthless? Many commentators on Kant have answered “no” in some form or another. In this paper I take the opposite position, arguing that Kant meant *exactly* what he said when he said “an action of this [sympathetic] kind, however dutiful and amiable it may be, has nevertheless no true moral worth.” I address why this strict reading of Kant has been so unappealing to Kantians, and furthermore why it should not be so. Though morality is a rational concept, necessarily cold and divorced from all feeling, the moral life does indeed coincide with our intuitive idea of the best life and is even, in a special sense, the most desirable.

In the *Groundwork*, Kant explains that the moral worth of an action lies solely in the maxim of the action. An act is moral if and only if the motive of the action is from duty. If I donate to charity because I understand I have a duty to help others less fortunate than myself, very well; if I donate to charity with my eyes on a handsome tax rebate and my name in gold on the list of “generous donors”, the act loses its moral force. This is the point Kant is making in the description of the sympathetic man cited at the opening of this paper (1). This passage is followed by an account of a man whose mind is “overclouded by sorrows of his own” that have “extinguished all sympathy with the fate of others.”<sup>3</sup> Kant claims that if such a man – who feels no inclination to do so – were to help his fellow men for the sake of duty alone, then *his* action would have genuine moral worth. The same action performed by the good-natured man would not. Enter Schiller, and enter our problem. We’d like to be able to give credit to the man who helps others because it brings him joy. We might even suppose for the sake of argument that this good-natured man *is* aware of his duty to help others and that, were he not so good-natured, this knowledge of his duty would be enough to motivate his action. Surely in this case even Kant would not consider the act morally worthless! But in order to draw this conclusion, we need to provide an alternative interpretation of 1.

One such interpretation – indeed, one of the most common interpretations of Kant’s position – is that Kant did not actually mean that the moral worth of the action performed by the naturally unsympathetic man is greater than that of the same action performed by his good-natured counterpart. Rather, he meant the moral worth of the action is more *visible* in the case of the unsympathetic man. Take H. Paton’s commentary, for example. Paton argues that this part of the *Groundwork* is “ambiguous”,

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<sup>3</sup> Kant, 398

and Kant “would have avoided the ambiguity if he had said that a man *shows* moral worth, not in doing good from inclination, but in doing it for the sake of duty.”<sup>4</sup> This interpretation solves our problem rather nicely and takes the force out of Schiller’s jest. But is it justified?

I mentioned that this type of interpretation is common, but it is by no means universal. In a paper entitled *What Kant Might Have Said*, Richard Henson argues it is a totally unjustified *mis*interpretation. I’ll follow Henson for a moment, for he provides a good starting point for my analysis. Henson labels what Kant appears to have said in 1

H: A dutiful action, when motivated by inclination, has no moral worth,

And what Paton and other commentators take him to be saying

K: A dutiful action, when motivated by inclination *shows* no moral worth.<sup>5</sup>

There is no need to assume in either case that the agent has no sense of duty. We can even assume that in the absence of the inclination to do good, the agent would probably still perform the same act out of a sense of duty. All that matters here is the present motive of the act in question.

Henson provides three arguments for taking Kant at his word, that is to say, for accepting H over K. In brief:

- i) Paton and others “do not justify their claim that Kant didn’t mean what he said (H) by citing texts in which he denies or implies the denial of H [...] and they do not supply texts to bolster their assertion that he meant K, either.”
- ii) The passage (1) is not ambiguous, in Henson’s opinion.
- iii) K implies that there are cases where we can *see* the moral worth of an action, that is to say there are cases in which we can know for certain that an act is moral. But Kant believes the opposite.<sup>6</sup>

For our purposes, it is not necessary to take up the details of his arguments. I will simply consider them motivation for accepting that Kant meant H, and will present a different argument for doing so based on morality as a rational concept. Unlike Henson’s arguments, mine will offer some insight into *why* Kant holds H; and why even in light of Schiller’s response H is still tenable, even attractive.

For Kant, the moral worth of an action has nothing to do with feelings or inclinations; morality is a purely rational concept. The very purpose of our faculty of reason is to make us moral agents, that is, “to produce a will which is good.”<sup>7</sup> Moreover, a good will is a will governed by reason alone:

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<sup>4</sup> H. Paton, “Analysis of the Argument” in Kant, *Groundwork*, 19. Emphasis mine.

<sup>5</sup> Richard G. Henson, “What Kant Might Have Said: Moral Worth and the Overdetermination of Dutiful Action” *The Philosophical Review*, 88 No. 1 (Jan, 1979): 39-54, (45- 6)

<sup>6</sup> *Ibid*, 46

<sup>7</sup> Kant, 396

If reason infallibly determines the will, then [...] actions which are recognized to be objectively necessary are also subjectively necessary – that is to say, the will is then a power to choose *only that* which reason independently of inclination recognizes to be practically necessary, that is, to be good.<sup>8</sup>

If one allows inclinations to determine the will, the will is no longer good. In other words, if a man allows his inclinations to motivate his actions, those actions have no moral worth. Even if his motivating inclinations are feelings like sympathy or love for humanity.<sup>9</sup> We may also express this idea in terms of the autonomy of the will. Moral agents are autonomous; a perfectly moral being is one whose will formulates its own laws from reason and without outside influence. Inclinations, including all feelings for others, are not based in reason. Rather, they are heteronomous principles of action and so cannot determine a good will. They cannot be the motive of a moral action. This idea is central to Kant's moral theory,<sup>10</sup> and this idea *is* H. Unless one rejects Kant's concept of morality entirely, one has no grounds whatsoever to reject H for K.

That given, how might Kant appease our desire to give credit to the man who helps others because it brings him joy? Let's return to Schiller's verse and consider what the correct Kantian response would be. Kant indeed believes that a man really ought to love his friends. But as we have seen above, Kant also holds that all moral acts must be done for the sake of duty alone. Thus, the only position of moral worth must be to love your friends but at the same time to prevent this love from having any influence whatsoever on your actions. In general, one must foster positive feelings, but prevent them from motivating acts. The sympathetic man of 1 fails in the second respect and so is not acting morally, but that does not mean that his action is altogether bad. His act "deserves praise and encouragement but not esteem"<sup>11</sup> – it has value but no *moral* value.

This response admits two possible objections, which I will deal with here. First, one might object that it is simply impossible for a man to prevent his feelings from having any influence whatsoever on his actions. No matter – ethics is prescriptive, not descriptive. Kant himself was aware of the human impossibility of perfectly moral behaviour. He considers the

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<sup>8</sup> Ibid, 412

<sup>9</sup> The skeptical reader might be persuaded of this point thanks to an example by Barbra Herman. "Suppose I see someone struggling, late at night, with a heavy burden at the back door of the Museum of Fine Arts. Because of my sympathetic temper I feel the immediate inclination to help him out..." See Barbra Herman, "On the Value of Acting from the Motive of Duty" *The Philosophical Review* 90 No. 3 (Jul. 1981): 359-382

<sup>10</sup> Even when discussing alternative moral theories, which he considers all hopelessly flawed, Kant remarks that he is most sympathetic to that which is based on the idea of moral perfection for the reason that it puts the question of morality "before the court of pure reason" (443)

<sup>11</sup> Kant, 398

human will “imperfect”, not in itself in accord with reason.<sup>12</sup> He remarks that we have good reason to be “doubtful whether any genuine virtue is actually to be encountered in the world” -

Most of our actions may accord with duty; but if we look more closely at our scheming and striving, we everywhere come across the dear self, which is always turning up; and it is on this that the purpose of our actions is based.<sup>13</sup>

Our everyday acts may have no moral worth, but this is of no consequence for moral theory because our acts do not affect what moral worth *is*. Morality provides an *ought* that dictates the *right* thing to do regardless of the possibility or practicality of that action given our human failings.

At this point, I must make a brief note on the passage cited above:

... if we look more closely at our scheming and striving, we everywhere come across the dear self, [...] and it is on this that the purpose of our actions is based

for I fear the reader might reason as follows and in so doing fall right back into Schiller’s trap: In light of the above, it seems that the only way to be really sure that your actions are not motivated by your inclinations is to always act *against* your inclinations. So the only possibility for moral action comes in acting contrary to whatever it is you feel like doing, and this – acting contrary to inclination – must then serve as your moral imperative. Just as Schiller wrote, you ought to “with aversion do what your duty enjoins you to do.” But this line of reasoning is silly. To always on principle act against your inclinations is to still have your inclinations influence your will. The only position of true moral worth is to have a will determined *independently of* inclination.

This leads us to the second, deeper, possible objection to my interpretation of Kant. One might reject Kant’s moral theory as I have explained it on the grounds that it separates morality from inclination, and so leaves no room for doing what one wants to do. A man with a good will could potentially lead a very unhappy, painful, or otherwise undesirable life. Kant himself didn’t consider this a problem. He was well aware that a person’s duty might not coincide with the kinds of acts that bring him joy. The examples of moral acts that he uses tend to run contrary to the agent’s inclinations. Moreover, he states explicitly that reason, in determining a good will, “can even reduce happiness to less than zero.”<sup>14</sup> But aside from Kant himself, few Kantians seem able to fully embrace a criterion of morality that pays no heed to happiness. I propose that this is the real reason so many of Kant’s commentators insist that Kant meant K rather than

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<sup>12</sup> Ibid., 412-13, 414

<sup>13</sup> Ibid., 407

<sup>14</sup> Ibid., 396

H. They do not want to accept that the moral worth of an action lies in its very independence from inclination. They find a moral theory in which personal happiness is completely divorced from moral worth too unattractive. Paton is certainly unwilling to part with considerations of personal happiness; his explanation that Kant meant K is followed by a remark on how it *should* be possible to follow your inclinations without that rendering your act morally worthless, and a further remark that “It should also be observed that, so far from decrying happiness, Kant holds that we have at least an indirect duty to seek our own happiness.”<sup>15</sup> This is true – Kant does hold that we have at least an indirect duty to seek our own happiness,<sup>16</sup> but Paton has missed the point. In trying to make Kant’s view sound more attractive to the reader, he has downplayed – if not totally disregarded – the fact that Kant’s criterion of morality is purely rational, leaving no room for acting on inclinations. To *morally* seek our own happiness, we must do so *because it is our duty to do so*, not because it will make us happy.

