THE PRACTICAL LIFE OF WHAT REASONS:
EUDAIMONIST ETHICS AS A GUIDE TO RIGHT ACTION

by

Jennifer Anne Baker

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As members of the Final Examination Committee, we certify that we have read the dissertation prepared by Jennifer Anne Baker entitled \textit{The Practical Life of What Reasons: Eudaimonist Ethics as a Guide to Right Action} and recommend that it be accepted as fulfilling the dissertation requirement for the Degree of Doctor of Philosophy.

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Julia Annas & 4/10/03 \\
George Rudebusch & 4/10/03 \\
John Christopher Maloney & 4/10/03 \\
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Dissertation Director & Julia Annas \\
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SIGNED: Jennifer Anne Behr
DEDICATIONS

As a young girl, I always wanted to read more, to understand more, to be acquainted with any of the references I heard mentioned. I used to joke that I needed someone to pull me out of my provincialism, and to, basically, share with me what I consider a classical education. In the most pleasant of ways, Julia Annas has done this. She is not just my inspiration but the source of so much that I now know. Working with her was exactly what I wished for as a young girl. It was a dream come true.

David Schmidtz is the reason I considered graduate school in philosophy. I had not liked my first philosophy courses much as an undergraduate, and because they were poorly taught I did not properly understand what philosophy involved. Dave, in a talk he must have given in the early nineties, demonstrated what it was that philosophy involved. I could not understand all of what he was saying, of course. It was about Aristotle and making choices while we lived our lives. As comfortable as I am with such topics now, at the time, the subjects were as foreign to me as the method of analysis. It was my introduction to a field I had not even imagined. I was fascinated. I was hooked. I wanted to go to graduate school in philosophy where Dave was.

George Rudebusch has tirelessly driven down to Tucson from Flagstaff and back in order to be my advisor. With great patience he has read over my dissertation and submitted me to some of the best questions I have ever got about my work. George, with a razor-sharp mind, still manages to be one of the kindest people I have ever met. You just don’t find that combination very often, and you would think that such intelligence would make one impatient. I am ever grateful for George’s indispensable guidance.
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ABSTRACT

Eudaimonism once had great success in fostering a public appreciation of ethical philosophy. In contrast, a recent editorial on the subject of bioethics was titled, “The Ethicist’s New Clothes.” Contemporary ethical theories have not been well popularized, and to the public these theories seem untried. But perhaps the public is right to be suspicious of ethical accounts that regard ethics as the province of those with advanced training in philosophy. Once we start thinking this, we have perhaps forgotten what ethics is meant to do, and how it is meant to do what it does for all of us. In this project, I set up a contest between ethical theories, seeking to determine which is the most practically guiding to agents. In chapters one and two I argue that contemporary approaches to ethics (such as the field of applied ethics and contemporary virtue ethics) are inappropriately inapplicable. In contrast, a version of virtue ethics, ancient eudaimonist theory, is shown to be both applicable and practical to agents. In chapters three and four I argue for how this is. In chapters five and six, I look to how far-ranging ethical theories’ applicability may be, by considering how eudaimonist ethical theory can help to justify political organization. Stoic and Epicurean eudaimonism, for example, can justify arrangements that we might recognize as liberal, but not by attempting to remain neutral on the subject of value.
INTRODUCTION

This project defends ethical theory directly, as the best resource we have for assessing value and making practical recommendations. I argue that applied ethicists and political theorists alike have underused ethical theory. The ethical theory that would benefit applied ethicists and political theorists most, I argue, is eudaimonist ethical theory. My arguments to this end amount to a rather indirect defense of eudaimonist theory. There have been direct approaches to the issue of which conception of ethics is correct.\footnote{As I will discuss, there is G.E.M. Anscombe's “Modern Moral Philosophy,” \textit{Philosophy}, 33, p. 1-19, reprinted in \textit{Ethics, Religion, and Politics}. Another example is Phillipa Foot's “Moral Arguments” and “Moral Beliefs,” reprinted in \textit{Virtues and Vices}. Also noteworthy are Bernard Williams' essays in \textit{Moral Luck:Philosophical Papers 1973-1980} and \textit{Ethics and the Limits of Philosophy}.} The field of ethics has been addressed, for example, on why there ought to be a return to the consideration of character. Make that repeatedly addressed.\footnote{Virtue ethicists are not the only ones making these criticisms about other theories, of course. Tom Hill has written repeatedly on how a Kantian account of rules does better than rule-consequentialism when it comes to “reflecting a deep and widely shared moral sense,” and “common moral convictions.” “A Kantian Perspective on Moral Rules,” \textit{Philosophical Perspectives}, vol. 6, 1992, p.302} My indirect approach is motivated by concerns that the impact of such recommendations on existing approaches to ethics is bound to be limited.

This is not to dispute that essays on the proper nature of ethics have had an impact. Elizabeth Anscombe, in her 1958 article “Modern Moral Philosophy,” argued that we ought to investigate moral psychology before we generate any further edicts on ethics. The article is widely credited for encouraging ethicists to pay attention to the topics of...
moral psychology and virtue. In 1971, in his article "Quandary Ethics," Edmund Pincoff argued that we should not conceive of ethics primarily in terms of its ability to solve dilemmas. To support this idea Pincoff explains that neither Plato, Aristotle, the Epicureans, the Stoics, Augustine, Aquinas, Shaftesbury, Hume, nor Hegel regarded ethics as a matter of "quandaries." The article is frequently cited as an inspiration for the resurgence of interest in virtue ethics.

Contemporary theorists have not ignored these articles’ insights. As Rosalind Hursthouse writes, "deontologists have turned to Kant’s long neglected ‘doctrine of virtue,’ and utilitarians, largely abandoning the old debate about rule and act-utilitarianism, are showing interest in the general-happiness-maximizing consequences of inculcating such virtues as friendship, honesty and loyalty." It is now actually difficult to find a consequentialist who makes no gesture towards the issues involved in agency and character, making distinctions like "act-centered" less easy to use.

Debates have been retired, focuses have shifted, and the field of ethics has been changed due to direct arguments on what ethics ought to be about. Writers such as Anscombe and Pincoff have brought about a tide-change in the field of ethics. But what if one wants not a tide-change but to establish that one ship in the harbor is superior to the others and that this model of ship ought to replace the rest? What if one wants to initiate a contest between ethical theories so that one, and only one, can be declared the victor?

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4 Pincoff, Edmund, “Quandary Ethics”, Mind, vol. 80, No. 320, Oct. 1971, p.553. This article is most often cited by contemporary virtue ethicists of the anti-theory persuasion.
When one's aim is of this sort, a direct defense of a conception of ethics is not the proper sort of approach, I do not think. The description of a conception of ethics does not have the right sort of content to serve as competition for something as robust as a working ethical theory. Anscombe requested that moral philosophy be done as it had not been done before. Pincoff requested that moral philosophy be done as it once had been done. Neither of these suggestions can be directly implemented by ethicists in a wholesale way, not even if we anticipate that ethicists will abandon the theories with which they have been working. To ask contemporary ethicists to consider alternative approaches to ethical theory without offering viable versions of such theories is merely to ask them to accommodate some of the insights of a conception of ethics.

And I would not anticipate that contemporary ethicists would drop the theories with which they have been working in response to such suggestions. A working theory trumps an unmodernized or untried conception of ethics for a number of reasons. An account of ethics' proper objectives is contained within every ethical theory. Ethical theories function in accordance with their design; a theory designed, for example, to explain the morality of acts manages to explain the morality of acts. A complaint about an "act-centered" approach to ethics that is made by appealing to some aspect of the proper nature of morality criticizes an "act-centered" theory in a way external to the theory's own logic and objectives. Michael Slote and Rosalind Hursthouse have attempted to criticize ethical theories in this way.⁶

⁶ For versions of these arguments that include summaries of earlier ones see Slote, Michael, "Virtue Ethics, Utilitarianism and Symmetry" and Hursthouse, Rosalind, "Normative Virtue Ethics," each in How Should One Live? Essays on the Virtues, Roger
They have done so along with the offer of an alternative theory. And I think, in order to effect the change in the field the way that I would like, this is necessary. Yet I am not assured that even a direct defense of an alternative theory (rather than a conception of ethics) will have the effect for which I am looking. Slote argues that ethical theories ought to include "self-other symmetry." A type of virtue ethics has this, but utilitarianism does only to a lesser degree and Kantianism even less so. The problem with the reception of such an argument, if one is interested in actually convincing theorists to take up, for example, virtue theory, is that every theory has a defense of its account of agency, action, reason, and right-- be these self-other symmetrical or not. Can we expect theorists to be convinced that their accounts must be revised (that they had actually got them wrong) because one aspect of an alternative ethical theory is being praised?

Theories are complex and have many aspects. A theory that has been critiqued along one dimension may still be regarded as superior on balance. If convinced that their theory pays too little attention to self-other symmetry theorists may be motivated to address the problem. But such efforts fall short of abandoning the theory. (Slote himself demonstrates that the problems of ethical theories can be addressed through their modification. His virtue theory is a hybrid of virtue theory and consequentialism.)

Hursthouse has directed criticism against utilitarian theories because their suggestions are counter-intuitive and require us to revise common sense morality. I have tried to pay attention to the reception of Hursthouse’s arguments. There seem to have been very few direct responses to her charges in print. In informal conversations I have

Crisp, ed. Oxford University Press, 1996. Hursthouse's earlier criticism of utilitarianism can be found in chapters four and seven of Beginning Lives, Blackwell Press, 1987
had with utilitarians, they seem merely accept her charges.\(^7\) When their proposals revise common sense and common notions about morality this is not a "bug" but a "component" of utilitarianism. Ethicists use the ethical approaches that generate the results on which they have already been sold.

So what can one do if interested in uprooting the fundamental assumptions about ethics to which most contemporary ethicists are committed? I think it is best to not start out by directly defending an alternative ethical conception or theory. It seems what must be done is to present an alternative theory and show how it-- in some significant way-- works better. It cannot just be that my proposal better satisfies the expectations I have about ethical theory. It must be that the theory I am recommending (ancient eudaimonism) does a better job of getting some of the results contemporary theorists are already after.

But how to show that the dominant contemporary theories (and dominant practices in applied fields) fail to-- in some significant way-- work when, as I suggested, the measures of an ethical theory are a matter of ethical theory? Proposing that the theory I am recommending has a superior account of agency, action, reason and right on the basis of my assumptions about agency, action, reason and right is, as I have explained, a losing proposition. I will argue, instead, that the theory I am recommending is a superior ethical theory from a place of cross-theory agreement. There is agreement, I propose, when it comes to the idea that ethical theories ought to be communicated. This assumption seems to be independent of any ethical theory. Theorists think their theories

\(^7\) Or they might do something like Hare does in explaining that, really, consequentialism and absolutism match common sense. He writes that our "ordinary opinions may not be entirely self-consistent." *Essays on Bioethics*, Clarendon Press, 1997, p. 5
are worth studying and being understood because each is in some way considered to contribute to the promotion of ethical behavior. An ethical theory may manage this in different ways. It might merely clarify our moral thinking, revise it, endorse aspects of it or transform it. However so, ethical theories are thought by advocates to be useful.

So here is my indirect means of defending an account of what ethics ought to be about. First I establish what counts as practical when it comes to ethical theory. Even if this question rarely arises explicitly, there is a range of implicit views on the matter. (A practical ethical theory may be regarded as one that promotes policy rather than one that leads individuals to good action, for example.) I suggest that we can measure a theory's "practicality" along one common axis, and this is how practically effective the recommendations of the theory are. Effective recommendations are specific and accurate and readily applied. What is accurate (that is ethical) is left to be determined by the respective theory. The details of an ethical theory are relevant to my investigation only when it comes to explaining how the details of the most practical ethical theory contribute to its practicality. (Two chapters are devoted to explaining this.)