So far this paper has assumed general agreement with Kant’s moral theory, including the principle that the criterion of morality is purely rational. I have argued from there that the literal interpretation H of Kant’s passage 1 is the correct interpretation and that it even provides a reasonable response to Schiller. I turn now to address the critic who holds happiness too dear to agree with Kant. I will argue for the Kantian theses that we do intuitively value what is *right* (in the Kantian sense of a moral good determined by reason) in all cases over what we are inclined towards, and that autonomy of the will has a value far beyond that of personal happiness. The argument proceeds by way of an example.

In the 1950s, a number of experiments were performed involving electrical stimulation of the brain.<sup>17</sup> Scientists were able to pinpoint several specific areas of the brain that they later termed “pleasure” or “reward” centres. It is important not to read too much into these names, as the original experiments were conducted on rats and we have no way of really knowing a rat’s feelings. It was simply observed that a rat would perform difficult and even extremely painful tasks in order to have an electric current delivered to one of these areas of the brain. In one particular experiment<sup>18</sup> – the most important experiment for our purposes – rats were permitted to self-stimulate these pleasure centres. The experimenters wired up a lever that a rat had been trained to use so that pressing it would deliver a mild current to a pleasure centre in its brain. The result: each rat pressed the lever continuously and as fast as it could until it died – inevitably from dehydration, for it would not stop pressing in order to drink or eat.

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<sup>15</sup> Paton, 19-20

<sup>16</sup> See for example Kant, 399

<sup>17</sup> Much of the factual content of this section of the paper is drawn from Mark Easton’s BBC news article “Scientists Short Cut to Happiness” BBC News Online, May 24 2006.

[http://news.bbc.co.uk/1/hi/programmes/happiness\\_formula/4762941.stm](http://news.bbc.co.uk/1/hi/programmes/happiness_formula/4762941.stm)

Evidently, the rats' desire for this brain stimulation far surpassed all other inclinations. The satisfaction of eating when hungry, drinking when thirsty even to the point of death, of resting, or of leading a normal life paled in comparison to the satisfaction produced by the electric current.

Lest you start to think such findings are irrelevant to my argument regarding human happiness, I hasten to add that these kinds of experiments were later repeated on other animals, including humans, and some to similar effect.<sup>19</sup> In fact, there is currently a man living with an electrode permanently wired in his brain that can give him a mild dose of "happiness". After having an arm amputated, this man experienced incessant, unbearable, and otherwise untreatable pain, and the brain stimulation serves to cancel out the pain enough that he may lead a normal life.<sup>20</sup> So the technology is out there – you could right now, like the rats in the original experiment, have a little lever to press that would deliver you instant happiness.

Seeing as you continue to read this paper instead of looking into getting yourself a happiness lever, I take it that you find something disconcerting about the possibility of guaranteed electronic happiness. Your qualm might be as follows:

- i) I understand that an electric current to my brain would produce a feeling of pleasure, but pleasure is not the only kind of happiness. For example, I really enjoy the warm feeling I get from helping other people.

If this is the case, you need not hesitate any longer. First, as demonstrated by the original study with the rats, the feeling produced by an electrode wired to a pleasure centre in the brain is preferable to all other feelings. If your happiness – that is to say the satisfaction of your inclinations – is your concern, you are much better off having an electrode in your brain than helping out your fellow men. Secondly, we *do* have the scientific knowledge to simulate not only pleasure but also a host of other sensations in the brain. It is not unreasonable to assume (perhaps given some minor advances in research or technology) that we could produce that "warm" feeling that you like, or the satisfaction of doing hard work, or any other kind of happiness, or even a continually shifting array of pleasant sentiments – whatever it is you most desire. All just by pressing a lever.

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<sup>18</sup> This is the famous work of Olds and Milner (1954): Olds, J. & Milner, P. (1954). "Positive reinforcement produced by electrical stimulation of septal area and other regions of rat brain". *Journal of Comparative and Physiological Psychology* 47: 419-427.

<sup>19</sup> These were performed by Robert Heath. See Heath, R.G. (1964). "Pleasure response of human subjects to direct stimulation of the brain: Physiologic and psychodynamic considerations". In R.G. Heath (ed.), *The Role of Pleasure in Human Behavior* (pp. 219-243). New York: Hoeber. Or see Easton for a quick summary.

<sup>20</sup> Easton

Granted now that the happiness lever would indeed satisfy all your inclinations to the highest degree possible and that even so you still continue to read, let us examine some of the other possible grounds one might have for not wanting to subscribe to electronic happiness. To start,

ii) If I were in possession of such a lever, my feelings would no longer be in any way related to my actions. My life would be meaningless.

From the point of view that happiness is the highest good, or that the pursuit of happiness or the satisfaction of inclinations is the purpose of life, this objection makes no sense. If happiness were the highest good the lever would not render life meaningless but would rather provide ultimate fulfillment. So if you consider ii) a reasonable objection to the happiness lever, there must be a higher purpose to human life than satisfying inclinations. What this purpose might be is suggested by the following objection, which I have found to be a very common response.

iii) The rats involved in the original experiment would not stop to eat or drink or perform any action other than pressing the lever that delivered the electric current. I fear that the same would be the case for myself, and I am unwilling to risk my own self-control in order to be happy.

This response suggests that we intuitively value autonomy above personal happiness. Given the choice between the highest possible happiness – complete and certain satisfaction of all desires – and autonomy as a rational being, the natural choice is autonomy.<sup>21</sup>

There are of course many other arguments for rejecting the happiness lever which I have not the space to address here, but all valid such reasons must presuppose that happiness is not the highest good. If happiness were our ultimate aim, the happiness lever would be our ultimate goal and no sane person would hesitate to obtain it. Indeed, the best course of action would be to outfit as many people with the happiness lever as possible. On the grounds that our ordinary intuition totally rejects this course of action, I have argued that there must be a greater good than the satisfaction of desires. And since what one risks in getting the happiness lever is precisely a loss of autonomy, I have suggested that autonomy is this greater good. Were someone to argue, perhaps along the same lines as objection ii), that she was really not concerned about losing autonomy but rather with losing something like “meaning” or “identity”, I would answer that these ideas can both be *refined* to the notion of autonomy.<sup>22</sup> Our intuitive notions of identity and “meaning” in life consist largely in our concepts of ourselves as rational self-directing and self-legislating agents.

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<sup>21</sup> Consider: the fact that autonomy is a higher good than happiness is also a reason why we frown upon drug abuse. If the addict is happy and not causing anyone else any harm, for what other reason than his having relinquished some of his autonomy do we consider his position unfortunate?

<sup>22</sup> Following Kant, I define autonomy as our ability both to determine for ourselves what is good, and to control our own actions.

The next step is to transfer this insight gained from the happiness lever thought experiment to ordinary, everyday situations. The difference between allowing your inclinations to influence your everyday actions and getting yourself a happiness lever is only a matter of degree. Both are a case of handing over some of your self-control to your passions. Both involve a loss of autonomy. Each time a person acts on inclination rather than on rational consideration of what it is right or best to do, she relinquishes some of her identity as a rational self-governing agent.

I will return now to tie up a loose thread – a thread I have been following throughout this paper. This is the question of the compatibility of happiness and morality. If it is indeed true, as Kant holds and as I have argued, that the perfectly good moral agent *never* acts on the principle of satisfying his inclinations, is he then doomed to lead an unhappy life? The answer is most certainly no. It may well often be the case that the rational, moral choice of act coincides with the agent's inclinations, and so acting out of duty will also satisfy his desires (though it will of course do so accidentally). Recall that the best agent is he who helps his friends for the sake of duty but who also finds joy in helping them. Kant in fact makes the further claim that happiness is *conditional* on moral action: a good will, i.e. the will of an agent who acts for the sake of duty, is “the highest good and the condition of all the rest, even of all our demands for happiness.”<sup>23</sup> Though I would not make such a bold claim myself, there is some truth to be found in his words. People are often wrong regarding what they think will make them happy. Eating that second slice of irresistible chocolate cake probably caused you more pain in stomachache than happiness in satisfying your desire for it. And this is certainly not the only example where doing what you want to do is, in retrospect, not always what you really wanted to do. But doing what is right because it is right – acting on the command of reason for the sake of duty alone – can lead to no such regrets. For the rightness of an action consists solely in its motive, in its being done for the sake of duty, and not in its effect. Regardless of how things turn out, the right action is the right action. Thus, the Kantian moral agent leads a life both entirely free of regret and filled with the kind of satisfaction that comes from having done what is morally good. I for one would be quite pleased to lead such a life, and I think that even Schiller would find it pleasurable enough.

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<sup>23</sup> Ibid., 396

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# THE ETHICAL PENUMBRA: WHEN PUBLIC INTEREST AND PRIVATE DUTIES COLLIDE

Jelena Madunic

The lowest circle of hell is reserved for  
those who, in times of great moral crisis,  
have maintained neutrality.

-- Dante, *The Inferno*

The fundamental tension between a lawyer's duty to advocate zealously on behalf of clients, and his or her duties as an officer of the court, animates one of the central tensions in legal ethics. When these competing duties collide, lawyers find themselves in the ethical penumbra where the boundary between what is legal and what is just becomes blurred.

Twelve associates at Cravath, Swain and Moore were thrust into this ethical penumbra after their prestigious New York law firm decided to represent Credit Suisse in a legal dispute with the families of Holocaust victims. The associates articulated the moral dilemma that lay before them in the following memo:

We are hard-pressed, as Cravath-trained lawyers, to see how it is possible to honor one's ethical and legal obligations to advocate zealously on behalf of one's client and at the same time serve the interests of those asserting claims against that client. It seems implausible that Cravath could both serve Credit Suisse and bring about a fair and honorable resolution for those who suffered at the hands of the Nazis and their collaborators.<sup>24</sup>

This memo describes a perceived incompatibility between the duty owed to Cravath's client, Credit Suisse, and the apparent duty to serve the interests of the families of Holocaust victims. The purpose of this paper is to determine whether this apparent dilemma may be resolved. In order to do so we must ask: first, whether the lawyers' duty to uphold the public interest encompasses the need to "serve the interests of those asserting claims against [their] client"<sup>25</sup>; second, whether public interest consideration should operate to vitiate their duty to their client, Credit Suisse.

## **I. Is There a Duty Owed to the Plaintiffs?**

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<sup>24</sup> Ronald Godlfarb, "Guilt by Association: Lawyers Should be Judged by the Clients they Keep." *Washington Post*, Sunday, April 6, 1997; p. C03.

<sup>25</sup> *Ibid.*

The first step in resolving this dilemma is to ask what duty, if any, the associates at Cravath owed to the plaintiffs, the families of holocaust victims. As a precursor to my analysis of this issue, I think it necessary to elaborate upon the notion of “duty”. Duties are inexorably related to rights: a duty can only arise where a correlative right exists. Thus, a lawyer’s duty to his or her client is the corollary of the right the client may claim vis-à-vis the lawyer. Although it is clear that a lawyer owes a duty to protect the interest of his or her client within the bounds of the law, it is uncertain which duties, if any, a lawyer owes to an opposing party. To answer this question, we must ask which rights, if any, a party may assert in relation to opposing counsel.

A party has no *prima facie* right to the protection of their interests by opposing counsel; such a right would create a conflict of interest anathema to the adversarial system. This assertion is supported by the Law Society of Upper Canada’s [LSUC] comments on the role of the lawyer as an advocate:

In adversary proceedings the lawyer's function as advocate is openly and necessarily partisan. Accordingly, the lawyer is not obliged (save as required by law or under these rules and subject to the duties of a prosecutor set out below) to assist an adversary or advance matters derogatory to the client's case.<sup>26</sup>

The imperative of partisan representation is derived from the right to counsel, which is fundamental to the rule of law. Individuals must not only have access to a lawyer who will protect and represent their interests before the law, but their advocate’s loyalty must not be divided. Because parties have no *prima facie* right to the protection of their interests by opposing counsel, counsel has no *prima facie* duty to protect the interests of opposing parties. Therefore, if the associates at Cravath are under a duty to serve the interest of their client’s adversaries, this obligation must flow from their duties as officers of the court.

As officers of the court, it is said that lawyers are under a duty to protect and serve the public interest. Although the notion of public interest is ambiguous, we can shed some light onto the matter by reference to general principles of legal ethics and to the rules of professional conduct of various law societies. In a free and democratic society, the fair administration of justice is a central component of this duty.<sup>27</sup> In addition, lawyers are under a more general obligation to defend the public good. The public good may include, *inter alia*, the protection of minorities or

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<sup>26</sup> Comment on Rule 4.01 of the Law Society of Upper Canada’s [LSUC] *Rules of Professional Conduct*.

<sup>27</sup> For example, Rule 4.06(1) of The Law Society of Upper Canada’s *Rules of Professional Conduct* mandates that the lawyer shall “encourage public respect for and try to improve the administration of justice”

vulnerable groups, a respect for the fundamental values of justice, equality and fairness, and care for the welfare of others. A lawyer's duty to serve the public good is reflected in Rule 1.03(1) of the LSUC's *Rules of Professional Conduct*:

A lawyer has special responsibilities by virtue of the privileges afforded the legal profession and the important role it plays in a free and democratic society and in the administration of justice, including a special responsibility to recognize the diversity of the Ontario community, to protect the dignity of individuals, and to respect human rights laws in force in Ontario[...]<sup>28</sup>

The LSUC's articulation of a lawyer's general duty to the public is but one of many, and there is no widely accepted understanding of the content of the duty to protect public interest.<sup>29</sup> Although the individual lawyer may make use of this and other articulation of the public good as a guideline for their professional conduct, ultimately, it is for the individual to assess what this duty calls for in any given situation. In the penumbra of legal ethics, where the mandates of the duty to protect the public interest are unclear, it is for each individual lawyer to determine the content of this duty and weigh it against the duty owed to the client.

The authors of the memo must have implicitly assessed their duty to serve and protect the public interest as requiring them to ensure a "fair and honourable resolution for those who suffered at the hands of the Nazis and their collaborators."<sup>30</sup> Having ascertained that a duty to serve the interest of the plaintiffs exists, we must ask whether this duty is compatible with the duty to advocate zealously on behalf of the client, Credit Suisse.

## **II. Irreconcilable Duties**

The associates stated that they could not "at the same time" fulfill their obligation to the plaintiffs and their duty to advocate zealously on behalf of their client. In coming to this conclusion, the associates implicitly evoke the circumstances under which the legal dispute arose, and more particularly, the moral repugnancy of their client's actions.

Credit Suisse, an alleged Nazi collaborator, profited from laundering the looted property of holocaust victims, and indeed, concealed their involvement in this affair.<sup>31</sup> By representing Credit Suisse, Cravath would be imbuing their client's immoral behaviour with the imprimatur of

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<sup>28</sup> Rule 1.03(1) of the LSUC's *Rules of Professional Conduct*.

<sup>29</sup> Deborah L. Rhode, "The Advocates Role in the Adversary System" *In the Interests of Justice: Reforming the Legal Profession* (Oxford: Oxford University Press, 200) at p. 48.

<sup>30</sup> Goldfarb.

<sup>31</sup> Goldfarb.

legitimacy, and would defend the banks actions and interests against an adversary who has been so horrifically wronged.<sup>32</sup>

The associates' moral judgment of Credit Suisse's actions is the very foundation for the ethical calculus which led them to conclude that they could not at once fulfill their duty to the public (and by association their obligations to the plaintiffs) and their duty to their client. When the duty owed to the public is so pressing and substantial, and deals with a matter of such fundamental importance, a duty to the client may be overborne. In this case, the families' right to a fair and honourable resolution, given the context of the genocide and the sheer magnitude of the injustices committed against the victims of the Holocaust, outweighs Credit Suisse's right to legal representation by the associates.<sup>33</sup>

We must pause here to ask whether the authors of the memo were right to judge that public interest considerations vitiate Credit Suisse's right to legal representation. If the competing duties owed to Credit Suisse and to the plaintiffs are fundamentally irreconcilable, then it appears that the dilemma raised in the memo cannot be resolved. However, if the associates have erred in their assessment of the ethical conundrum, then a resolution may yet be possible.

By what standard should we assess their conclusion? The balancing of competing duties is a subjective operation. Because the notion of public interest is so fundamentally ambiguous<sup>34</sup> no objective standard exists for assessing when public interest considerations ought to supersede the right to legal representation. If the standard is subjective, then it is difficult to argue that the associates erred in their assessment of the dilemma because this evaluation is fundamentally a matter of individual perception and moral judgment. However, a conclusion that the associates did not err in their judgment begs the more general question of whether lawyers should be making moral judgments at all in their professional capacity.

### **III. Morality and Neutral Partnership**

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<sup>32</sup> Goldfarb.

<sup>33</sup> In most cases, the right to legal representation will not be outweighed by public interest considerations. Indeed, the protection of this right, which is so fundamental to the rule of law, is in the public interest. It is only in the difficult cases, such as this one, when other public interest considerations will come into play, and potentially supersede this right.

<sup>34</sup> See *Spar* the discussion of the notion of public interest, at pp. 5-6. Although the notion of public interest is ambiguous, this should not preclude lawyers from applying it in their ethical calculus. Deborah Rhode notes that although some lawyers argue that they *ought* not to, or *cannot* pass judgment on what constitutes the "public interest", when ethical standards regulating a lawyer's own conduct is at issue, lawyers generally have no similar qualms about assessing where the public interest lies. See Rhode at p. 58.

Some legal philosophers have argued that lawyers ought not make ethical judgments in regards to their clients' actions, but act only as their clients' neutral advocate. If we accept the theory of neutral partisanship, then it seems that the dilemma set out in the memo may be resolved by positing that the associates should not have relied on personal ethical views to judge their client's actions,<sup>35</sup> nor should they have engaged in the kind of ethical calculus described above. Instead, the associates should have taken on the essentially technical role of lawyer.<sup>36</sup>

Proponents of this theory argue that lawyers who incorporate their personal values into the professional arena abandon the public trust and abuse their monopolistic privileges.<sup>37</sup> In the criminal context, the importance of neutral partisanship is particularly acute. As Greenspan writes: "No defendant should have to pass a trail of conscience by his own lawyer in addition to his trial in court."<sup>38</sup>

Though the case for neutral partisanship seems particularly strong in the criminal context, where an individual's freedom is at stake, it is more difficult to uphold the view in the civil context. As Deborah Rhodes notes, there is an overreliance on the criminal defense model as an all-purpose paradigm for the lawyer's role. She argues that the vast majority of legal work involves the representation of corporations and wealthy individuals in a system that is "scarcely hostile to their interests."<sup>39</sup> In the civil context, therefore, the theory of neutral partisanship seems to be nothing more than a self-serving and even hypocritical justification for taking on the cause of wealthy clients whose actions are morally dubious.<sup>40</sup>

However, I would argue that the most problematic aspect of the theory of neutral partisanship is that it purports to protect personal dignity and autonomy.<sup>41</sup> Rights based justifications for zealous advocacy fail because they only protect the autonomy of the client, and ignore the autonomy of the lawyer. To hold that lawyers may not legitimately make moral judgments in regards to their clients is to deny them status as moral agents. In doing so, the justification for holding lawyers responsible for the consequences of their actions disappears.