Taking an indirect approach to my recommendation of ethical theory circumvents some obstacles that have limited previous direct defenses of ancient eudaimonist theory. Yet let me make it clear that because I describe my own approach as indirect does not imply that this project does not depend on earlier direct defenses of the eudaimonist approach.
The reason ethicists welcome the idea of eudaimonism's having a "deserved hearing"⁸ is because philosophers (in particular Julia Annas) have already defended eudaimonism as, among other things, an ethical theory. The emphasis is properly on each word. For some time eudaimonism was regarded as an egoistic, and not an ethical account. And its status as a theory was questioned when it was widely held that eudaimonism was merely a historical account of manners.⁹ Direct defenses of eudaimonism have gained the theory an entree onto the contemporary scene but such defenses have not yet convinced many that eudaimonism is a superior ethical theory, one worth turning to and working on. Why? Not even an accurately described and modernized eudaimonism can meet the sum of expectations ethicists have for ethics today. Many of the contemporary expectations about ethics were developed before the resurgence of interest in virtue ethics in the 1980’s and these expectations cater to theories that take ethics to be about something fundamentally other than what eudaimonism takes ethics to be about. Issues in contemporary ethics are taken as given even when eudaimonism is in sharp disagreement. As one example, Alex Rosenberg’s recent writing on ethics specifies that all contemporary approaches to ethics take

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⁹ One of the remaining misconceptions about virtue ethics is that no variant is capable of being practically applied. It will come as a surprise to those who have read this view that I defend ancient eudaimonism as the most practical and applicable of ethical theories. It is capable of providing us with rules and reliable guidance, it informs not just our personal choices but offers us a means of approaching political justice.
internalism about motivation and the non-instrumentality of moral reasons to be true.\textsuperscript{10}

As another example, Michael Smith’s influential work \textit{The Moral Problem} reconciles three different claims we make about ethics (that moral judgments have a truth value, that moral judgments constitute reasons for actions, and that desires are constitutive of reasons for action)\textsuperscript{11} yet eudaimonism cannot be described with even one of these claims. Eudaimonism is not easily situated in regard to these descriptions of ethics. Eudaimonists cannot even agree with the starting assumptions with which Rosenberg and Smith work. Eudaimonism is, as a result, left out of many debates among ethicists today. The questions that contemporary metaethicists, normative theorists, and applied ethicists have prepared for any new proposal on ethics cannot be answered by a eudaimonist, not unless she is allowed to answer by reverting to a direct defense of eudaimonism’s conception of ethics. Eudaimonism is left to make its case from the sidelines. For eudaimonism to get its “deserved hearing” would require that we revisit our most fundamental assumptions about how ethics ought to proceed.

For eudaimonism to be shown to be the better theory on the basis of its practicality we must be willing to re-ask questions often thought to have been settled: What is ethics for? What might it do for us? What do humans need ethics to do for them? My indirect approach to eudaimonism’s defense \textit{will} arrive at the questions we ask when we puzzle over what ethics ought to be about. But before we are allowed a serious hearing on these issues, eudaimonism must do some work on the offensive. For this

\textsuperscript{10} Rosenberg, Alex, \textit{Darwin’s Nihilistic Idea: Evolution and the Meaninglessness of Life} (forthcoming)

\textsuperscript{11} Smith, Michael, \textit{The Moral Problem}, Blackwell Publishers, 1995
reason I am hoping that an “indirect” approach to these questions will motivate our revisiting them in the way a direct description of the eudaimonism will not.

Finally, let me conclude with a brief comment on the issue of eudaimonism as an ancient theory. I would like to recommend eudaimonism without the cost of abandoning or disregarding the real progress that contemporary ethicists have made. Just because not all of the analytical distinctions made by contemporary theorists are friendly to eudaimonism does not mean that some of them do not have the potential to greatly enhance our understanding of the ancient theory. Past theories must be made contemporary, even though very few theories of the past have a chance of being updated. The version of eudaimonism that I recommend, Stoicism, is unique for being rather resilient in regard to the passing of time. Certainly much that is associated with Stoicism (the cosmic teleology, the determinism) will have to be abandoned in order for us to work with a contemporary Stoic ethic. (But even in ancient times thinkers such as Cicero considered the Stoic ethics apart from the rest of the philosophy.)

The final verdict on Stoicism will not come from this project, or any like it, but will have to come after we see if these accounts meet the approval of contemporary scientists because the essence of the ethical theory depends on an account of practical reasoning and moral psychology. But, importantly, the possibility of Stoic accounts being right on these topics has not been ruled out by modern science. Mine is not a plea for us to return to the more confident ethical understanding of a simpler time. (No time, in any case, has been simple.) This proposal, that ancient eudaimonism be considered a real contender in the debates about ethics today, is a matter of my thinking that eudaimonist
theory, if handled by contemporary analytic methods of philosophy and supported by contemporary research in the social and cognitive sciences, might lead us to a more comprehensive understanding of what ethics is than we had ever previously had reason for which to hope.
CHAPTER 1: DO OUR ETHICAL THEORIES TELL US WHAT TO DO?

That there are options when it comes to ethical theory is clearly good. Having consequentialist, Kantian, and virtue theory to consider alongside each other is like having three intricately detailed maps laid before us, each indicating paths to lovely destinations. It is a rich display from which we can gain much insight. But we have not finished thinking about ethics if we have not made a choice between theories. Having studied the maps, we must make up our minds about where it is we ought to go.

This decision has been forestalled by the rise and acceptance of the reflective equilibrium method. We have been encouraged to think that we do not need to choose between theories and that we can accommodate the better insights of any theory through the modification of existing principles. But this is not an adequate means of resolving the differences between ethical theories. To treat theories in this way is to not take them seriously in terms of what they are. Theories are more than a set insights that can be accommodated in principles. Moral theories are the justification of principles and an account of their interrelation. Consequentialist, Kantian, and virtue theories give different justifications and different descriptions of ethics. The approaches are not commensurable.

I was convinced by David Schmidtz that moral theories are like maps in a seminar I took as a young graduate student. I have not thought about theories without this analogy since. See his discussion of moral theories in Rational Choice and Moral Agency, Princeton University Press, 1995.

I am not alone in claiming this, of course. And even theorists such as Nancy Sherman who, in Making a Necessity of Virtue: Aristotle and Kant on Virtue, is attempting a careful “rapprochement” between Kantian and Aristotelian theories, understand that “the rush to mutual accommodation can go too far.” She describes her efforts as a way to
consequences, the categorical imperative, virtue) contributes support for this claim. These theories describe ethics with utterly disparate concepts and we cannot compare apples and oranges.

I have a proposal. It may be that, from a position where we are given a set of maps to different destinations, we cannot gage which takes us to the better place. We have not, after all, yet arrived anywhere. What can we assess from the point at which we are? We can assess the maps in terms of which seems more readily useful. Are the markings clear? Is our starting place indicated? Does the path look like one we could follow? My suggestion is that right consequences, the categorical imperative, and virtue do share something of the same. An investigation of the structure of each of these concepts is not required to establish this. What each type of ethical recommendation has in common are the recipients. Us. We are supposed to be acting in accordance with the advice these theories offer.

To use as a common measure of ethical theories their practical applicability to us, will I first need to determine definitively what we are? Will I need a correct account of moral psychology and personhood? I think all that is needed falls far short of anything so ambitious. Each theory, Kantianism, consequentialism, and virtue ethics, communicates its instructions to agents. These communications come in forms we are readily familiar with: examples, case studies, principles and rules. Each theory already treats us as if we

“reconstruct” the arguments of each theory, so that some “shared terrain” can be found. (p.2) The shared terrain she finds is in terms of the virtues and depends on Kant’s account of the virtues being close to what Aristotle’s is. My proposal in this dissertation does not depend on anything like the discovery of internal or structural similarities in ethical theories.
are in common in this regard: we can understand and act on ethical instruction given in
the typical ways.

This approach allows us to side-step the issue of what good behavior actually is.
We can regard this as a matter each theory can determine and avoid arguing over what it
is that "ethics ought to be about." Such arguments already exist, for example, between
virtue ethicists and other theorists. This type of debate may be interminable. Each "side"
is already convinced as to how ethical theory should function (through the assessment of
agents or of acts) and has a theory that performs accordingly. What motivation is there to
give up what is working according to design? We do not need to pursue agreement on
what the nature of a theory should be if we find agreement among theorists on the idea
that their theory ought to be practical. We will need to specify what theorists agree is
practical, helpful, and guiding ethical advice. Robert Louden has suggested some
standards for a theory's practicality and has assessed virtue theories in terms these. He
offers a place for us to start.

Just as the field of contemporary ethics was experiencing what has been described
as a "resurgence of interest" in virtue ethics, Louden wrote "On Some Vices of Virtue

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14 Michael Slote writes, "in recent years there has been a resurgence of interest among
philosophers in the ethics of virtue. For a long time, ethics has been dominated by a
concern with right and wrong - a concern central to the ethics of Kant, utilitarianism, and
common sense intuitionism. But lately there have been attempts to account of the nature
of one or another (moral) virtue, to interrelate various of the different virtues, and even to
classify virtue generally, that, is to say what virtue is or what it is to be a virtue." From
Morality to Virtue, Oxford University Press, 1992, p.1
Ethics,” a critique. This was in 1984. In the article Louden explains that virtue ethics, with its emphasis on agency, is not a problem-oriented or quandary approach to ethics and that it speaks of rules and principles of action only in a derivative manner. Louden thinks nothing that is admirable about an “agent-centered” approach to ethics (he admires its emphasis on character) lessens the practical implications of its not being “act-centered.” According to Louden, virtue ethics, because of its focus on agency, is “structurally unable to tell us much about what we ought to do or not do in specific situations.” Derivative oughts “are frequently too vague and unhelpful for persons who have not yet acquired the requisite moral insight and sensitivity.” According to Louden, virtue ethics cannot undergo “application.” When it comes to the division of philosophy known as “applied ethics,” virtue ethics comes up short. Louden refers to this as its “application problem.”

In 1997 Louden attempts the same conclusion but by this time a number of authors have approached the issues of applied ethics from a virtue ethics perspective. The

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16 Louden is invoking the terminology of Edmund Pincoff, who introduced “quandary ethics” not as a neutral term, but so that he could, with “convenience and disparagement,” refer to approaches to ethics that considered nothing other than moral problems to be relevant to ethics. Clearly Louden finds Pincoff’s case for disparagement overstated. Pincoff, Edmund, "Quandary Ethics," *Revisions*, pp. 92-112. See also his *Quandaries and Virtues: Against Reductivism in Ethics*, University of Kansas Press, 1986.


18 Louden, Robert, (1), p.230
problems of euthanasia (Foot, 1978), abortion (Hursthouse, 1991), environmental ethics (Hill, 1983, Frasz, 1993), business ethics (Solomon, 1992), and biomedical ethics (Shelp, 1985) have all been treated by virtue ethicists. Louden notes the increasing number of these treatments and acknowledges that a virtue ethics perspective on these issues has been helpful in contributing to a “less abstract, more formalist, and less rationalistic” treatment of “the practical issues of real life.”

He anticipates the field of applied ethics being benefited by an increased emphasis on “the development of character and on acquiring the requisite experiential skills of judgment and perception.” Yet none of the contemporary applications of virtue ethics (of a "pure agent-based form") satisfies Louden as having solved the "application problem" as not one of these efforts “translates into specific advice about what to do.”

According to Louden, virtue ethics will continue to have an “application problem” until it has managed to give the sort of "clear and uncontested guidance" that can “resolve specific moral problems by means of the virtues.” This, however, is explicitly not the aim of the virtue ethicists who have contributed articles in the field of applied ethics.

Thomas Hill describes his article on environmental ethics as amounting to a “suggestion.” For the sake of looking to the problem of valuing the environment “from a different perspective,” he considers the virtue of humility. Rosalind Hursthouse, in her

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19 Louden, Robert (2) p. 497
20 Louden (2), p. 495, 497. Louden writes that "more moderate versions of virtue ethics which seek merely to supplement rather than replace act ethics are not the objections of the criticism."
21 Louden (2), p.497
book *Beginning Lives*, writes that hers is not an attempt to "solve simply" the "intractable" problem of abortion, but to consider ways in which one might develop "the right attitude" towards the action.²³

The burden, Louden suggests, is on contemporary virtue ethicists to demonstrate that other approaches to ethics can do no more than offer "suggestions" in the face of moral dilemmas. Louden thinks non-virtue theories manage to give the "clear and uncontested guidance" that virtue theory cannot and that other approaches are capable of solving problems such as abortion. No defense of virtue ethics' inability to do these things (Rosalind Hursthouse attempts one in a number of articles including in "Normative Virtue Ethics") will mitigate the loss of these practical features of non-virtue theories.

At best, virtue ethics might function as a sort of supplement, Louden writes, so that a virtue ethics perspective can *contribute* to the right determinations when it comes to the issues of applied ethics. For example Louden agrees that virtue ethicists are right to point out that "agents who lack the requisite virtues will often not act rightly." But this contribution to our thought about ethics, Louden thinks, is no sort of replacement for "concrete guidance" and virtue ethics, as a result, is not an ethical approach capable of working on its own. As Louden puts it, "offering (agents) a contextualist story about what

²³ Hursthouse, Rosalind, *Beginning Lives*, Blackwell, 1987, p.330 and p.331. Hursthouse is often credited with having shown an injunction such as "act justly" issues not just negative instructions (do not be unjust) but also positive ones. A virtuous woman, faced with a choice about abortion will always do certain things, she will, for example, actively consider all the parallels that are relevant. One relevant parallel might be miscarriage: a woman ought to, to act justly, make a choice about abortion that is consistent with how she would feel about miscarriage happening to her in some other context.
is morally lacking in their characters, even when the story is true, unfortunately, does not always tell them what to do.  