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<sup>35</sup> Ibid.

<sup>36</sup> Rob Atkinson, "How The Butler Was Made to Do It: The Perverted Professionalism of the Remains of the Day" (1995) 105 Yale L.J. at p. 189.

<sup>37</sup> Alan Hutchinson, "An Alternative Vision: A Contextual and Pragmatic Approach" in *Legal Ethics and Professional Responsibility* (Toronto: Irwin, 1999) at p. 51.

<sup>38</sup> Edward L. Greenspan and George Jonas, "Greenspan: the Case for the Defence" (Toronto: MacMillan) at p. 283.

<sup>39</sup> Rhode at p. 55.

<sup>40</sup> Goldfarb argues that the fact that there are so many poor clients that don't have lawyers, and so many rich "scoundrels" that due, smacks of hypocrisy in the name of ethics. See Goldfarb.

<sup>41</sup> Rhode at p. 53.

It is a general principle of ethics that individuals are held accountable for their actions because as moral agents they could have pursued an alternate course of action. However, when a client asks a lawyer to pursue a legal, though immoral, course of action, then according to the theory of neutral partisanship, the lawyer has no choice to do otherwise. Therefore, if we want to hold lawyers accountable for actions taken on behalf of their clients, the theory of neutral partisanship ought to be abandoned. Lawyers must be given the power to make ethical judgments about their clients' actions and demands, and choose the moral course of action. The dilemma set out in the memo, therefore, remains.

## **Conclusion**

If lawyers may legitimately make moral judgments in regards to their client's case, then the authors of the Cravath memo ought to be free to determine what their duty to protect the public interest demands of them. If they found that their duty to protect the public interest by ensuring a fair and honourable resolution for the plaintiffs is fundamentally incompatible with their duty to advocate zealously on behalf of their client, then the dilemma set out in the memo cannot be resolved.

When Dante wrote that "the lowest circle of hell is reserved for those who, in times of great moral crisis, have maintained neutrality", he may not have been referring to lawyers, but his assertion nevertheless rings true in this context. After the Enron fiasco, it is simply no longer acceptable for lawyers to claim moral neutrality and distance themselves from clients who trample over the rights and interests of third parties.

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# MORAL COGNITIVISM, TRUTH AND NORMATIVITY

Boris Babic

Moral cognitivism in ethics holds that moral judgments are truth apt. But predicating truth or falsity of moral judgments requires an epistemic infrastructure which allows for objectivity. So, antirealist attempts to do away with truth and objectivity constitute the first challenge facing Moral Cognitivists. If we cannot defend truth at large, we cannot, *a fortiori*, defend truth in ethics. For this reason, in the first part of this essay I will offer a plausible rudimentary sketch of the concept of truth, devoid of correspondence and representationalism, as a response to Richard Rorty. From this sketch, owing much to the work of David Wiggins, I will derive two characteristics of truth: 1) convergence in belief and 2) justification through vindicatory explanation. These characteristics will serve as necessary truth conditions for a moral cognitivist program. But there exists a constraint, I hope to persuade, which precludes the possibility of an *a priori* cognitivist program. So, I will consider the natural choice given the constraints - Railton's *a posteriori* reductionist naturalist cognitivism – and show that it meets my conditions. Railton's program, therefore, will be shown to contain a preliminary solution of the problem of truth in moral cognitivism. I will then use both Wiggins' and Railton's contributions to attempt a solution of the second challenge facing moral cognitivists: normativity. I will argue that there is no hope for a strong conception of normativity in ethics – a conceptual connection between reasons and obligations – but that there is indeed good hope for a slightly weaker one. My thesis is that, satisfying necessary truth conditions and accounting for a weak conception of normativity, a naturalist cognitivist Wiggins-Railton composite moral framework, as developed in this essay, is in relatively good standing.

## **I. Cartesian Epistemology**

The traditional Cartesian epistemological framework is foundationalism. Foundationalism suggests that we build knowledge upon established first principles. But this process requires both certainty of first principles and the possibility of isolating them. As Charles Taylor suggests, a certain holism gets in the way.<sup>42</sup> The atomic elements that could figure into a foundational framework as first principles are necessarily interconnected with other [atomic] elements. My perception of a basic piece of the world would depend on a number of supportive elements; for

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<sup>42</sup> Charles Taylor, "Rorty and Philosophy," in *Richard Rorty*, ed. Charles Guignon and David Hiley, 160 (Cambridge: Cambridge University Press, 2003).

example, my perception of “there’s a rabbit” depends on my having my feet in a certain place and inclining my head at a certain angle.<sup>43</sup> So foundationalism breaks down under this description.

However, foundationalism as described above is required for representationalism, epistemic dualism, or correspondence theories. Atomic bits of information internal to the mind, foundationalist dualisms claim, are informed by the external world. So, according to correspondence theories of truth, our beliefs are true if and only if they correspond to an external reality independent of the knowing agent. In other words, our representations are true by virtue of the independent existence of that which they represent. But with the breakdown of foundationalism, a consensus emerges in philosophy that this traditional Cartesian epistemic framework is inadequate as a framework for truth. Further, representation or correspondence in and of itself is seen as problematic. Through correspondence we fall into thinking that “we are in touch with something greater than ourselves – a secular counterpart to the idea of being at one with the divine.”<sup>44</sup> Yet the sheer contingency and uncertainty that attaches to our “historically evolved cultural position” precludes any possibility of direct correspondence.<sup>45</sup> Granted, we accept correspondence in our everyday lives. My belief “there exists a chair under me” is true because it corresponds to the chair on which I sit. But the problem lies in speculative and analytic domains of thought. To what does my belief “thou shall not kill” correspond? For this reason, Richard Rorty claims that the whole objectivity enterprise is poisoned and suggests we forget about the relation of ideas to reality. But other philosophers claim that you do not just walk away from truth and objectivity altogether. Even if it is the case that foundationalism as an epistemic authority is bankrupt, it does not follow that truth and objectivity are out of reach. Bringing the problem home to ethics, David Wiggins remarks, “Cognitivism...depends entirely on taking truth substantially and seriously.” For these reasons, if cognitivism is to succeed in moral philosophy, it is necessary to respond to Rorty and others who write of objectivity.

## **II. An alternative**

I propose a Tarskian semantic framework for interpreting the concept of truth which will a) undermine both Rorty’s claim that there are no normative uses of truth save correspondence, and Rorty’s claim that there is no justification save acceptance by competent peers in a going practice; and b) prove instrumental to the development of a moral cognitivist programme. We will be able to use the semantic understanding of truth in order to elucidate the characteristics that attach to the concept of

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<sup>43</sup> Ibid.

<sup>44</sup> John McDowell, “Towards Rehabilitating Objectivity,” in *Rorty and His Critics*, ed. Robert Brandom, 115 (Malden MA: Blackwell Publishing, 2000).

<sup>45</sup> Ibid.

truth. With this information we can evaluate whether moral judgments can be true or false by asking whether or not they meet such characteristics.

In § 1 of “The Concept of Truth in Formalized Languages,” Tarski attempts a semantical definition of truth in colloquial languages.<sup>46</sup>

(1) *A true sentence is one which says that the state of affairs is so and so, and the state of affairs indeed is so and so.*

Next, by giving (1) a correct form and clarity, we get the general scheme

(2) *x is a true sentence if and only if p,*

where *x* is a placeholder for the name of any individual sentence and *p* is that sentence.

But a problem arises in the case of ordinary language. Ordinary language is unbounded and limitless. As a result, we get expressions like the liar paradox: ‘this sentence is false.’ If it is false that this sentence is false, then this sentence is true and if this sentence is true then it cannot be false. Consequently, in § 2 Tarski offers a definition of the concept of truth in an artificial bounded language. This language is free from universalizability by virtue of being artificially constructed. But if the formalized language is to be free from paradoxes such as that of the Liar, then it must be the case that some sentences that are true in the artificial language cannot be coded back into the meta language lest we go full circle back to where we started and face the problem of colloquial languages. Consequently, an utterance such as “*x* is not a true sentence” is not a genuine proposition; it will not be treated as such in the artificially constructed language because doing so would commit a syntactic error. This argument shows the benefit of using a formalized language to offer an adequate definition of truth. It does not belong to Tarski alone – indeed it originated with Russell’s doctrine of types - but it follows from his claim that a definition of truth is not possible in a colloquial language but is indeed possible in a simple artificial language. The formalized definition of truth that emerges is Tarski’s Convention T.

A formally correct definition of *Tr* [true sentence] will be called an adequate definition of truth if and only if for each sentence *x*, if  $x \in Tr$ , then there exists a biconditional theorem for each *x* such that  $x \equiv p$ .

### **III. Tarskian Truth in Moral Cognitivism**

I will now develop the significance of the foregoing account of truth to moral cognitivism. First of all, disquotational truth is distinct from correspondence. Rorty recognizes that the disquotational use of true is distinct.<sup>47</sup> But he claims that, as a theory of truth, it is not a rival to correspondence because it is strictly descriptive. For Rorty, the troubling

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<sup>46</sup> Alfred Tarski, *Logic Semantics and Metamathematics*, trans. J.H. Woodger (Oxford: Clarendon Press, 1956), 154.

use of truth is the normative use or justificatory use. The problem arises when we say that  $x$  is thus and so is true not by virtue of acceptance by a competent audience in the going practice, but by correspondence with an independent reality which is impossible to ever know, for it requires us to, in Nagel's words, climb outside our own minds or stand *sub specie aeternitatis*.<sup>48</sup> McDowell, however, shows that it is not the case that disquotational truth is strictly descriptive. It indeed contains a justificatory aspect, one which is not relevant to an audience. To evaluate a moral judgment such as "thou shall not kill" we ask not "true for whom?" but "true in the light of what?" The answer is likely to be one that connects the truth of this belief to convergence on this belief and to the best explanation of why we hold the belief in the first place. The answer need not claim either that "thou shall not kill" is a belief which corresponds to a proper referent in the external world or that "thou shall not kill" is "answerable to the world." If this is so, then an attack on correspondence theories of truth is not an attack on objectivity altogether or on truth proper. I will now demonstrate that this is indeed so with regard to moral judgments.

In his essay "Truth as Predicated of Moral Judgments," David Wiggins elucidates explicitly from the Tarskian account of truth, as outlined in the foregoing, certain characteristics of truth which yield necessary conditions for a subject matter's truth functionality.<sup>49</sup> I will explain the conditions that follow from Tarskian truth, then consider the sort of moral cognitivism that could meet these conditions. This will help us understand what makes moral judgments true.

Tarski's intention was truth in formalized language. It does not convey much about truth beyond the general idea of what it means for  $x$  to be thus and so. Consequently, it is difficult for a moral cognitivist to work directly with the concept of truth as defined by Tarski. Recognizing, as I do, the removedness of Tarski's theory of truth from morality proper, Wiggins asks "what must Tarskian true sentences be like?" By answering this question we elucidate characteristics of the property 'truth.' These characteristics serve as standards by which we assess truth aptness of moral judgments and, in turn, moral cognitivism. This way we avoid correspondence or answerability to the world.

Wiggins suggests that, based on our Tarskian understanding of truth, we should expect that if  $x$  is true, that is, if it conforms to the Tarskian biconditional theorem  $x \equiv p$ , then a)  $x$  will under favorable circumstances command convergence in belief among people, and b) the best explanation of the convergence of  $x$  will require the actual truth of  $x$ .<sup>50</sup>

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<sup>47</sup> Richard Rorty as quoted in John McDowell, "Towards Rehabilitating Objectivity," 115.

<sup>48</sup> John McDowell, "Towards Rehabilitating Objectivity," 115.

<sup>49</sup> Wiggins, *Needs, Values, Truth*, (Oxford: Blackwell Publishing, 1987). See Essay IV §5, §6 and Postscript §3.5.

<sup>50</sup> *Ibid.*, 147.

Suppose I believe  $x$  is thus and so, and consider again the example “the sun is shining today.” Now, Wiggins argues, if  $x$  is thus and so, then either (a) it must be capable of impinging on others the way it impinged on me, or (b) I must be able to account for its inaccessibility to others.<sup>51</sup> So either it will be the case that my peers and those around me realize that the sun is shining today or I must be able to account for the inaccessibility of this truth to them. Consequently, I would find it disturbing if nobody else were prepared to agree with me unless either (b) is met or I am simply wrong.<sup>52</sup>

If I believe that  $x$  is thus and so, my belief, if it is to be called a *belief*, must, in principle, be answerable to whether  $x$  is indeed thus and so. This uncontroversial condition of interpretation extends to all moral agents. So we have to see other agents around us as constantly adjusting their beliefs to something. But then, the failure of these agents to “apprehend a truth that is there to be apprehended” is something we must explain.<sup>53</sup> So absent some explanation, again I expect convergence on my belief that  $x$  is thus and so. Now Wiggins notes that this is not a case of agreement by consensus. This is a case where convergence is occasioned by the fact that  $x$  really is thus and so. The reason we all hold the belief “the sun is shining today” is not because it is good for us to believe it or because it is a belief that has passed muster among members in society, but because the sun really is shining today. This means in effect that the best explanation of the belief that “ $x$  is thus and so” or “the sun is shining today” will require  $x$  to really be thus and so or the sun to really shine today. Wiggins calls this a vindictory explanation. A vindictory explanation says that  $x$  is true if and only if, given the best possible explanation, there is nothing to think but that  $x$  is true.

Convergence is one characteristic of truth. So to both the question “what must a true belief  $x$  be like?” and the question “in light of what is  $x$  true?” we answer  $x$  will, *inter alia*, command convergence among subjects. Further, the best explanation of this convergence will require the actual truth of  $x$ . So if “ $\sim(p \ \& \ q) \equiv (\sim p \vee \sim q)$ ” is true, then, pending proof and explanation, we should expect either a convergence among subjects that “ $\sim(p \ \& \ q) \equiv (\sim p \vee \sim q)$ ” or some explanation for the lack of convergence. Further, the best explanation of convergence in believing that “ $\sim(p \ \& \ q) \equiv (\sim p \vee \sim q)$ ” will require the actual truth of “ $\sim(p \ \& \ q) \equiv (\sim p \vee \sim q)$ ”. This stratagem will extend beyond axiomatic theorems such that a belief of the sort “thou shall not kill” will have to meet the same conditions. We have successfully derived the claim that the truth of a proposition can be understood without reference to correspondence. We may simply say belief

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<sup>51</sup> Ibid., 149.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid., 150.

$x$  will be true if and only if it demands convergence in belief and if the best explanation of this belief requires the actual truth of  $x$ .<sup>54</sup>

Because true beliefs command convergence among subjects, convergence in beliefs is a necessary condition for a cognitivist moral theory. And because a vindicatory explanation of a widely held belief is one that requires the actual truth of that belief, moral cognitivism – save error theory – will deem it necessary for the actual truth of widely held moral judgments to figure ineliminably into a vindicatory explanation of convergence among those judgments.

#### **IV. A constraint**

We are almost in a position to consider which, if any, moral cognitive theory is able to meet the truth-conditions set out above. We must, however, keep one further constraint in mind. In “Moral Cognitivism, Relativism and Beliefs,” Wiggins admits:

Unlike so many philosophical positions, moral cognitivism cannot even pretend that it reposes upon an *a priori* foundation. The thesis is grounded, if in anything, then in the peculiar nature, strength and dialectical and persuasive resources that can be mustered within the subject matter of morality itself. It is a form of speculative optimism.<sup>55</sup>

I agree with Wiggins that moral cognitivism cannot aspire to an *a priori* foundation, but his account of speculative optimism is very pessimistic. In the Postscript to *Needs, Values, Truth*, he claims “Cognitivism as I assess it depends entirely on taking truth substantively and seriously.” He goes on to defend truth from relativists, subjectivists and “those philosophers who are ready to write off the idea of truth.”<sup>56</sup> Alas, shortly afterward in “Moral Cognitivism, Relativism and Beliefs,” Wiggins declares, in a very Rortian vein, that moral cognitivism is grounded, not in taking truth substantively and seriously, but in the dialectical and persuasive resources that can be mustered in the going practice – and assessed, I infer, by competent peers and judges. This is a both unfortunate and unnecessary surrender to “truth by consensus,” which he so detests.

If there is no hope for an *a priori* grounding of moral cognitivism, I hope and believe that the thesis can still be assessed without reference to our peers in the going practice. I assume Wiggins would agree if I could convince him. Consider a more optimistic remark from “Moral Cognitivism, Relativism and Beliefs”: “It may seem that any proper

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<sup>54</sup> I hold these conditions to be jointly sufficient in this essay but if further truth conditions can properly be elucidated that only improves our understanding of truth.

<sup>55</sup> David Wiggins, “Moral Cognitivism, Relativism and Beliefs” *Proceedings of the Aristotelian Society* 91, (1991): 79.

<sup>56</sup> Wiggins, *Needs Values, Truth*, 332.

philosophical foundation is, if true, true *a priori*. But that is just a prejudice.”<sup>57</sup> So if there is hope for sustaining a moral cognitivism that is assessed independently of consensus, it will necessarily be a synthetic or a posteriori moral cognitivism. The position we are now suggests Railton’s cognitivism with which we might be able to satisfy the conditions set out by Wiggins.

## **V. An a posteriori moral cognitivism: Railton’s naturalist reductionism**

Railton claims to be both a methodological naturalist and a substantive naturalist who entertains a synthetic moral cognitive reductionist hypothesis. Naturalism in ethics holds that moral properties are the subject matter of the empirical sciences.<sup>58</sup> A methodological naturalist in ethics is someone who adopts an empirical a posteriori explanatory approach.<sup>59</sup> A substantive naturalist goes one step further, and proposes a *semantic interpretation* of ethical concepts in terms of properties that pull their weight within an empirical science.