Given that I ultimately defend a version of virtue ethics, the extent to which I agree with Louden might seem surprising. There are obvious benefits to specific, agent-independent, ethical guidance that we ought not do without. Society has a stake in public determinations of which types of actions are not morally permissible. Individuals need not only moral instruction that is mediated by a long-term concern for character, but also advice that is, as Louden puts it, "much more temporally limited: what should I do here and now?" Descriptions of right and wrong actions are helpful as both a way to start understanding ethics and as an aid once we are following a theory. And finally, when faced with morally perplexing situations, "concrete guidance" with a "high degree of specificity" is more immediately helpful than any positive instructions contained in the recommendation that one "act virtuously."

I also agree with Louden in thinking that contemporary virtue ethicists have not yet defended their theories inability to provide "concrete guidance" sufficiently. If a theory (even another virtue theory) can be shown to provide "concrete guidance" then defenses such as Hursthouse's (which Louden refers to as the "we are all in the same boat defense" because Hursthouse attempts to show that no theory provides "concrete guidance") will fail. I agree to this extent, I cannot, however, endorse Louden's complaint as it stands.

24 Louden (2) p. 497
25 Louden (2), p. 496
26 Louden (1), p.231
His singling out virtue theories for their practical failure rests on too many confusions (none unique to Louden.) The first of these can be traced to ambiguities in what it means for ethics to be “applied.” For example, the existing field of “applied” ethics offers no support for Louden’s assumption that non-virtue theories are more readily applicable than virtue theories. The title of the field is misleading (as is often noted) because applied ethicists do not apply theory. Instead, applied ethicists employ a distinctive methodology that is capable of assessing cases apart from theory. Contemporary applied ethics is the wrong place to look for evidence of non-virtue theory’s applicability, because it is the wrong place to look for any theory’s applicability. Neither is applied ethics the place to find “concrete guidance” with “a high degree of specificity” of the sort Louden is after. The field is described by practitioners as involving the assessment and generation of principles in relation to cases and proposed policies. Typically, no more specific “solution” than a principle is offered by applied ethicists. Despite the existence of the field “applied ethics”, whether contemporary ethical theories are capable of generating “concrete guidance” remains an open question.

A second troubling aspect of Louden’s complaint against virtue ethics is a matter of how vague some his expectation for a theory’s “applicability” are. He writes that theories ought to have, as a “rock bottom” concern, the ability to determine “whether or

27 “Applied ethicists tend to focus exclusively on two tasks: identifying valid moral principles and constructing arguments in support of them. This constructive enterprise is often preceded by the critique of rival principles, either by showing that the rival principles are incompatible with widely shared considered judgments (moral intuitions) or by exposing the unsoundness of the arguments offered in support of the principles.” Allen Buchanan, “Social Moral Epistemology,” Social Philosophy and Policy, vol. 19, issue 2, July 2002, p.128. In chapter four I assess the field of applied ethics further.
not certain acts can be viewed as morally permissible.28 There are several ways to interpret this, but it is capable of suggesting that theories ought to be able to come down on the rightness or wrongness of particular acts. Louden may not have in mind action as mundane as a trip to the grocery, but that abortion can be judged as right or wrong, and euthanasia, and suicide. I will show that this standard is set too high to be met by any of the ethical theories we will consider. On this interpretation of Louden’s request for “concrete guidance” Hursthouse would be right to suggest all ethical theories are “in the same boat.” For this reason, we must interpret this gloss on Louden’s general request for “applicability” to require less than it initially suggests.

The last way in which I would like to modify Louden’s argument is by pointing out that choices between ethical theories are obscured by use of the general heading “contemporary virtue theory.” I agree that contemporary virtue theory as practiced has practical shortcomings, but in the end it is one type of virtue theory (eudaimonism) that best meets the sum of Louden’s requirements. If one uses “virtue theory” as an umbrella term it will not become clear why an agent-based approach to ethics is necessary for the provision of any sort of “concrete guidance.” (Where Louden regards considerations of virtue to be a useful supplement to the assessment of acts, I will show that it is the other way round. Agent-independent assessment of acts is a useful supplement to an account of virtue.)

Applicability as a Theory’s Telling Us What to Do

28 Louden (2) p.495
My own investigation into the practicality of ethical theories depends the language of Louden's request, that an ethical theory "tell us what to do," to introduce a notion of what it means for a theory to be applied. Louden is worried about practical assistance in a way that contemporary applied ethicists writing for academic journals are not. Whether he realizes it or not, Louden's request that an applied ethic "tell us what to do" differs from the contemporary and common understanding of what is an applied approach to ethics. He is replacing the notion of applicability at play in the field of applied ethics with the very notion of "applicability" with which I would like to work. Louden lets us understand what it is we ought to mean by a theory's being "practical."

A quick survey of the Philosopher's Index shows these topics are most popular under the heading "applied ethics": guidelines for biological research, distribution of health care, issues that arise in economic and workplace relations. These issues, ones of policy, would seem to require the same treatment that Bentham used to solve the issue of prison design: the use of a decision procedure to determine which one solution is optimal. I do not want to quibble with this sort of method when it comes to formulating public policy (not yet.) My quibble is with the assumption that applied ethics is a field that is practical for individual agents. I have listed the most popular topics in applied ethics today, yet still, somehow, the field gets defined in the Routledge Encyclopedia of Philosophy as "the moral analysis of real-life situations."29

One's "real life" only rarely, and indirectly at that, involves the best determination of policy or the right proposals for system-wide change. So unusual is it for work in

applied ethics to take an individual’s role to be salient that “care ethics,” the subfield in bioethics specially designed to address health care workers, proves the rule. As we mentioned already, the results of applied ethics are typically recommended principles and I will show that these fail to translate into “concrete guidance.” But just as significantly, the topics of contemporary applied ethics are not ones that match Louden’s concern that an agent be told how to “act right.” Having policy shown to be compatible (or not) with a set of principles is not the sort of guidance that Louden introduces when he writes that ethical theory ought to be able to “tell us what to do.”

Louden’s terminology, that we be “told what to do,” is a colloquialism. The meaning of the expression is not merely being stipulated. Being “told what to do” already happens to us. I must determine how this can happen to us through ethical theory. It is a question that amounts to whether ethical theory can function effectively and impact us as we live our lives out in the real world. We have all received practical assistance. We know what it is like to be “told what to do.” We have asked for this sort of help specifically. We have gotten it. We have applied it. It seems that when we are “told what to do” we are given a recommendation that we can apply immediately. We usually have no questions after being “told what to do.” We have been given enough instruction, if we have really been “told what to do,” so that we can then go do it. There is no need for the agent to determine anything further for herself. She need not consult a “contextualist story” about her character, for example, to follow the instruction. The instruction is “immediate.”
I would also like to suggest that when we are “told what to do” we are given advice that is “direct.” We are not “told what to do” when given a riddle to puzzle over or when a book is recommended that addresses our problem. We are “told what to do” when we are given a short and unambiguous instruction that is directed at us. An indirect recommendation leaves much of the interpretation of an instruction up to us, and we have not been “told what to do.” We might have been given good advice, we might have figured out what we ought to do -- but if we are doing much figuring, it is because the advice was not “direct.” Additionally, sometimes advice comes in a “direct” form but is not “immediate” advice. This happens when, given an instruction like “do this” we are still left to weigh options (the option being to not “do this.”) When advice supplied requires any further application it has not “told us what to do.” There is one final aspect to advice that “tells us what to do.” This type of advice has gotten the “what to do” part right. The advice should be “certain,” neither inaccurate nor a mere rule of thumb, helpful suggestion or tip. We like to be “told what to do” only by someone who knows what to do. Only when we are certain such advice is accurate would we want to follow it immediately.

If advice that “tells us what to do” is advice that is direct, immediate and certain, we seem to be “told what to do” in one of two situations. Either we are not confident of our own ability to decide how to act (“I don’t know what to do! Just tell me!”) or we are indifferent to the choices before us (“Oh, I don’t care, just tell me what to do....”) One issue, if we are looking to how this sort of advice is analogous to advice an ethical theory should give us, is whether these situations are ones we might be in when it comes to
ethics. Merely being “told what to do” may fail to get us to reflect or even to even learn anything. Such advice might function like certain religious injunctions, and obedience is hardly the model ethicists tend to invoke. In this chapter we are limiting ourselves to the investigation of whether any ethical theory “tells us what to do” (and not yet investigating whether such advice is worthy of ethics.) Given a motivation to obey, being “told what to do” is effective in helping us to act, which is practical. Are any ethical theories this practical?

If Louden is right to think that non-virtue theories come down on the morality or immorality of such acts as abortion, such determinations were possible, this type of guidance would “tell us what to do.” (And it would get us to slightly revise our suggestion that practical advice ought to catered to an individual in being “direct.”) In the case of the determination of abortion’s wrongness, for example, lack of “directness” would not interfere with the ready application of the judgment. If abortion is wrong, I ought not to have one. When a class of action is ruled out like this, it does not matter that the analysis proceeds at the abstract, general level because an agent in a particular circumstance still has no difficulty following such a conclusion.) Being told that abortion is wrong tells us not to have an abortion. But are determinations of an “abortion is wrong” sort even made consequentialist theorists? (Being told “abortion is OK” does not yet tell us what to do.) Consequentialism is often described as an ethical theory that
involves a decision procedure that results in definitive solutions. These descriptions make consequentialism seem as if it makes definitive determinations of this sort. But does it?\footnote{Consequentialist theory is often described as taking the form of a scientific theory. This means that certain principles (maximize utility) or concepts (good will) are considered to be basic, and from these answers to moral issues may be derived. Julia Annas describes a scientifically structured theory as having “the less basic” be “derived from the basic.” This type of theory can be considered hierarchical and complete, but we cannot merely associate this structure, one that allows for deductions, with a certain type of result. We must be sure that the one leads to the other before consequentialism is given credit for being applicable in the way it seems that Louden is after.}

The best example I have found of a consequentialist theorist “telling us what to do” is Peter Singer and his instruction that we not eat meat. This is a judgment of the “abortion is wrong” sort as it evaluates an entire class of action. But even for Peter Singer, famous for his application of utilitarian theory, this type of recommendation is not typical. More typical, for Peter Singer, is to recommend the adoption of proper principles. For example, Singer recommends that we follow the principle that one ought to donate money until one is sacrificing equivalent moral good. He has associated this principle with more particular recommendations. We should donate a particular percentage of our income. We do not obviously need cars. But these are not examples of the “resolution” of a moral problem.\footnote{Utilitarian principles do not typically determine the rightness or wrongness of any type of action unless the mistake is so egregious (the speciesism involved in our eating meat) that it would be like not recognizing that it is wrong to murder. As a sort of proto-typical example of how consequentialist analysis proceeds, Henry Sidgwick analyzes lying only to conclude that other ethical theorists are} Utilitarian principles do not typically determine the rightness or wrongness of any type of action unless the mistake is so egregious (the speciesism involved in our eating meat) that it would be like not recognizing that it is wrong to murder. As a sort of proto-typical example of how consequentialist analysis proceeds, Henry Sidgwick analyzes lying only to conclude that other ethical theorists are
wrong to think there should be some moral rule prohibiting it. Unless we have assessed the facts in a certain situation so inaccurately that we have made a mistake such as non-vegetarianism, conclusions derived from utilitarian theory take the form of principles, not definitive judgments of rightness or wrongness of a class of action (let alone particular acts.)

This suggests to us that Louden’s expectation for applicable theories to determine “whether or not certain acts can be viewed as morally permissible” must then be either disregarded or -- as we suggested earlier-- interpreted differently. Otherwise, not even consequentialism, a theory that is often accused of functioning as if every moral problem can be resolved, turns out to be capable of meeting Louden’s request for the “resolution” of moral problems.

There is a standard of applicability that would function well in this one’s place (and in fact might better match what Louden actually intends to recommend.) This would be that no applicable ethical theory proceeds without ready explanations for the morality of any action. If a contemporary virtue theory, for example, can tell only a “contextualist story” about why lying in a particular case by a particular person is wrong—this would

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32 Sidgwick considers the justifications of a prohibition on lying, and determines all of the accounts (Kant’s included) are baseless. Sidgwick next determines that common sense holds that sometimes lying for one’s own benefit is right. Because there is no consensus, no “real agreement as to how far we are bound to impart true beliefs to others,” his conclusion is that “the rule of Veracity, as commonly accepted, cannot be elevated into a definite moral axiom.” There is no “self-evident secondary principle, clearly defining when it is not to be exacted.” Sidgwick, H., *The Methods of Ethics*, 7th ed. Macmillan Press, 1907, “The Classification of Duties: Veracity.”

32 This type of determination is not even found in Singer’s analysis of euthanasia. Our arguments for the immorality of euthanasia are mistaken, Singer explains. Yet whether euthanasia is a right course of action or not still depends on what the circumstances are.
not be specifically guiding enough. Any applicable ethical theory ought to have an apt and accessible account of why some of our famously bad action — murder for example—is wrong. Ethical theories that are applicable ought to have ready, definitive, and externally-accessible explanations for the morality of an action. This is a realistic expectation because it allows for a theory’s assessment of an action “all things assumed equal.” Unrealistic is the idea that a theory may have ready resolutions or condemnations of certain acts, as this type of guidance flaunts even common sense on the matter (murdering Hitler would have been good, lying often seems to be the right thing to do.)