Railton is a committed methodological naturalist because he sets out to search for an a posteriori account of the “origin, nature, and function” of moral judgments. He is a non-committed substantive naturalist because he attempts a synthetic identification of moral value with a complex non-moral property.<sup>60</sup> This attempt, in effect, renders him a reductionist. He reduces moral value to a complex non-moral property which is, on his hypothesis, contribution to non-moral goodness from a social point of view. Finally he is a synthetic, not analytic, naturalist because he proceeds via a *reforming* definition of moral value which is to be vindicated by its contribution to an a posteriori explanation and understanding of morality and its place in our world: “If the best a posteriori account of moral discourse attributes expressive rather than cognitive meaning to moral expressions, my sort of naturalist would end up arguing that what Wiggins calls the ‘cognitive aspiration’ of moral discourse can not be vindicated.”<sup>61</sup>

## **VI. Subjecting Reductionism to Necessary Truth Conditions**

No cognitive program of moral judgments will be adequate unless it meets the truth conditions articulated above. A moral belief such as

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<sup>57</sup> Wiggins, “Moral Cognitivism, Relativism and Beliefs,” 79.

<sup>58</sup> G.E. Moore, *Principia Ethica*, Revised ed., ed. Thomas Baldwin (Cambridge: Cambridge University Press, 1993), 92.

<sup>59</sup> Peter Railton, “Reply to David Wiggins,” in *Reality Representation and Projection*, ed. John Haldane and Crispin Wright, 315 (Oxford: Oxford University Press, 1993).

<sup>60</sup> Peter Railton, “Reply to David Wiggins,” 316. Non-committed because, if methodological naturalism yields a different conclusion, for example an expressivist one, he will be obliged to accept it.

<sup>61</sup> *Ibid.*

“it is good to tell the truth,” Railton argues, synthetically identifies with “telling the truth contributes to the well-being of individuals in society from a social point of view.” So we must assess whether there is convergence on the belief that telling the truth is good *because* doing so contributes to well-being impartially assessed.

In “Moral Realism,” Railton implicitly shows there is. He does this by arguing for a *general trend* toward social rationality, social rationality being roughly the maximization of non-moral goodness from an impartial point of view. First, the principle of *Generality*: Throughout history, people accumulated into ever-larger social units – from tribes to nation-states – and the scope of moral categories has expanded in accord with these larger social units. Second, the principle of *Humanization*: Corresponding with these expanded moral categories, that is inclusion of larger groups into one’s scope of morality, is an *emerging consensus*, i.e., *convergence*, that there is some sort of intrinsic connection between moral beliefs and effects on human interests. In other words, there is convergence on the belief that telling the truth is good not because it is a commandment of supernatural origin grounded in the will of a deity, but because it has a positive effect on non-moral human interests.<sup>62</sup> Explicitly then, there is convergence on the belief that telling the truth is good because it contributes to well-being impartially assessed. Railton’s reductionist naturalism meets the convergence condition as set out by Wiggins.

Now consider the best explanation of the belief that telling the truth is good because doing so contributes to well-being impartially assessed. Is it tenable to offer such an explanation without the actual truth of the claim that telling the truth is good because it contributes to well-being impartially assessed? A few centuries ago the answer might have been in the affirmative because telling the truth was considered a commandment of supernatural origin, so the best explanation would inevitably have invoked this notion – suggesting perhaps that contribution to well-being impartially assessed is a heretic’s way of describing supernatural commands. But subscribing as Railton does to a principle of humanization, I suggest that across the secular world there is an intrinsic connection, however weak, between moral judgments and effects on human interests. Truth telling is a virtuous institution because it helps us get by in this world: we depend on each other for effective communication and cooperation. Telling the truth is part of a tacit social contract to which we necessarily subscribe in order to live and grow. So, the best explanation of the belief that truth telling is good because it contributes to well-being impartially assessed requires the truth of the judgment that at least some people hold the institution of truth telling to be good because it contributes to well-being impartially assessed. Finally, the belief that truth telling is good because it contributes to well-being impartially assessed is true because, upon exhausting modern methods of analysis, we are left with nothing else to believe but that truth telling is good

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<sup>62</sup> Peter Railton, “Moral Realism,” in *20<sup>th</sup> Century Ethical Theory*, ed. Steven M. Cahn and Joram G. Haber, 694 (Upper Saddle River NJ: Prentice-Hall), 1995.

because it contributes to well-being impartially assessed. It appears that Railton's reductionism fits the conditions of truth as derived by Wiggins from Tarski's disquotational theory of truth.

## **VII. Combining Our Resources to Account for Normativity**

The conception of normativity in ethics suggests that moral obligations carry with them categorical reasons for action. Categorical reasons are non-hypothetical in the sense that a change in our desired ends cannot exclude us from the scope of a moral obligation. In other words, they apply unconditionally. I am under a moral obligation only if I have a categorical reason or motive to comply with the obligation. There is thus a non-contingent link between moral obligations and reasons or motives. If you convince me that giving to UNICEF is my moral duty, and if I am in a position to give, then, barring some conceptual confusion, I ought either to give or feel ashamed for not giving.

First, we must acknowledge our limitations. The traditional conception of normativity is set up in a way that one must, out of logical necessity, act as moral obligation commands one on pain of irrationality. This conception, which I shall call the strong conception of normativity (this is a restatement of internalism in moral psychology), is not readily reconcilable with the phenomenology of moral experience. The strong conception of normativity does not allow for features of human experience like weakness of the will. This point is well put by Michael Stocker in his "Desiring the Bad: An Essay in Moral Psychology":

Through spiritual or physical tiredness, through accidie, through weakness of body, through illness, through general apathy, through despair, through inability to concentrate, through a feeling of uselessness and futility, and so on, one may feel less and less motivated to seek what is good.<sup>63</sup>

A more tenable position, then, would be one that does not demand a necessary conceptual link between morality and motivation. I shall call this position a "weak conception of normativity." This weak conception, defended above by reference to the phenomenology of moral experience, is *en rapport* with both Wiggins and Railton. It can, by combining the strengths of the two authors, be salvaged from the internalist threat.

Wiggins states that it is important "not to exaggerate the quality or quantity of the normativity phenomenon itself."<sup>64</sup> Although a necessary connection between moral judgment and motivation is untenable, we can still entertain, upon factoring in weakness of will and the like, "a necessary

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<sup>63</sup> Michael Stocker, "Desiring the Bad: An Essay in Moral Psychology" *Journal of Philosophy* (1979): 744. (I am indebted for this reference to Michael Smith).

<sup>64</sup> David Wiggins, "Cognitivism, Naturalism, and Normativity: A Reply to Peter Railton," in *Reality Representation and Projection*, ed. John Haldane and Crispin Wright, 306 (Oxford: Oxford University Press, 1993).

connection between [moral judgments] and *defeasible* reasons of some kind” [emphasis added].<sup>65</sup> Wiggins maintains that it is possible for a belief in itself to account for someone’s acting thus or so, but it does not *necessarily* account for this. He remarks, “obviously ‘a mere belief’ *need* not do so. But to say that is not to say that the right sort of belief with the right sort of *content* cannot” [emphasis added].<sup>66</sup> This is a juncture at which Railton’s reductionism can naturally enter and elucidate the right sort of belief with the right sort of content.

Railton would indeed subscribe to the weak conception of normativity as developed so far. In “What the Non-Cognitivist Helps us to See the Naturalist Must Help Us to Understand,” he claims that “strictly speaking nothing could at once oblige and be resistible. But there is no prospect of anything like this sort of ‘must’ in the case of morality.”<sup>67</sup> The first order of business, then, is to show that motivational states which attach to moral obligations are, on a reductionist account, non-hypothetical in the sense that they are not contingent on our desires. Since categorical reasons as envisaged by Kant are out of reach, the second is to find a tight enough link between moral obligations and corresponding motivational states. Then we can evaluate whether moral beliefs on Railton’s account are of the right sort and possess the right content to maintain the link.

The first task is simple: There is no difficulty in showing that there exist *moral* reasons with moral obligations. If a moral reason is the sort of reason that emerges from a moral point of view, then we can expect that whenever an obligation exists, so does a *moral* reason for carrying it out.<sup>68</sup> So when the partial agent acts, she may be said to have internalized the moral reason through social and behavioral conditioning. Such a reason may not hold conceptually but it is not contingent on desires either.

The second task is now easily within reach. I mentioned above that, on Railton’s account, moral obligations such as telling the truth are conditioned through a variety of social institutions and sanctions. In other words, the appropriate domain of moral obligation is our own creation. This squares with our *a posteriori* approach because the appropriate domain, that is, the set of moral obligations which maximize well-being impartially assessed, is not frozen in time and space but is subject to social contingency. If this is so, then we can easily see how it is almost always the case that when an individual has an obligation, she or he has a reason for carrying it out. In other words, there is a very tight link, though not a conceptually necessary one, between moral obligation and a reason to carry it out. This weak conception of normativity, unlike the strong internalist one, reflects accurately the phenomenology of moral experience. Most of us do tell the

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<sup>65</sup> Wiggins, “Moral Cognitivism, Relativism, and Beliefs,” 81.

<sup>66</sup> Ibid.

<sup>67</sup> Peter Railton, “What the Non-Cognitivist Helps Us to See the Naturalist Must Help Us to Understand,” in *Reality Representation and Projection*, ed. John Haldane and Crispin Wright, 294 (Oxford: Oxford University Press, 1993).

<sup>68</sup> Ibid., 295.

truth most of the time, because we have internalized the virtue through social conditioning. Furthermore, the link, not being a conceptual one, can be broken since particular agents may fail to fully internalize a recognized moral obligation or may be lucky enough to evade external sanction.<sup>69</sup>

### **VIII. Conclusion**

In this essay I have used a theory of truth devoid of correspondence in order to elucidate some characteristics of truth. I have found that Railton's reductionism both meets those characteristics and accounts for a conception of normativity. I cannot claim to have met all the objections from expressivists or cognitivist internalists, but I hope to have opened up the possibility to do so. The next natural steps would be to explore in further detail the relation between Tarskian semantics and moral judgments and the tenability of the weak conception of normativity.