By modifying what it is that Louden thinks applicable ethical theories can do, we come up with a workable notion of the “certainty” of moral guidance.

Ruled out as “certain” ethical guidance by this criteria? It seems just what Louden would have wanted ruled out as “applicable”: an Aristotelian approach like Hursthouse’s to abortion. Hursthouse analyzes the morality of abortion by bringing up multiple considerations and significantly analogous circumstances to abortion. She fails to issue any definitive judgment on abortion’s morality (which is not a problem given our revised sense of Louden’s account of “applicability”) but also fails to provide an explanation as to why a particular abortion is wrong or right, after the fact, in a definitive and externally-accessible way. Rather, like Aristotle writes, Hursthouse holds that it is very hard to know whether a person has acted morally or not. This Louden, and I, would like to rule out as the most practical type of advice an ethical theory can offer.33

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33 Hursthouse would not mind this charge, as she argues that such expectations are misguided. There is, she writes, “a strong natural temptation to think that moral philosophy ought to be able to come up with the answer to any moral problem and deliver
We are now ready to being our comparison of theories in terms of their practicality. Kant's theory is sometimes considered to be the exemplar of an ethic that is capable of proscribing particular acts and classes of actions. It seems to promise a very clear measure of what is right and what is wrong. But let us look to consequentialism first. We will find that neither the non-rule variant of the theory nor rule-consequentialism are practically guiding in the way we are after.

Consequentialism and Its Advice

In his article "Alienation, Consequentialism, and the Demands of Morality" the prominent consequentialist Peter Railton responds to Bernard Williams' charge that consequentialism requires us to alienate ourselves from our personal relationships. As a sort of aside, Railton suggests that the consequentialist may find it very difficult to act in a society that is not yet designed properly. In a footnote to this aside Railton suggests that it might turn out that a consequentialist in a society without an ideal design might, at most, be expected to vote for changes in general elections.

I have found that suggestions such as Railton's are typically kept in footnotes or as asides in introductions or conclusions (finding these passages brought about a bit of an "aha" moment.) These sorts of suggestions reveal such serious problems with consequentialism's being a practical theory that I imagine authors must be making them it cut and dried. After all, one might think, if moral philosophy cannot solve our moral dilemmas, what does it do, and what possible point or value might it have?" Hurthhouse continues to explain: "This is perhaps a temptation to which philosophers are particularly prone, since they have a characteristic tendency to fall for theories, and a corresponding optimism about what the application of rational thought to the recalcitrant world might achieve." p.8, Beginning Lives
conscious of the potential problems consequentialism has in guiding agents. Railton's calculations on what an agent living in an imperfectly organized society (like our own) should do, of course, cannot be right. Consequentialists such as Peter Singer and Jonathon Bennett are clear-eyed about this. Each has acknowledged that, by consequentialism's lights, people do not come very close to being moral. The best we can do is to engage in some percentage of better and worse actions; doing the right thing all the time is an impossibility as is (as Bennett admits) doing more good than harm.\textsuperscript{34}

Consequentialist theory, in unmodified form, makes stringent recommendations. It seems neither Singer nor Bennett would deny that an agent considering what the right course of action as she plans her day would get in response to a consequentialist analysis, the answer: organize things so that you can feed the poor.\textsuperscript{35} Let her ask the theory what she should do that evening, the next day, the next year and she will get the same response: organize things so that you can feed the poor. Even when one turns to the theory to determine if abortion is wrong or not, feeding the poor is what the theory, consistently applied, would seem to recommend. The theory would offer this agent more options than she could possibly consider relevant to the questions at hand (as we are

\textsuperscript{34} Bennett, Jonathon, \textit{The Act Itself}, Oxford University Press, 1995. Bennett writes that "it would be astonishing if our deepest and most careful views about how it is right or wrong to behave were simple enough to be useable in our daily life." He thinks Hare is "almost certainly right" that there are two levels of morality, however. p.24

\textsuperscript{35} Peter Singer thinks you should keep your job and donate to charity so that you do not contribute to creating a "culture of dependency," but I, along with Brad Hooker (I was happy to find agreement) do not understand why, instead, Shelley Kagan is not right that "promoting the good would require a life of hardship, self-denial and austerity." Quoted by Hooker, p. 150. Hooker finds act-consequentialism "outrageously and implausibly demanding," not just for how much it demands, but how it demands so much at any moment. p.158
imagining them, being about abortion.) Developed consequentialist theories tend to be modified in some way so that agents are not expected to do so much to maximize the good.\textsuperscript{36} Developed consequentialist theories have often, through a sort of default, privileged certain categories of evaluands, for example, acts over omissions. This type of modification has made consequentialist theories “local” instead of “global.” Since this approach is the sort we most often find formulated by normative theorists (Mill’s consequentialism is local) we should ask whether what local-consequentialism “tells” an agent is immediate, direct, and certain. Let me offer an example to help in answering this question.

A young graduate student, making very little money, has saved up for a vacation. On this vacation he accidentally bumps into the luxury car of a wealthy-looking woman. Phone numbers are exchanged so that the man can provide his insurance information later and pay for the small dent that he caused. The graduate student gets home and starts to consider his options. He is a smart guy and a good philosopher, convinced by arguments that consequentialism best explains morality. It occurs to him to apply this ethical theory to his decision. Though he admits he is a bit surprised by the results of his moral deliberation, he realizes that by the lights of consequentialist theory he should not return the woman’s calls. In this case he actually has enough information to make a choice that he recognizes would not pass any sort of generalizability test. He also recognizes that he

\textsuperscript{36} Acts and omissions are typically classified differently. Sometimes for reasons like this given by Warren Quinn. “We think there is something morally amiss when people are forced to be farmers or flute players just because the balance of social needs tip in that direction. Barring great emergencies, we think people’s lives must be theirs to lead.” \textit{Morality and Action}, Cambridge University Press, 1993, p.171
himself could not regard this decision as something that could be readily incorporated into a general rule. And it may not even be prudent, should the same situation arise again, for him to do the same thing. With all this having been considered, he is still able to decide that the right thing to do in this case is to donate the money, the same amount he has heard he would owe, to people who really need it.

Was the student "told what to do"? The young man recognized two options: paying for the damage or donating the money. Consequentialist theory (we mean local consequentialism from now on) did not assist him in coming to recognize these options, neither was he given any other advice that we can consider "direct." Instead, he followed the general guidelines of consequentialist theory: weigh all your options in accordance with the right value scheme. Since this weighting of options was also left up to the agent, consequentialism did not help in any "immediate" way. The practical advice we are checking each approach to ethics for is a matter of how readily an agent, one already committed to the approach, can receive it. The lengthiness of the thought process that our sample young man has to go through indicates that he is left to apply consequentialism for himself. When a theory gives practical guidance some of the "work" of applying the theory has been done beforehand and then presented so that an agent can readily follow it. But even if consequentialist experts formulated particular recommendations beforehand, these could not be followed immediately or directly. An expert has less information, case by case, than the agent herself, and the circumstances are always relevant to consequentialism. The application of consequentialist theory seems
to be left up to the individual agent, yet I question how “certain” this application by the agent could ever be.

Even when the concerns of a consequentialist have been limited by a modified theory, so that an agent need not consider all that might follow from his choice, weighing only a limited set of concerns is still a daunting task. As long as acts are still measured in terms of consequences, surely some of the information relevant to making the right decision will not be at hand. Information concerning the future seems to matter even when we are limiting ourselves to maximizing the good in local ways. But information about the future is just one example of pertinent information that an agent would be incapable of having at the moment he must act. It may be no easier to get the right local information about your impact on the woman or to those you intend to aid.37

Concerns like these have been raised against consequentialism before, and one reaction was the development of rule-consequentialism. Rule-consequentialism was supposed to better represent the sort of decision procedure consequentialist agents actually engage in. Consequentialists since Mill have described their theory as recommending that certain rules or principles be followed; rule-consequentialism went

37 There is a large literature on related issues. The contribution that is most closely related to my argument may be David Lyons’ article “The Moral Opacity of Utilitarianism,” (in Morality, Rules and Consequences, Rowan and Littlefield, 2000.) He argues that Utilitarianism has moral implications that are only opaque and gives guidance that is only ambiguous. He is wonderfully thorough where we are not. Rosalind Hurthhouse also develops objections to the guidingness of consequentialism. When rightness or wrongness depends on the particular context of an action, actions that are commonly considered wrong are sometimes, according to consequentialism, right; actions that are commonly considered “perfectly acceptable” are sometimes, by consequentialism’s lights, wrong. Hurthhouse sees this as requiring faith in a theory that lets us override common sense moral concerns. p.261
further and began to assess the rightness of actions in terms of consequentially-justified rules. This, among other things, kept “failing to lie” from amounting to an egregious moral error if it turned out to unexpectedly bring about very bad results.  

Since rule-consequentialism was created to overcome act-consequentialism's shortcomings as a practical ethical theory and practicality is our concern, perhaps rule-consequentialism will give “concrete guidance” in a way that consequentialism, thought of generally, cannot. The use of rules as a form of moral guidance certainly seems promising. Where a non-rule-consequentialism has an agent do calculations, even about following a rule, rule-consequentialism, if it offers agents a list of rules, is giving agents advice that can be used “immediately.” And rules, of course, are by design directed at the agent. Advice in the form of a rule is always “direct,” as the formulation of a rule implies a regard for an agent. If rule-consequentialism does what the name suggests and provides agents with a set of justified moral rules, then it seems we will have found a theory that is capable of offering advice that is direct, immediate, and certain. (When it comes to certainty, again, we merely assume the correctness of the theory.) The approach seems a good candidate for an ethical theory capable of “telling us what to do.”

Until recently, however, rule-consequentialism was on the wrong end of that rare thing in philosophy: a widely acknowledged refutation. Two objections, coming

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38 The rules of general, act-consequentialism are granted no special status in justifying actions. John Stewart Mill’s version of utilitarianism suggests that it is beneficial to follow consequentially justified rules, but he seems to regard these as aids in determining the right decision through the theory’s principles.

39 An early discussion of rule-consequentialism can be found in Richard Brandt’s 1959 book *Ethical Theory*. Brandt formulated critiques of the theory, as did David Lyons in *Forms and Limits of Utilitarianism*, 1965.
independently from different philosophers, were leveled at rule-consequentialism in the 1970's (earlier objections had been raised, but Brad Hooker, to whom I am looking, is responding to these.) The first was that rule-consequentialism only collapsed into act-utilitarianism. Since act-consequentialism required one do what gets the right results, if following a rule gives the right results, that is merely what act-consequentialism would recommend. This complaint regarded rule-consequentialism as no sort of innovation at all. The second complaint was that rule-consequentialism was the recommendation that agents do something incoherent: recognize what justifies morality but follow rules that lead one, in cases, to do other than what morality justifies. An agent, in other words, would never find assurance that she should not, when it maximized good, break the rules. (There were other complaints -- that any rule would have to be endlessly qualified -- that, given that rule-consequentialists could not offer actual examples of rules, the theory was mere intuitionism -- but these were not the main objections.)

Brad Hooker sees himself as having crafted a response to these objections, "thirty-five years," as he puts it, after they were made. Hooker innovates on all sorts of fronts in order to avoid previous criticisms of the theory. He regards rules as internalized norms justified if they were generally accepted; he understands acts to be something assessable only through considerations of agency; he makes the rules take into account the public's internal aversion to certain acts; he defends the theory's justifying rules on the basis of expected and not actual consequences; he regards animals and nature as having intrinsic value. His theory was designed in response to the roster of problems of
which previous rule-consequentialists were accused. But does he offer agents concrete
guidance?

He recognizes the need for a theory to be applicable and demonstrates his
recognition of this by applying his theory to an issue at the end of his book Ideal Code,
Real World. (He looks to euthanasia and concludes that “with rigorously enforced
restrictions, a rule allowing euthanasia, even active euthanasia, has (I believe) greater
expected value than a complete ban.”) He does not offer us, however, in this concluding
chapter titled “Help with Practical Problems” any examples of actually endorsed rules.
No problem. He earlier provided the actual rule he recommends in regard to providing
aid.

Over time agents should help those in greater need, especially the worst off, even if
personal sacrifices involved in helping them add up to a significant cost to the agents.
The cost to the agents is to be assessed aggregately, not iteratively.

Does this “tell us what to do”? It seems a more complicated instruction to follow
than a rule such as “keep your promises” (and such a non-value maximizing rule, Hooker
explains, would never pass his muster.) By our measure of immediacy, being told to
“keep your promises” can be applied as quickly as any instruction we imagine. To the
greatest extent it can be, the onus is off the agent who is given such a rule. All the “work”
that needs to be done to follow this rule is a) the previous acceptance of the theory it
comes from and b) recognizing a promise. Hooker’s recommended rule might also seem

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40 Hooker, p. 186
41 Hooker, p. 166
to depend on just a) accepting the justifying theory and b) the recognition of euthanasia.

But is this all that is involved?

If we look to the rule on providing aid, we may consider that it functions as a principle rather than a rule. There is no case to which it readily applies. There is no situation where you recognize need, refer to this rule, and are told what to do with certainty or immediacy. I think Hooker would admit as much. He explores some of the implications of all that he has built into his rule-consequentialist theory and acknowledges that the approach, leaving the room for judgment that it does, "comes up short" when it comes to being "precise about when an outcome is bad enough to justify breaking the rules." He also acknowledges that his theory could not clearly "permit" or not "permit" the "intentional killing of unwilling innocent people." In some extreme cases this may be justified.42

Since I am not, in this dissertation, participating in a debate on "what ethical theory ought to be about," we can leave further questions about the merits of rule-consequentialism aside and turn to Kant and his famously definitive prohibitions. His assessment of lying in "On a Supposed Right to Lie" holds that "truthfulness in statements which cannot be avoided in the formal duty of an individual to everyone, however great may be the disadvantage accruing to him or to another." How much more clear could we expect ethical advice to be? Perhaps Kantian rules tell us what to do.

42 Hooker, p.134, 136. He defends his theory's "limitations" by quoting Stuart Hampshire, "A philosopher in his study is in no position to lay down rules for justified murders and reasonable treachery."
Kant argues that we have a perfect duty of self-preservation. To kill yourself would be to destroy the very basis of your value. Because suicide opposes the purposes of our creator, one who engages in it must be looked upon as “a rebel against God.” Could instruction concerning anything other than the perfect duty of self-preservation be more guiding?

Kant clearly recognizes the importance of a theory’s applicability and handles a number of “casuistic questions” in *The Metaphysics of Morals*. Here we ought to get examples of how we are to incorporate Kant’s ethical proscriptions into our reasoning process. In one hypothetical scenario in which Kant intends to apply his pure philosophy, he uses the example of Frederick the Great, caught by enemy forces. These forces want to use their captive as a hostage, as leverage against Prussia. Aware of the perfect duty of self-preservation, what ought Frederick to do? Here we might have our first example of actual ethical advice working in a way that is immediate (it takes you the minimal amount of time and effort to recognize suicide for what it is and to apply the rule), direct (the recommendation applies to you), and certain (the determination has been made accurately, beforehand). The recommendation is guiding and practical. You should not kill yourself, even in such a case.

Except that this is not how Kant sees it. Kant thinks Frederick can be justified in killing himself. Rather surprisingly, Kant describes how the perfect duty to self-preservation does not apply in this case. The morality of Frederick’s suicide depends on the maxim that underlies his doing it, Kant explains. But the maxim operating is not...

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44 Kant, I. *Metaphysics of Morals*, VI.421-423
"preserve one's self." Kant thinks the maxim in question is one of these: Are you doing this out of fear or are you doing it to save the Prussian state from what could happen if you were a live prisoner? If the latter is the case then Kant suggests, again, rather surprisingly, that the action not be called "self-murder." This keeps the action from coming into direct conflict with the maxim we expected to be in play. And, of course, this reveals much about how maxims function for Kant. They do not work in the way we (perhaps naively) expected.

Our expectation can be considered naïve because so much contemporary scholarship has been devoted to establishing that Kant's maxims are best understood as

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45 From Kant's Lectures on Ethics:
There is another set of considerations which make suicide seem plausible. A man might find himself so placed that he can continue living only under circumstances which deprive life of all value; in which he can no longer live conformably to virtue and prudence, so that he must from noble motives put an end to his life. The advocates of this view quote in support of it the example of Cato. Cato knew that the entire Roman nation relied upon him in their resistance to Caesar, but he found that he could not prevent himself from falling into Caesar's hands. What was he to do? If he, the champion of freedom, submitted, every one would say, "If Cato himself submits, what else can we do?" If, on the other hand, he killed himself, his death might spur on the Romans to fight to the bitter end in defense of their freedom. So he killed himself. He thought that it was necessary for him to die. He thought that if he could not go on living as Cato, he could not go on living at all. It must certainly be admitted that in a case such as this, where suicide is a virtue, appearances are in its favor. But this is the only example which has given the world the opportunity of defending suicide. It is the only example of its kind and there has been no similar case since. Lucretia also killed herself, but on grounds of modesty and in a fury of vengeance. It is clearly our duty to preserve our honor, particularly in relation to the opposite sex, for whom it is a merit; but we must endeavor to save our honor only to the extent that we ought not to surrender it for selfish and lustful purposes. To do what Lucretia did is to adopt a remedy which is not at our disposal; it would have been better had she defended her honor unto death; that would not have been suicide and would have been right; for it is no suicide to risk one's life against one's enemies, and even to sacrifice it, in order to observe one's duties towards oneself.
having functioned as "underlying principles." Interpretations like Alistair McIntrye's, in which Kantian ethics are considered to be a matter of "laying down [rules] which both can and ought to be held by all men, independent of circumstances and conditions, and which could consistently be obeyed by every rational agent on every occasion," cannot be maintained in the face of textual evidence (nor, for that matter, in the face of the examples we just described.) But if Kant is not recommending exceptionless rules, but right principles in regard to the prohibitions he is most famous for, this makes his theory no more practical (given our measure) than other theories that recommend principles to agents. Principles recommended by his theory may be guiding, we never denied that theories may give guidance of a more general sort than "concrete guidance." But Kantian principles do not give us "concrete guidance" with a "high degree of specificity." They do not "tell us what to do" -- the guidance is neither immediate nor certain.

As Kant's example shows, there are steps involved in applying principle. Your judgment is engaged and you are required to do things in a series. You must ask (and answer) difficult questions of yourself. With his example, Kant is demonstrating that principle cannot be applied correctly unless one understands morality generally.

47 McIntrye, Alistair, *After Virtue*, University of Notre Dame Press, 1984, p. 43. I hope I may be permitted to flip McIntrye's terminology, he uses "principles" where other commentators on Kant use "rules." This reserves no meaning of principles like the one we invoke.
48 Such assumptions are still easy to find. James Griffin describes Kant as "thinking of the moral agent as having little more than rationality and a psychologically rather simple capacity for happiness and unhappiness" in "Virtue Ethics and its Environs", *Virtue and Vice*, ed. E.F. Paul, F.D. Miller, and J. Paul, 1998, p. 60
Frederick the Great, to choose rightly, has to understand why Kant normally regards suicide as wrong.

**Principles**

Principles are representations or summaries of what we think is true about morality. They do not need to be reductions of morality; they do not necessarily depend on morality's simplification or distillation. Instead, principles of, for example, justice are parasitic on a previously established account of justice. We mean this in two senses. For principles of justice to be properly formulated, one must develop an account of justice first. Furthermore, trying to follow a principle of justice, without understanding what justice is, is to follow a principle not as principle but as if it were a rule. This is not necessarily disastrous; it is just an unpromising procedure. Sooner rather than later, one's judgment will be required to apply this principle-taken-as-a-rule. Kant understands this. But let us return to consider the case of the young graduate student who, making very little money, has gone on a vacation only to hit a woman's car. What would Kant have had this person do?

We know what Kant would say if the young man had made a promise to pay for the woman's car damage. In *The Foundations of the Metaphysics of Morals*, Kant suggests the following in regard to a person seeking to break a promise.

How would it be if my maxim became universal law? He immediately sees that it could never hold as a universal law of nature and be consistent with itself; rather it must necessarily contradict itself. For the universality of law which says that anyone who believes himself to be in need could promise what he pleased with the intention of not fulfilling it would make the promise itself and the end accomplished by it impossible: no
one would believe what was promised to him but would only laugh at such an assertion as vain pretense.49

But can we be assured that promise-keeping is the maxim that is relevant to this case? Perhaps a promise was never explicitly made, or maybe the young man signaled his ambivalence about paying for the damage at the outset. To regard the issues as just a matter of whether a promise is made does not seem like a helpful way to guide the young man, who is considering so much more. He is attempting to figure out how to do the most good: by aiding the needy or paying this woman. We have what Kant wrote in regard to the person considering a life lived selfishly, without regard for others. Perhaps this applies.

Now although it is possible that a universal law of nature according to that maxim could exist, it is nevertheless impossible to will that such a principle should hold everywhere as a law of nature. For a will which resolved this would conflict with itself, since instances can often arise in which he would need the love and sympathy of others, and in which he would have robbed himself, by such a law of nature springing from his own will, of all hope of the aid he desires.50

Neither does this advice seem to apply to the young man directly. He is not attempting to benefit himself; he is attempting to determine who to benefit. The maxim: aid who most deserves it may be what we need Kant's theory to test. Our hunch is that by the lights of Kant's theory, an agent would make the decision to repay the woman. The grounds of this, however, are not made clear by the examples of right reasoning that Kant offers. It seems we would need the exact case before us to be analyzed by Kant in order to receive clear advice on the matter.

49 Kant, Foundations of the Metaphysics of Morals, 422
50 Kant, Foundations of the Metaphysics of Morals, 423
But Kant’s theory does not promise to offer definitive guidance of the sort we have been seeking. And, in fact, the role he has left for an agent’s judgment has been ignored by interpreters too frequently. Rather than offering an “empty formalism,” Kant recognizes that rules require our judgment for application and, like the virtue ethicists, sees judgment as “a peculiar talent which can be practiced only, and cannot be taught.” For the same reason virtue ethicists can be praised (by Louden and others) for paying attention to the intricacies of agency, Kant can be credited for recognizing how much is left to a person’s judgment. And, given this emphasis on judgment, to properly appreciate the guidance his theory offers, we cannot look to only its determinations in the case of moral problems. Still, he does not “tell us what to do.”

After looking to consequentialism and Kantianism, it is time to look to what a eudaimonist theory might offer the young man in our example. The man hits the car, immediately wishing he hadn’t. Eudaimonism tells us that wishes like these are pointless. The man sees the woman and is afraid of how angry she might be. He starts to feel resentful…of something, though he is not yet sure of what. Everyone can tap a car like he has…why should he be punished for bad luck? Eudaimonism tells us that each of these thoughts ought to be corrected. When it comes to the matter of his decision to repay the woman or not, eudaimonism offers an account of the value of money, an account of what your reputation as dependable is worth, an account of what it matters, to you, to be

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51 Kant, Critique, A132-3/B171-2. He also describes how crucial the role of judgment is when giving an account of our general faculties. “Understanding” may be viewed as a “faculty of rules,” but he does not think that understanding alone is involved in following rules. “Judgment” is “the faculty of subsuming under rules; that is, of distinguishing whether something does or does not stand under a given rule.” The faculties must work in unison.
responsible for the damage you cause, and even an account of when it is proper to aid the
needy. This guidance is not yet in the form we specified when developing our criteria
for advice that is immediate, direct, and certain. But the above guidance (which provides
the content for Stoic principles) turns out to be a crucial supplement to immediate, direct
and certain advice, as I will explain in chapter three.

Stoic eudaimonism is the first theory we have encountered that can “tell us what
to do.” Stoicism tells the young man in the example what to do in addition to providing
all of the more general guidance described above. Cicero, in the third book of On Duties,
writes that our deliberations get confused when the “fairness violated seems not so very
great, while the results of it seem very important... but there is one rule for all cases...
either the thing that seems beneficial must not be dishonorable, or if it is dishonorable it
must not seem beneficial.” (81) And no beneficial aim is “secret.” (38) The instruction
from Stoicism is clear, a Stoic is forbidden to “increase our means, wealth, and resources
by despoiling others.”(23)

Before these immediate and direct instructions are attached to the ethical theory
they may read like baseless injunctions. We were looking for advice like this and now
that we have found it we must consider all the worries when might have when it comes to
whether ethics ought to involve rules and instructions that are so definite. Even
eudaimonists (even some Stoics) disagree on how safe it is to give agents such direct
instruction. In the next chapter we will introduce Stoicism and eudaimonist theory. In this
chapter we will look to potential difficulties that come from the recommendation of
ethical rules. I will explain the significance of the relationship between these two types of
guidance in Stoicism. The immediate, direct, and certain guidance of Stoicism functions
*only* because of its relationship to the more general guidance the principles of the theory
gives. We must ensure that Stoicism is not just a practical but a worthy ethic.
CHAPTER 2: EUDAEMONISM AND OTHER VIRTUE THEORIES

Some persons will advise us to rate prudence very high, to cherish bravery, and to cleave more closely, if possible, to justice than to all other qualities. But this will do us no good if we do not know what virtue is... virtue means the knowledge of other things beside herself, if we would learn virtue we must learn about virtue. Seneca, *Moral Letters* 95. 55