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<sup>69</sup> Ibid., 295-296.

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# ON MAKING “THE FREEDOM OF EXISTENTIALISM” ACCESSIBLE TO WOMEN<sup>70</sup>

Rupali Sharma

## **Abstract**

John Paul Sartre maintains that a “good novel” can neither endorse nor refrain from condemning the subordination of a people by another people. In this paper, I attempt to demonstrate the falsity of his claim. Though I argue that a work must affirm or raise questions about the value of freedom in some way for it to be considered a valuable text, the fact that a piece entails the marginalization of a given group still allows for the possibility that it can enrich our understanding of transcendence, resistance or subjectivity, for example.<sup>71</sup> While maintaining that Sartre’s literary piece, *Nausea*, is a “good work,” (i.e. that it is useful for working towards the objective of realizing freedom, both at an individual and collective level) I point out how women are too often subordinated as they appear as part of Sartre’s literary “landscape.”

I identify instances in *Nausea* where the authenticity of a woman’s actions is unfairly dismissed due to the fact that the “original” existential model of embodiment is implicitly male (most likely because Sartre himself was male). In other words, the way that Sartre envisions the hypothetical, free subject, a vision which is meant to apply to all of mankind, is only conducive to envisioning the male experience of freedom. I propose a feasible alternative to this limited and (hence) unrealistic conceptualization, taking care to simultaneously emphasize the overall value of Sartre’s approach to freedom. For this reason, unlike gynocentric feminists like Mary O’Brien, who have critiqued Sartre’s work in the past, I do not desire to discard, so much as modify Sartre’s model of embodiment. Like feminists Constance L. Mui and Sarah Hoagland, whose work I will utilize to advance my argument, I believe that making modern feminism *compatible* with existential thought may very well be necessary for

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<sup>70</sup> My treatment of women in this paper is largely limited to white females. In other words, I do not take into account the additional and important factor of race when making my arguments, believing that it deserves its own, extensive analysis. Moreover, I treat “women” as category that is capable of being spoken about by virtue of the way that it is thought of in society, despite the diversity of members who comprise the group.

<sup>71</sup> My use of these terms is rooted in Sartre’s Existentialism. Thus, “transcendence” refers to the act of overcoming one’s facticity or circumstances to actualize choices; “resistance” is similar to “transcendence” insofar as it implies an unwillingness to accept “what is”; and “subjectivity” can be thought of as one’s agency or capability for action (as opposed to passivity in the face of concrete struggles).

women's liberation from patriarchy. This of course leaves little doubt as to the merit of *Nausea* as a text, despite its mostly unfair treatment of female characters.

### **What it means to be a “Male” Model of Embodiment**

To begin, I will explain why the original existential model of embodiment is problematic for women, which in turn helps us understand why a man who was so admirably preoccupied with the realization of freedom would fail to recognize instances of women's attempts to exercise it in his literary work. To do so, we must take into consideration the work of Simone de Beauvoir, a revolutionary feminist who is thought to have shared Sartre's conceptualization of the free subject. In *The Second Sex*, Beauvoir claims that there is, "...apart from and beyond patriarchal arrangements surrounding women's fertility, something *inherently* oppressive about women's reproductive biology" (Mui 107). This intimates that Sartre's approach to freedom, according to which one must overcome existing circumstances unique to one's life to achieve transcendence, *essentially* complicates the feminine pursuit of the realization of freedom. This is because it situates women in a position of fixed disadvantage with respect to men.

As Constance Mui reinforces in "Sartre and Marcel on Embodiment," for Sartre, "A conscious being is said to exist by moving beyond the past toward some future possibility, and through this dynamic activity engages in the ongoing process of self-definition" (Mui 110). If anatomical functions like child-bearing and menstruation make demands upon women even as they desire, one could say, to "surpass" their bodies to concretely affect the world that they inhabit, how can women ever fully realize freedom in an existential context? I argue that this negative characterization of women's relationship to existentialism discloses a grave misunderstanding of existentialism itself. As Mui points out, Sartre observes that, "What we call freedom is the irreducibility of the cultural order to the natural order" (Mui 113). This implies that the facticity<sup>72</sup> that a given subject must overcome does not define that subject; rather the person's capability to in some way negotiate, resist, or overcome this facticity is what matters. What Sartre is interested in is the notion that people can put their condition of freedom as human beings to use. If we contemplate this idea with respect to women, we see that they are capable of being evaluated as subjects who have transcended biological facticity through the creation and

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<sup>72</sup> This refers to the circumstances that a subject must negotiate to realize her/his freedom. Sartre seems to consider one's place, body, past, position, and fundamental relationship to "the Other" as among the facticities of freedom. I will comment upon the ramifications of including one's "relationship to the Other" in this definition, shortly.

use of technology, most notable of which may be oral contraceptives, or “the pill.”

In this specific sense, women can in fact be comprehended as free subjects using an existential lens. At the same time, I have underscored the need for modification of Sartre’s conceptualization of the free subject, as is manifested by his implicit denial of female agency in *Nausea*. If biological obstructions to the realization of freedom have been overcome through the creation and use of technology, then why does the original existential model of embodiment prove problematic for women at all, producing the effect in *Nausea* that it does (as I will discuss shortly)? Mui writes, “Beauvoir takes into account the biological differences in question, but uses male embodied experience as the norm against which to identify differences in female embodied experience as problematic” (Mui 113). Yet the *The Second Sex* can be understood as a testimony to the fact that the institution of patriarchy, what I define as the reality of imbuing presently meaningless biological differences with self-serving meanings, uniquely inhibits women from fully realizing their freedom in any given factual context.<sup>73</sup>

It is quite possible that Beauvoir does not see a need to modify Sartre’s model of embodiment precisely because of the emphasis on action, rather than facticity that persists within existential thought. This would mean that she perceives patriarchy as a part of women’s facticity, something that can be overcome just as actual biological differentiation has been overcome by feminists. If so, I certainly agree with her insofar as our capability to move towards sexual equality is concerned. But as Sarah Hoagland distinguishes in “Existential Freedom and Political Change”, “Foucault reminds us that we are not simply restricted or repressed by the facticity of the world we move in...our behavior is also constructed and shaped through disciplinary procedures” (Hoagland 156). I too do not think of the institution of patriarchy, which is the referent to which the term “disciplinary procedures” applies in this piece, simply as a part of female facticity. Because this institution *presumes* facticity, or consists of understandings about women’s circumstances that are (strangely enough) imposed upon them by men (and frequently enforced by other women), I place patriarchy in a separate category altogether. I maintain that presently meaningless biological differences that have been infused with meaning and are then relied upon to determine sex-specific “roles,” not only concretely restricts women’s realization of a freedom that is ontologically theirs, but also goes one step further by entirely denying women the status of human beings.

While the alleged “problem” of biological differentiation can be rejected as proof of an incompatibility between existentialism and feminism

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<sup>73</sup> Patriarchal assumptions are certainly wide in range, but I offer the following as an example: Because women happen to birth children they are “naturally” suited to care for them and curtail their professional prospects, that is, the father of a child cannot leave work to become the sole source of child-care.

even without the acknowledgment of technology's massive consequences for women, patriarchy cannot be "explained away" as easily. Biological differentiation can impede women's ability to act in life. But assuming that patriarchy does not collude with this differentiation, women remain in full control of how much they resist bodily demands like breast feeding, for example. But when patriarchy, an *assumed* facticity, comes into play, women not only have to resist palpable constraints, but are confronted with imagined, often contradictory expectations, assumptions and injunctions that frequently result in a double-bind, a situation where all options are to some degree unfavorable<sup>74</sup>. Hoagland clarifies, "My dispute with Sartre has to do with his apparent assumption when assessing inauthenticity that the behavior of [we] who are caught in dominant invention makes sense only within the confines of the script that invent us; that there is only one world of sense" (Hoagland 162). I take this to mean that women cannot be evaluated with respect to freedom on the same basis that is used to evaluate men, even though they are as capable of realizing freedom in the same general way and partly able to *because* existentialism focuses on a subject's resistance rather than her/his facticity.

While male subjects<sup>75</sup> presumably view objects as possible subjects even as they exercise their own subjectivity, according to Sartre's model, women are wholly denied that possibility because they are *perpetually* comprehended through the lens of patriarchy, which necessarily renders them continual objects. This is what Hoagland implies when she refers to women having been "created by men." Because women are denied the right to create their own meaning, or are at some level "created by men," we cannot assess men and women's authenticity in the same way. This confirms why patriarchy cannot *simply* be regarded as facticity. It not only restrains women, but strips them of their status as human beings insofar as existentialism understands humans. In other words, because Sartre maintains that the condition of freedom, in this particular sense the capability to function as both subject and object, as constitutive of the status of humanity, women no longer remain people. This is not to suggest that patriarchy is by any means insurmountable. It *is* to suggest that an alternate model be created, one that takes the reality of institutionalized patriarchy into account. Before I explain what a possible alternative to Sartre's conceptualization of the free subject could look like, I would like to show how Sartre strips female characters of authenticity in *Nausea*, precisely because his model of embodiment ignores the reality, content, and significance of patriarchy.

### **The Place of the Feminine in *Nausea***

At this point, I would like to identify instances in *Nausea* where Sartre's limited model of embodiment enables him to unfairly dismiss the

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<sup>74</sup> This is not to say that men don't confront double-bind situations.