At the conclusion of the last chapter I suggested that the Stoic variant of ancient eudaimonism is uniquely suited to providing agents with the most practical or "concrete" moral guidance. It is not merely that Stoicism has generated rules and specific injunctions that contemporary theories have not, however. Any theory could attempt to appropriate specific Stoic rules or to merely add on to their theory very specific rules such as-- for example-- pay all debts. In the next chapters I explain why any attempts to append "concrete" guidance to non-Stoic theories are bound to be inferior to the conjunction of Stoicism and practical advice. It is the way in which "concrete" guidance is integrated into Stoic ethical theory that makes the theory uniquely applicable. The practical success of Stoicism is a matter of how the ethical theory justifies morality, integrates principles into its more general advice, and classifies value. The first two of these features of Stoicism are shared by other ancient eudaimonist theories, such as Aristotelianism. In this chapter I will contrast Aristotelian eudaimonism to Stoicism as well as explain that eudaimonism is only one type of virtue ethic. By pointing out that contemporary virtue ethicists do without essential components of ancient virtue theory I will be able to account for why even ancient Aristotelianism is more practically guiding than modernized variants of virtue ethics loosely based on Aristotle's theory.
Eudaimonism has been misrepresented for a great deal of the modern era. Kant, Bentham and Mill dismissed eudaimonism for reasons not very different from the thought that eudaimonia was a rather peculiar and non-universal notion of happiness and not an account of morality. Since these dismissals and until only recently eudaimonism has been represented as an ancient account of ethos with only historical relevance. As a result of the efforts of ancient philosophers who have demonstrated that eudaimonism has a theoretical structure and meets enough of the expectations held in regard to ethical theory, managing, for example, to account for binding obligations and other-concern, eudaimonism is now considered an ethical theory.\(^{52}\)

Eudaimonism is now often classed among contemporary theories of ethics and it is at least regarded as relevant to contemporary ethics. Yet rather than being taken as a viable alternative to modern theories, it is more often considered a harmless account of character whose insights might be joined with contemporary accounts of ethics to make them more complete.\(^{53}\) Contemporary theorists now discuss, along with right action, how right action is related to character. (Of course, in the history of ethics, not doing this has been the short term trend.) Eudaimonism's insights are often considered to have been incorporated into contemporary theories once these theories acknowledge that actions alter our character, virtues exist and that certain traits contribute to people's goodness.

For example, these insights can be added on to a theory that still determines morality

\(^{52}\) In addition to her book *The Morality of Happiness* some very important articles of Julia Annas' on these subjects are "Prudence and Morality in Ancient and Modern Ethics," *Ethics* 105, January 1995, p. 241-257 and "Ancient Ethics and Modern Morality," *Philosophical Perspectives*, 6, *Ethics*, 1992

\(^{53}\) This is the way in which virtue ethics might be used, according to Robert Louden, so that the theory's "application problem" might be avoided.
through the analysis of acts. Any qualities that promote right action might be described as virtues. Often contemporary approaches like this are regarded as friendly towards eudaimonism. Aristotle is quoted in support of such approaches or uncritically. Yet Aristotle’s account of virtue is not detachable from the considerable assumptions involved in the theoretical structure of eudaimonism. I would like to show that eudaimonism is less a friend than a competitor to most contemporary ethical theories.

There are at least three aspects of eudaimonist theory that modern theorists have misrepresented or misunderstood. The most prevalent of these are on the following issues: the notion of a final end, the structure and psychological status of virtue, and virtue as transformative. After a presentation of eudaimonism, I will attempt a rough catalogue of different contemporary takes on virtue. This will allow me to show that modern assumptions about ancient views differ from actual ancient theory. Then I will show what benefits of ancient theory are being lost out on by through a failure to respect (or even recognize) ancient virtue theory’s theoretical structure. Finally, I argue that any benefits that come from leaving these elements out of an updated account of virtue theory are illusory.

Three Components of the Theoretical Structure of Eudaimonism

Socrates:
And we have found that in real life morality is the same kind of property, apparently, though not in the field of external activities. Its sphere is a person’s inner activity: it is really a matter of oneself and the parts of oneself. Once he has stopped his mental constituents from doing any job which is not their own or intruding on what is the other’s work; once he has set his own house in order, which is what he should really be concerned with; once he is his own ruler, and is well regulated, and has internal concord; once he has treated the three aspects of the soul as if they were literally the three defining notes of an octave: low, high, and middle, and he has created a harmony out of them and however many notes are in between. Only then will he have bound all the factors together
and made himself a perfect unity rather than a plurality, self-disciplined and internally attuned... and conduct is what preserves and promotes this inner condition of his that he regards as moral and describes as ideal. Plato, Republic, book 4, 443c-d

In the ancient Greek world, the idea that we had a final end was no more than common sense. In the Rhetoric Aristotle was not promoting his own ethical views but summarizing what was a matter of general agreement. What seems, then, to have been a matter of general agreement is the suggestion from the Rhetoric that "nearly everyone has a kind of target, both privately for each person and in common, in aiming at which they make their choices and avoidances, and this is, in brief, happiness and its parts." Aristotle goes on to list what common opinion understands happiness to be comprised of: good birth, lots of friends, wealth, reputation, honor, a good old age... virtue is unceremoniously included among the other goods. Aristotle wraps up the list by writing "further, we think that there should be powers and luck, for this is how one's life would be most secure." If we asked people what it took to be happy today, we might get a similar list. We might get agreement on the idea that everyone wants to be happy (though we may hear: but it is not good to be too happy.) We would likely not get agreement on the idea that everyone has a target before them which, through aiming at, choices are made. It is this last intuition, a matter of common sense for the ancient Greeks, that serves as the starting point of eudaimonist theory.

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54 Rhetoric, Book I. 5
55 Rhetoric, Book I. 5
Since we no longer hold it to be true as common sense, we need to argue for the idea that we all have final ends. The terminology “final end” can be very misleading, of course. It does not imply that there is one source of motivation for all that we do, it does not imply ethical monism, and it does not imply that one lifestyle ought to be imposed on all of us-- as I will show.

**Component One: Our Having a Final End**

The notion of a final end is simply a component of a rather reasonable and resilient account of what it would be to have success in our practical reasoning. It is the idea that if asked why we are pursuing anything particular there would be no infinite regress of explanations (or no explanations available at all.) There are certainly theories (such as Freud’s) that disagree. Yet consideration of how we are to pursue a list of goods, which is still part of a common sense view of happiness, might find us agreeing with the psychological assumptions the ancient Greeks took for granted. In schematic form, here is the argument for eudaimonism:

- a. we have projects and goals
- b. these projects and goals will conflict
- c. our reasoning about choices between these projects and goals can be both tracked and modified
- d. the goals and projects that are proper to us are ones that can be integrated by our reasoning about them properly
- e. reasoning about our goals and projects properly is to rank them in accordance with our final end (happiness)
Lawrence Becker, in his 1998 work *A New Stoicism*, modernizes the ancient conception of practical reason in a way that has satisfied contemporary cognitive scientists. Becker explains that when we get involved in endeavors, as we all do in the multiple, practical reasoning is what solves “problems of clarifying and operationalizing the end (of our endeavors), finding effective means for reaching the end within the constraints of the project, and generating norms of reformative assessment.”\(^{56}\) No one method of success in practical reasoning is prescribed by eudaimonism, as Becker makes clear. We each choose our own projects, have different degrees of risk aversion, have different future prospects, and endorse different epistemic norms. Realizing one’s final end, however, does this, in modern terms: it allows us to achieve “the normative integration of isolated endeavors in terms of (practical reasoning’s) encompassing aim: to achieve success for every one of the agent’s projects, over the agent’s whole lifetime.”\(^{57}\)

Let me illustrate with an example. We are after, let us say, wealth and health. We have been convinced that the right amounts of wealth and health will bring happiness to our life. Which good ought one to pursue first, and for how long? If we grant that we make this decision, then what is the standard by which it is made? The ancient Greeks recognized that our having an overarching aim of happiness is what explains why we sometimes sacrifice health for wealth, and *vice versa*.

That we have a means of deciding between values to pursue does not mean that we always invoke this means correctly. Some of us make these decisions more

\(^{56}\) Becker, p.50
\(^{57}\) Becker, p. 51, Becker adds, “and failing that all but one or two,” but I quibble with this later.
consistently than others of us. The consequences, for example, of pursuing wealth to the unwarranted exclusion of health is a shorter life span but this consequence does not necessarily provide us with an intellectual awareness of what happiness would have required. Though our motivations, regardless of our understanding of them, share an explanatory structure (each can be measured against one’s happiness), some of us reflect on our lives more than others. Some of us have a great capability in this regard. Only if one is capable of the right degree of reflection upon the projects one has in one’s life can it be realized that our lives require that our values be organized and integrated.

It does not usually occur to the heroin addict that she is living for pleasure, nor to the politician that he is aiming, above all, for glory. Nor does it occur to most of us that our repeated attempts to “balance” or lives (We work hard and play hard. We “juggle” family and career. When there is a lack of “balance” we add an amount of what is missing as a remedy. We need a vacation, or just to relax,) can be regarded as a failure of values integration.

Against what we consider to be normal lives and normal tensions in our lives (the pull of career versus the pull of family) the ancient eudaimonists have the following things to say: revise what it is you consider good. The Stoics, in response to a list like that in Aristotle’s *Rhetoric*, write that “not even an abundance of these goods [] makes a difference to the happiness, desirability, or value of one’s life.” Other eudaimonists agree. Epicurus writes that it is not what is customarily thought to bring happiness that does, but that “sober reasoning, which works out the causes of every choice and

58 Cicero, *De Finibus* III, 43
avoidance” and drives out false “beliefs,” gives rise to happiness. Both Aristotle and the Epicureans, two kinds of eudaimonists, argue that we must weigh virtue more heavily than any other good. We can still count external goods (those goods external to the soul) as contributing to our final end of happiness, but it turns out that these goods require virtue in order to be properly appreciated.

For Aristotle, whose list of value includes others’ importance, their goodness, their closeness to you, the urgency of a situation, virtue, and utility, the Rhetoric’s common sense list of goods needs to be revised by virtue being made the chief good. The Epicureans think that a focus on our final end of happiness reveals to us that good birth, wealth, reputation, honor and even a good old age do not directly contribute to our happiness. The external goods that virtue still requires are simply got, natural goods (such as security and nourishment.)

Though both the Aristotelian and Epicurean schools of thought require that common sense “balancing” approaches to happiness be revised so that the value of aiming at virtue is recognized, neither school is ready to accept that virtue so transforms us that, if virtuous, we can be happy without external goods. Becker is more an Aristotelian than a Stoic when it comes to the role of external goods in the eudaimon life. He worries, like Aristotle, about how unintuitive the proposal that we can be happy on the rack is. He, like Aristotle, thinks the common sense “list” of goods only needs to be

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59 Epicurus, Letter to Menoeceus, 132. Aristotle refines his definition of happiness as book one of the Nicomachean Ethics progresses, and the final definition he provides has the happy person as “active in accordance with complete virtue and [who] is sufficiently equipped with external goods, not for some chance period but throughout a complete life.” I, 10
revised by adding to it the understanding that only virtue best secures these goods for us. According to Becker, the virtuous agent never gives us pursuit of what he calls not external but “nonagency” goods, the goods that are not of virtue. Becker thinks that recognizing a final end can integrate the *majority* of our pre-existing preferences but not all of them. This, of course, has Becker face what he acknowledges is a problem for his updated account: how to decide what mix of “agency” (virtue goods) and “nonagency” goods to go for? He merely suggests you just approximate a combination that satisfies you. Aristotle might have had the exact same response.

Only the Stoics recognize virtue to be sufficient for happiness. They realized that this proposal, on its face, seemed a paradox. But it is not difficult to understand why this innovation would suit an account of eudaimonism, not once we realize that an Aristotelian account of our final end leaves us with no (or very little) guidance when virtue comes in conflict with utility. Should one attempt to do a non-virtuous thing, for example, to get off the rack? To keep one’s job? To gain favor?

A non-Stoic account, by not realizing that virtue is sufficient for happiness, is failing to recognize that we can fully integrate all of our goals. And the Stoics argue that this *can* be done. How do the Stoics revise the list of common sense goods? The Stoics argue only virtue is of value, and that all the rest is what they term “indifferent” because it cannot be valued in comparison to virtue. There is, on an orthodox Stoic account, never any conflict between utility and virtue. The reason they can claim this has to do with the way that being virtuous transforms our notions of goodness.

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60 Becker, p.141
Component Two: Virtue

So what is virtue? Virtue is the stable state of character or stable disposition that results from successfully integrating our aims and values (integrating these in practice as well as in our understanding.) Some psychologists and philosophers have attempted to dispel the notion that stable character traits exist by pointing to studies, done since the 1920’s, that show that “almost everyone cheats some of the time” and that we can not “divide the world into honest and dishonest people.” There was one study where they tested whether people were more likely to help a stranger after they had gotten extra money back from a pay phone (it turned out people were more likely to help after this!) These results were supposed to establish that human nature was essentially malleable and situation bound. The only difficulty eudaimonism has with these studies comes when authors such as John Doris think that this research reveals that there can be no such thing as virtue (he argues this in his 2002 book Lack of Character: Personality and Moral Behavior.) But of course these studies were not testing the virtuous. They were testing normal people, and the results of these studies only support what eudaimonism maintains: without being virtuous, characters are incoherent and instable. Non-virtuous characters are by definition vulnerable to various situational inputs. The eudaimonist conception of virtue can be drawn in perfect contrast to the types of characters that “cheat in one situation” but “do not in another.”61 Virtue is what keeps us from acting like this.

Virtue has an intellectual, an affective and a motivational component. We can recognize displays of the effect of virtue on people who easily, unthinkingly, ignore an open register when they could take money with no one looking. The intellectual component of virtue is a matter of knowing why taking from a register is not going to bring one any actual benefit. The affective component of virtue is a matter of not being tempted to steal the money and having to fight against this impulse. The motivational component of virtue is a matter of how the virtues justify good behavior. When accounts of virtue do without these three components, they do not get the same results that the ethical theory of eudaimonism does. As I will show, they do not generate the substantive and practical guidance that being told to be virtuous, on a eudaimonist conception, gives us. The final and third component of ancient virtue theory left out of most contemporary versions of virtue theory is the notion that developing the virtues transforms us.

Component Three: What does being virtuous do to us? It transforms us.

The process of becoming virtuous, I often tell students, is like getting used to being healthy. You begin by having a taste for Ding-Dongs and potato chips, and after forcing yourself to exercise for months, when it is very difficult to abstain from such treats, you find it has gotten easier. You no longer even have the taste for fat and salt in those combinations. You won’t eat what you used to anymore. This is how virtue is supposed to work to integrate all our ends: by making what satisfies us fit what is actually good. A junk food junkie is not getting optimal feedback from her body, she feels tired and gains weight. After getting used to a healthy diet, after having been “transformed” in this way, she recognizes that she was pursuing the wrong aims when going for salt and
fat. She far prefers feeling good and functioning well. The ability of virtue to transform us (similar in some ways to our ability to transform our food preferences) is what is required to make sense of how a good person might still be happy on the rack.

Only the Stoics understand our ethical transformation as going so far that it can integrate all of our ends. According to the Stoics, thinking of goods like beds and ice-cream and power and honor in a revised and different way is what is required for us to be virtuous. We will not fully recognize that the value of, for example, ice cream is not comparable to the value of virtue until after we have been transformed by virtue. The Stoic proposal of a two-level scheme of value matches the effects of this transformation. There is evidence, after all, that people do choose to be “on the rack” rather than give up on their virtue. At issue between Aristotelians, Epicureans, and the Stoics is whether it is conceivable that we can come to care about virtue to the exclusion of any particular common sense goods. If we cannot conceivably do this (if even an idealized us cannot do this) then the Stoics will be wrong about virtue being sufficient for happiness. (And the implication of this will affect how practical eudaimonism can be, though this will not become clear until the next chapter.)

In contrast to contemporary virtue ethics, however, what matters is that ancient virtue ethics recognizes that virtue involves transformation. This, among other things, makes a eudaimonist account of virtue differ vastly from Humean and modern-day accounts of virtue. It keeps eudaimonism from having to rely on (or recommend that we follow) a common sense understanding of the virtues. Let us now look to this and other things that distinguish the ancient versions of ethics from modern day virtue ethics.
"Virtue ethics" currently refers to any ethical approach, be it part of an ethical theory or not, that takes an interest in agents and the ethical qualities of agents. Sometimes "virtue ethics" is described as having a primary interest in agency over acts. Michael Slote writes that "a virtue ethic in the fullest sense must treat aretaic notions (like "good" or "excellent") rather than deontic notions (like "morally wrong", or "ought", "right" and "obligation") as primary." But, as we will see, it is not clear that this distinction is very meaningful. (And even Slote's very general definition does disservice to Stoic eudaimonism, with its hearty use of "oughts.") No particular understanding of what virtues are or of what justifies morality is required for an approach to ethics to be classified as "virtue ethics." When "virtue ethics" is "any approach to ethics that considers agents and their virtues," different accounts of virtue ethics may have less in common with each other than they do with non-virtue theories. Contemporary virtue ethicists espouse varying degrees of commitment to ethical theory or even have commitments to different ethical theories (self-titled virtue ethicists are consequentialists (Michael Slote), "non-consequentialists" (Christine Swanton) and even Randians (Tara Smith,)) Virtues are either taken to be any quality that matches a positive adjective or they are regarded as nothing other than a tendency to bring about good results. Either "virtues" are justified through their consequences or they are regarded as merely prima facie desirable, left untied to any theory or perhaps even to any other virtue. (One reliable sign that this methodology is being followed is that the article title includes the name of
just one virtue; another is when the article describes itself as offering only an additional “perspective” to established moral debates.)

One way of classifying virtue ethics has been suggested by Julia Annas, who argues that the ancient model of virtue theory should be referred to as a *happiness-based* ethic and contemporary accounts described as *virtue-based* approaches. This would allow us to recognize what is distinctive about ancient eudaimonism is its justificatory account of how we each pursue one complete, final, and self-sufficient end. But before a clean division is marked between modern and ancient notions of virtue, how contemporary virtue theorists refer to their theory is a helpful part of my data. For example, why Linda Zagzebski refers to her account as “motivation-based,” rather than “happiness-based” or “virtue-based” is of interest. (She does this to avoid “explaining the good of a virtue teleologically.”) That Julia Driver pits Aristotelian virtue against Kantian virtue by writing that Kant thought virtue was not to be guided only by inclination, but also by principle, “something unchanging,” is interesting. And why does Christine Swanton propose a virtue theory that is not committed to eudaimonism?

Modern authors often describe their accounts in reaction to aspects of ancient theory that they have misunderstood. Most commonly misunderstood is eudaimonism’s “teleological” structure (the happiness in Annas’ recommended term happiness-based.) The “teleology” of ancient theory is nearly universally disavowed by contemporary virtue ethicists (Lawrence Becker and Rosalind Hursthouse being the exception.) Yet the loss of

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62 See especially “Virtue and Eudaimonism,” collected in *Virtue and Vice*, Ellen Paul, Fred Miller, Jeffery Paul, eds. Cambridge, 1998, but the argument is also made in *The Morality of Happiness*.

63 Driver, p. 114
the notion of a final end pulls the skeletal structure and sinews out of eudaimonist theory, leaving it unrecognizable and without its previous function. This is not made clear when modern virtue theorists quote from Aristotle in support of their own theory, using the prestige of Aristotle’s own account to do some of the argumentative work for their own. Without what Irwin refers to as “the eudaimonist constraint,” any heavy borrowing from Aristotle seems illegitimate. That modern theorists recognize that “some targets are internal” and that “different modes of response” are required in a right action (so that we care about “demeanor, motivation, thought processes, and reactions as callous, arrogant or light minded or as anguished”) constitutes only a surface similarity to Aristotle’s virtue theory.64

The differences are far more significant. Most contemporary virtue theorists, by rejecting the structure of eudaimonist theory, do without accounts of right action reasoned in terms of one’s final end. The virtues are not recognized to involve, and to result from, an intellectual understanding of what is good. And, as mentioned, modern approaches to virtue ethics are left to refer to common sense notions of the virtues, which are contradictory if even coherent. Finally, contemporary virtue theorists do without the eudaimonist’s ability to justify morality in terms of the virtues. The question of why be virtuous cannot be answered by contemporary virtue theorists without invoking previously existing justificatory structures—and often such justificatory structures are only poorly-adapted to agent-based approaches to ethics. These implications of not abiding by the theoretical structure of eudaimonism seem worse than the implication I

64 Swanton, p. 51
recognized, following Robert Louden, in chapter one: that contemporary virtue ethics cannot provide “concrete guidance” with a “high degree of specificity.” But causes are often worse than some of their effects. Let us start rehearsing reviewing the reasons for my description of the poor state of contemporary virtue theory.

Why are contemporary theorists so allergic to the notion of teleology in ethics? The term is associated with accounts of man’s function and the lazier parts of Aristotle’s biology. But the teleology involved in eudaimonism is nothing for moderns to be fear. It is neither a part of an outdated biology, nor is it an obviously false claim (that humans have but one purpose.) The eudaimonist “teleology” is altogether benign and merely that our ends having a nested structure. This is not anachronistic and we should perhaps drop the term “teleology” as it is now so misleading (this is often the case when it is used to describe Aristotle’s science as well.)

If the eudaimonist account of practical reasoning is wrong, if eudaimonists are not relying on the proper evidence when they argue we are capable of prioritizing, revising, and integrating the aims of our projects, then the debate should be focused on these issues. Yet contemporary virtue theorists are wholly silent on such matters. They instead proceed as if they can separate the notion of “virtue” from the ancient account of how humans reason, and-- at least roughly-- preserve the content of ancient virtue. This is not possible. Aristotle provides a definition of what it is to act in accordance with virtue.

Contemporary versions of virtue theory tend to leave out two-- sometimes all three--

65 Eudaimonism is not externalist, in the sense of not being “a theory that is arrived at in detachment from the actual self-understandings and evaluations of human beings in society.” Women, Culture and Development A Study of Human Capabilities, ed. Nussbaum and Jonathon Glover, Oxford, 1995, p.217
aspects of his definition, yet they think of themselves as working in an Aristotelian
tradition. At II.4 of the *Nicomachean Ethics* Aristotle explains what it is to do acts in
accordance with virtue.

The agent must also be in a certain condition when he does them: in the first place he
must have knowledge, in the second he must choose the acts, and choose them for their
own sakes, and thirdly his action must proceed from a firm and unchangeable character.

The *knowledge* that Aristotle requires includes knowledge of one’s final end; to
choose acts *for their own sakes*, that is, with the proper motivation, is to act in the way
that only agents that have become virtuous by focusing on their final end are enabled to;
and the *unchangeability* of one’s character can only be accounted for, then and now,
through an explanation of how altering one’s motivational structure through a focus on a
final end impacts a character. Theorists such as Linda Zagzebski, Christine Swanton and
Michael Slote think that they have incorporated intellectual components of virtue into
their accounts. Yet because they do without the agent’s conception of her final end, they
cannot account for the *same sort* of knowledge Aristotle describes the virtuous person as
having.

*The virtuous must have knowledge*

For example, Zagzebski defines virtuous right action in this way: “a right act is
what a person who is virtuously motivated, and who has the understanding of the
particular situation that a virtuous person would have, might do in like circumstances.”

Critics have noted that Zagzebski’s account rests on what she specifies the virtuous

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66 Zagzebski, Linda, *Virtues of Mind: An Inquiry into the Nature of Virtue and the Ethical
person to be. And they are, of course, skeptical about what she specifies is virtue.

Without the notion of a final end, what virtue is must be specified through some other means. Whatever these are, they are bound to be contentious proposals. And determinations on the matter of what the “threshold” of virtue is (who counts as virtuous and within what sphere does a person count as virtuous) will be arbitrary (and not just difficult to determine without all the evidence needed about a person’s psychology.)

Christine Swanton attempts to solve this problem of Zagzebski’s by specifying what would count as a virtuous act (rather than a virtuous person) in her article “A Virtue Ethical Account of Right Action.”\(^{67}\) Swanton writes that “rightness (as opposed to full excellence) of action is tied not to action from virtue but to virtuous act.”\(^{68}\) (Full excellence of action would be that a virtuous person does.)\(^{69}\) Swanton is like other modern virtue ethicists in thinking that by giving a definitional account of virtuous action virtue becomes a less arbitrary notion. Her definition of virtue still includes the notion that virtue is “a good quality or excellence of character” but, rather than invoking the notion of a final end, she explains that virtue is “a disposition of acknowledging or responding to times in the field of a virtue in an excellent (or a good enough) way.”

Her innovation is to specify the “targets” of a virtuous act. (She describes her virtue theory as “target-centered virtue ethics.”) To hit a “target” of virtue is, for Swanton,

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\(^{68}\) Swanton, p. 37.

\(^{69}\) She still describes her account as Aristotelian because “the basis of (her) account” comes from “Aristotle’s distinction between virtuous act and action from (a state of) virtue.” It does not matter that Aristotle invokes this distinction in a very different way, in a eudaimonist way.
to “respond successfully to items in its field according to the aim of virtue.”\textsuperscript{70} Is this approach less arbitrary than one that invokes our final end? Swanton has shifted the criteria for right action so that \textit{some} of the expectations have to do with the agent (the right internal aim must be had, and many modes of response might be required: the right emotions, for example) and so that \textit{some} of the expectation have to do with good results. The problem seems to be that what she counts as a good result has to do with agency in the sense that the “field of virtue” puts a limit on what get counted as good results. This is a problem because it is not clear that she has gotten away from the very problem she considers to plague Zagzebski’s account, at least if the problem is put more generally: the account of virtue (in Swanton) is not definitive.