<sup>75</sup> As with women, my treatment of men assumes that we are speaking of whites.

authenticity of women. In other words, he characterizes certain women's actions as "bad faith," when in fact they may be carrying out acts of resistance. I will specifically focus on the character of Francoise, the so-called 'patronne' whom Roquentin sleeps with from time to time. I argue that though Sartre scarcely presents any character as innocent of the "existential crime" of "bad faith"<sup>76</sup> in this text, his treatment of Francoise particularly demonstrates an inability to acknowledge, as Hoagland put it, the reality that women's actions are sometimes shaped, restrained, assumed, etc. by the firmly ingrained *institution* of patriarchy, whereas a man's are not. In the scene where we are first introduced to Francoise and Roquentin, he immediately follows her into a room to have sex. Sartre writes, "But we hardly speak. What good is it? ...besides, as far as she is concerned, I am preeminently a customer in her café" (Sartre 6). This passage evinces that Roquentin is disillusioned with his stark and emotionless sexual encounter with Francoise, presumably because he desires the love that he once shared with Anny in place of uncaring bodily pleasure. In fact, he posits his "nostalgia" for that love as the reason why he prolongs an arguably miserable sexual experience. Unlike Anny, whose significance as a female character I shall not discuss in this essay, Roquentin mainly regards Francoise as an *object* whose complementary possibility for subjectivity as a human being he never once recognizes.

One often chooses to speak to other human beings because they are capable of thinking, saying, and doing something that creates meaning. In this sense, speaking can affirm a mutual humanity between two people. But as we can see, Roquentin very pointedly does not care to speak to Francoise and sees no possibility of them breaching the rift that exists among human beings as a result of the existential emphasis on subjectivity. This is most likely because she is not a human being for Roquentin, insofar as Sartre defines one. Moreover, Roquentin treats Francoise not simply as an object, but as a distinctly female object, something without subjectivity that, as patriarchy informs us, can and should be dealt with through the use of sexuality. Roquentin and hence Sartre's dismissal of Francoise's potential value as a person is reinforced through the extremely mundane way that Roquentin characterizes his sexual encounters with her. He writes, "I played distractedly with her sex under the covers; then my hand went to sleep" (Sartre 59). It is significant that Francoise is not even present here; her "sex" is, and for Sartre, that is sufficient because, unlike Roquentin who can become something through creation, Francoise just "is" and, more importantly, *is* her patriarchally prescribed sexual body part. Francoise is presumably such a waste of time that even the act of sexually arousing her is beneath Roquentin. Thus, he permits his disillusionment to allow him to make assumptions about Francoise that deny the possibility that she could be resisting the place that the dominant script of patriarchy has laid out as

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<sup>76</sup> "One falls into "bad faith" if they take one or both of two dishonest positions about reality: If I pretend to be free in a world without facts or to be a fact in a world without freedom" (Hoagland 160).

sexually and emotionally dependent on men. Francoise appears to be a working-class woman who, as Sartre notes but attributes no significance to, "...takes pleasure in [sex]..." (Sartre 6) Yet the text implicitly instructs the reader to disregard this woman as she is uneducated and a "slut." Roquentin, for example, seems to resent the fact that he is "just another customer" for her. But by not caring for him she may very well be subverting a patriarchal code that illogically provides women with one of two equally demeaning options: "virgin" or "whore." And did not Sartre want to disrupt existing class and sexual barriers? Roquentin is guilty of assessing Francoise's actions through the same lens that he applies to himself. But Francoise is at the mercy of patriarchy. As a result, Roquentin's choice to sleep with a woman whom he employs as a means has a different significance than Francoise's choice to sleep with him. That is, it has a different significance for him if we momentarily detach ourselves from Sartre's way of envisioning the hypothetical free subject and instead account for patriarchy. Unlike "ordinary facticity," patriarchy requires women to act in allegedly self-defeating ways to achieve transcendence. For me, Francoise's actions are strictly inauthentic or in "bad faith" only within the dominant discourse of masculine meaning. And as Hoagland confirms, "The notion of multiplicity challenges Sartre's assumptions...we must explore failures of intentionality as well as possibilities of ambiguity and resistance" (Hoagland 168). In other words, when assessing circumstances, one cannot simply substitute "woman" for "man."

### **On the Necessity of Retaining Sartre's General Characterization of Freedom**

Having made the case for the necessity of something other than the strict application of Sartre's model of embodiment to the assessment of the female experience, I will now turn my attention to explaining the weaknesses of a popularly proposed alternative, thereby demonstrating the value of Sartre's general approach to freedom despite his subordination of female characters like Francoise. The most glaring weaknesses that this particular model is culpable of are that it assumes a monolithic understanding of women, and that it accepts a historically male monopoly on action, nearly corroborating patriarchal allegations that have curtailed women's freedom time and time again. Mui summarizes one such gynocentric feminist's claims, stating, "O'Brien endorses two separate ontologies of consciousness stemming from the fundamental distinction between female and male embodied experience. In her model, it is male consciousness that gets a secondary evaluation" (Mui 115). Instead of conceptualizing freedom as the process of negation and transcendence, O'Brien envisions it as "a synthesis with nature," which women are, she alleges, naturally better suited for since they undergo the natural process of giving birth" (Mui 116). Men, on the other hand, only take part in the reproductive process through the process of ejaculation, which she argues is

an inherently alienating act because it requires no further engagement with nature.

According to O'Brien's strictly female-oriented model of embodiment, "men can never experience a genuine unity with nature and species because the mediation required for such unity is linked directly to the very act of reproduction, or the potential of experiencing such labor" (Mui 116). Thus, O'Brien *completely* rejects Sartre's model of embodiment for women and Beauvoir's negative characterization of women's unique capability to bear children. She can afford to shift from a negative to positive value here because her ontology values integration, the near opposite of Sartre's valuation of negation. Though I find gynocentric feminists' efforts to deconstruct relatively common ways of looking at and understanding things to be commendable, I find the approach itself to be extremely dangerous to the objective of sexual equality for several reasons.

First of all, O'Brien's conceptualization of "the free subject" presumes a monolithic understanding of women. In effect, O'Brien states that biology determines us, rather than what we create outside of that. There are many problems with this, only some of which I will treat here. For one thing, this conceptualization nearly rids life of the purpose that Roquentin so desperately searches for in *Nausea*, since meaning is pre-established. According to O'Brien, whatever a woman does, she cannot escape her intrinsic relationship with nature, which O'Brien posits as essentially "good." Secondly, O'Brien's female-oriented model of embodiment leads us to wonder whether women who cannot or do not want to have anything to do with reproduction, or are frightened by childbirth, are not women. Because O'Brien marks feminine experience as innately at odds with Sartre's conception of the free subject, women who reject the patriarchal claims of males that tell them that the work of raising children is highly valuable while neglecting to do so themselves, are left with no way to conceptualize and thus realize freedom. And what are we to make of men for whom fatherhood is an extremely exciting and gratifying experience? Do they remain alienated from nature and hence "disadvantaged" as far as O'Brien is concerned? These are important questions that O'Brien's alternative to Sartre's model of embodiment raises but never answers.

Additionally, she reinforces sexist stereotypes that have been prevalent about both men and women. In fact, the parallel between the way that O'Brien thinks of women and the way that women have been looked *at* is eerily similar. By limiting female experience to being dominated by a non-unique/non-individually affirming act like childbirth, O'Brien resigns herself to an historically male monopoly on initiative, action, aggression, etc. She unwittingly echoes nonsensically simplistic but too often institutionalized conclusions like "women are emotional and men are rational", "women like peace and men like violence," etc. Feminist Mary Radin has shed light on this peril by suggesting that the ideal subordinate group would be self-sacrificing, non-competitive, etc. O'Brien may very well reject Sartre's characterization of human beings because *he* can

implicitly reject females as human beings by unfairly assessing their authenticity. Perhaps O'Brien degrades the definition of human beings altogether, when in fact she should be demanding the right to be recognized as a human being even if she currently isn't. In denying women the capability to "negate" and "transcend", O'Brien takes the easy way out, settling for a less empowering conception of freedom which has a falsely elevated importance. In this sense, Sartre's oversights are actualized, rather than overcome or improved upon.

### **Making the Freedom of Existentialism Accessible to Women**

Due to the fact that O'Brien's alternative fails to help women's prospects for realizing their collective and individual freedom, and the additional failure of Sartre's model of embodiment to accurately describe and evaluate women's actions, I suggest an "intermediate" conceptualization of the free subject. This is a model that can go beyond Beauvoir's retention of the original conceptualization of the free subject, but stops short of calling for the creation of two separate, gender-specific models of embodiment which will only serve to discredit and obstruct women in their pursuit of freedom. I propose that Sartre's conceptualization be altered so far as to fully recognize the reality of the firmly ingrained *institution* of patriarchy, which heavily contributes to the unique facticity that any woman must maneuver around to achieve transcendence.

This model finally gives us an opportunity to, in the spirit of Sartre's own approach, focus on the actions of women. We can finally perceive women as people who *create* themselves rather than people who simply are by virtue of the fact that they are women. Thus, Sartre's existential literature, specifically *Nausea*, which certainly entails the subordination of female characters, may very well be necessary for breaking free from patriarchal discourse. For this reason, it is a valuable work, refuting Sartre's own claim that a good work cannot support or abstain from condemning the subordination of a people by another people. In conclusion, I truly believe that the model of embodiment that I have suggested narrows the rift between Sartre's message and the application of this message by informing his philosophical work with the reality of a deeply sexist world.

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“There can be no doubt but that several propensions or instincts, several principles in the heart of man, carry him to society, and to contribute to the happiness of it, in a sense and a manner in which no inward principle leads him to evil. These principles, propensions, or instincts, which lead him to do good, are approved of by a certain faculty within, quite distinct from these propensions themselves.”

-Joseph Butler, from Sermon II of *Five Sermons*

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