\textit{Virtue as the unchangeability of one’s character}

One seeming benefit of a modernized account like Swanton’s is that it allows that there can be an \textit{incident} of being properly motivated for a right action. This is considered to be useful (even necessary) for a number of reasons similar to those Louden gave for wanting ethical theories to be able to give assessments of acts. It might also seem to make it easier for us to describe a good person who has done a wrong action. It makes it even easier for us to argue that Hitler was smart and that mafiosos are loyal. Michael Slote, like Zagzebski, and like Swanton, recognizes the benefits of being able to independently analyze acts on the basis of aretaic notions. Being able to analyze acts in this way (merely aretaicly and independently of the notion of the virtuous person) is “less radical” Slote writes, than Aristotle’s requirements. It also “departs less” from consequentialism and

\textsuperscript{70} Swanton, p.39
deontology, an additional benefit. But what is it to analyze acts on the basis of aretaic notions? To analyze an act in terms of bravery, for example? Or kindness? Without the ability to measure goodness in accordance with one’s final end, what kind of guide are the common sense notions of the virtues?

The virtuous choose acts for their own sakes

Both Slote and Swanton confront certain results of their definitions of right action that are counterintuitive. Slote, for example, must modify his account of proper motivation by adding that a well-motivated agent is concerned with getting the factual details of a situation in which she acts right. Swanton thinks this fails to pay attention to W. D. Ross’ distinction between right acts and morally good acts (which she maps right on to the distinction she finds in Aristotle.) Slote requires too much, she argues, and we should be able to recognize that sometimes poor motivations get us to do the right thing.

She provides examples to illustrate this. The first example is of a man who is kind to a stranger. He is being kind, which seems virtuous. But then we find that this man is characteristically over-accommodating to others, and that he did not at all enjoy spending time with the ungrateful stranger. She writes, “in this context, the kindness of the act contributes negatively to the overall virtuousness of the act.” The second example is that of a mother who notices her son has cut the cake and took the first choice of slices, the practice in the family being that whoever cuts the cake chooses last. The woman’s other son has not noticed, however, and everyone is getting along happily. To interfere with the division of slices would be, at this point, “obsessive,” even thought it is “just.” So a good
quality, Swanton points out, can be a “wrong-making feature of the situation.”\textsuperscript{71}

Swanton writes, “my point in the above examples is that the virtuousness of an act in a given respect can be wrong making. My point is not that the virtuousness of an act is not characteristically right making. Indeed, if the virtuousness of acts were not characteristically right making, we could not subsume features under virtue concepts.”\textsuperscript{72}

Swanton makes no more of this phenomena other than to note it. Despite the incidences of virtue leading us to wrong action, if virtue were not characteristically right making, \textit{we would not use virtue terms}.

What is supposed to motivate us then to be virtuous? Each of these three modernized accounts of virtuous acts do without the justificatory structure of eudaimonism, and here are the immediate costs of this. What the ancients refer to as knowing “the why” of doing a good act is when a person is in awareness of their final end and the relation the action being undertaken has to it. There can be all sorts of tests that agents can do themselves, or that third parties can use, to attempt to detect whether an agent is acting in accordance with her final end. Can she articulate, for example, how her act is done in accordance with what matters to her, having considered her life as a whole? If the mother does not intervene in the choosing of cake pieces, is this because she is abandoning the virtue of justice for the moment (how would that even happen?) There is, in effect, no “why” to be understood according to Swanton’s account, or Zagzebski’s, or Slote’s. There is, in contrast to eudaimonism, no ready answer to \textit{why be virtuous}?

\textsuperscript{71} Swanton, p. 48
\textsuperscript{72} Swanton, p. 49
These theorists modify ancient eudaimonism so that they need not hoist upon the contemporary ethical scene the “eudaimonist constraint.” Their accounts are streamlined so that virtue ethics can be integrated into our modern thinking about ethics and demand for definitional accounts of right action. But in contrast to these theories, eudaimonism is practical and substantive because it assesses every action in terms of our final end. A virtuous mother ought to know that it is wrong to redistribute cake slices after everyone is happy, and if she does not, we can point out to her that what matters, is not the rigorous division of fair shares. What does contemporary virtue theory let us say to the mother worried about the justice in cake slices? Only that these things happen, virtuous motives sometimes encourage wrongness. How could an agent be assured that this were not always the case?

Plato made clear early on that “bravery” as recognized by untutored common sense is not a reliable guide to understanding morality. Aristotle, who relied on role models when making moral recommendations, wrote that one must do what the virtuous do, in the way that they do it. But it is Aristotle’s dependence on an agent’s intellectual awareness of their final end makes all the difference when it comes to how he could treat cases such as Swanton brings to attention. Kindness given no specification through theory is a wholly untraceable impulse. A desire for justice, apart from an understanding of what justice requires, can wreak havoc.

Swanton’s calculations, that “more often than not” kindness and justice are aspects of right actions, rely on our being able to identify kindness and justice in agents I know little else about. Maybe I can do this and meet the standards of my linguistic
community, but does it mean anything? Who cares if mafiosi are loyal? What we really mean to praise is not loyalty, if mafiosos exhibit it. Swanton and other contemporary virtue theorists act as if what the virtues pick out is the end of the story, which is what makes their ethics impractical to agents. Think of how little it would mean to the mother tempted to disrupt family peace by to be told to ask “What would justice have me do in this situation?,” the question that contemporary virtue ethicists so often use (filling in whatever virtue they want) to characterize their theory’s guidance.

For these reasons, I agreed with Robert Louden that contemporary virtue ethics is “structurally unable to tell us much about what we ought to do or not do in specific situations.” Its instructions are “frequently too vague and unhelpful for persons who have not yet acquired the requisite moral insight and sensitivity.”

In contrast, “be virtuous,” given a eudaimonist account of ethics, gets its content from the notion of acting in accordance with one’s final end. “Virtue” gets its content

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74 The knowledge that one must have for happiness is a matter of the development of one’s practical wisdom, phronesis or intelligence. Aristotle offers us a description of this faculty. It is what deliberates about the choices we make as good people. (NE, VI.12) It is what we might gain after we not only reflect on the “target” at which all our choices aim, but then practice choosing in accordance with this target. That is, it is up to us both to recognize our proper target, and to take proper aim at it. (1138b22-3. 1141b12-13, 1144a31-3) Practical wisdom (phronesis) is what deliberates about the choices a good person makes. (NE, II.4; VI.12) The Stoics described the development of phronesis as skill in living. The process of deliberation involved is, at one point in the Nicomachean Ethics, described as being like the aim you take at the target (skopos) to which you must look as you ready your bow. (1138b22-3) This skopos is explained to be the shooter’s conception of what is best, and this is said to be where deliberation about choices begins. (1141b12-13, 1144a31-3) Aristotle and the Stoics are careful to distinguish this skill in living from typical skills, which are measured by their results. Skill in living is a matter
from eudaimonist accounts of moral psychology that explain how focusing on a final end can potentially modify and transform a character. Let us contrast this type of content to the content in consequentialist and Kantian virtue.

*Consequentialist Virtues*

Consequentialists often seem to want to understand their theory as being able to incorporate any insights of any other theory, but eudaimonism is very much at odds with consequentialism, even though this is rarely made obvious. It often seems, to modern theorists, that the results got by virtuous agents could merely be specified as the right consequences, and an ethical theory that counts consequences could merely be focused on these.

But let me return again to the example of the graduate student who hit a wealthy woman's car for illustration. Say the graduate student goes ahead and does what it in his mind, the making of a donation on the rich woman's behalf. His inclination to do this would be, by consequentialist lights (as far as he can determine them) something worth cultivating. Perhaps he will name the inclination he is developing "the virtue of Robin Hood." What objection would a consequentialist have to the development of a virtue that allows you, when the situation makes it easy, to disregard blame and your paying for of engaging in the proper process. When one makes the right choices due to one's developed character, or virtue, this is "skill in living," one and the same as living life in accordance with virtue, one's ultimate value. So, the happy are not detectable by success that can be measured along a conventional account of what matters: the rich are not the happy, the healthy are not, and the well-loved are not. The measure of one's skill in living is instead psychological. To recognize one's aim and to act in accordance with that is to understand what the ancients call "the why" of any of your actions, and the impact of this on one's psyche is that we are no longer conflicted by competing priorities and no longer acting under the "compulsion" of some false final end.
damage? It seems a consequentialist would actively encourage the development of this virtue (however they describe what is involved in that process.)

There is an objection that eudaimonism has to the development of this type of inclination. Namely, the objection is that this can only be an inclination, and never a virtue. What is the standard eudaimonism uses to suggest this? We are capable of developing virtues only because our psychology reacts in a certain way to treating values consistently. Try as Tony Soprano might, he will not be able to develop the virtue of keen thuggery. Why? The values that Tony Soprano depends on (his not being prey to other Tony Sopranos, the assumptions his community makes about how most people are not murdering thugs) are not being acknowledged in his attempt to get better at thuggery. It would be similar with a "Robin Hood virtue." Though donating money is certainly not something a eudaimonism has objections to, the secrecy involved in being as successful at it as Robin Hood was is what will not lead a person to have all of her goals arranged into one hierarchy.

I hope this shows that eudaimonism gives its virtues, in contrast to modern theorists' notions of virtue, a substantive content. Let me conclude by looking to Kant's virtue to show that eudaimonism has its virtue play a justifying role in morality.

*Kant's Virtues*

Kant holds, clearly, that our motivations are always opaque to ourselves (let alone to others.) Another feature of his account is that courage is the regulative virtue.\(^75\) This means, as Onora O'Neill, writes, that Kant "sees virtue not as a matter of bringing our

desires into harmony by moderating and tempering them, but as the more strenuous demand that where they conflict we subordinate self-love to morality. As Kant puts it, “the true strength of virtue is a tranquil mind with a deliberate and firm resolution to put the law of virtue into practice.”

Eudaimonist virtue is not described as requiring strength of mind to impose moral law. Eudaimonist virtue would be, instead, being able to act (and acting) in accordance with such law. The struggle, according to eudaimonists, comes in developing the virtue. Once a virtue is got, a person has been changed and now is acting and thinking in accordance with the virtue. Kantian virtue is considered a set of natural inclinations that often harmonize by accident, and with no need for intervention.

Virtue can be accounted for in innumerable ways, but the benefits of thinking of virtue in the way that eudaimonists do are a matter of it not requiring these conclusions drawn by O’Neill draws about Kantian virtue. “It cannot answer the question, “How can we know who is virtuous?” nor even the more intimate and worrying question, “How can I know whether I am virtuous.” We see then, that virtue, for Kant plays no sort of justificatory role when it comes to morality. The fact that Tony Soprano cannot act in an integrated and reflective manner is not datum for Kant’s theory. How does this matter when it comes to applying Kantianism to practical situations? Once again, the young man who hit a rich woman’s car gets no clear guidance from Kant’s theory (nor from Kant’s account of the virtues.) When eudaimonism tells the young man, however, to be virtuous,

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76 O’Neill, p. 96
77 Kant, I. *Metaphysics of Morals*, VI, 409
78 O’Neill, p. 97
if acquainted with the theory he ought to have a good sense of what that means. No short
term goal of aiding the poor at the expense of his victim can fail to be integrated into his
larger projects. He should think about his end in life and about the values that sustain him.
Given this advice, he should notice the inconsistency in his behavior.
You walk into a goblet store looking to buy a new goblet. If you were Aristotle, you would purchase the goblet without the assistance of any rule that you had memorized. You might recall that a worthy person had bought only silver goblets and that this impressed you. Perhaps you will recall what I will classify as a rule of thumb: if all else is equal, purchase only what you need and no more. Of course, you being Aristotle, what you need will include an item that brings its owner a certain prestige in the eyes of others. You choose a goblet made of gold over one made of silver.

You walk into the goblet store but you are a Stoic. You have been taught a rule: buy only silver and not gold goblets. You recall this rule, because it is short and in some way catchy. You do not rehearse the reasons for which you were given it. Not in that moment. Outside the store, silver goblet in hand, you get asked why silver and not gold. You explain that for drinking wine you need only the silver goblet. You do not need a gold wine goblet, as the gold would be only to impress others. Efforts to impress others with wealth in this way are bound to distract one from virtue. The way you put that has a ring to it, and you tell your interlocutor that she might want to memorize that last line of yours.

Seneca writes, “Our attention can be assisted, even if we are virtuous, and our memory can be assisted as well. We forget many things: details about situations that we once knew and have since forgotten, details that are morally relevant; how a general principle is to be applied in a particular case, how exactly being generous translates in a certain context, for example; and we can even forget certain moral principles, we need these to be “woken up” on occasion.” Moral Letters 94.28-29, 31, 94.21, 25-26
Aristotle quotes Hesiod more or less accurately, “Best of all is he who thinks everything for himself. Good also is he who obeys another’s sound advice.” (Nicomachean Ethics, 1095b8-13) Zeno, the first Stoic, reverses Hesiod’s quote, “Best of all is he who obeys another’s sound advice. Good also is he who thinks everything for himself.” (Lives of the Philosophers, 7.25-6) Which really is best of all we need to establish in this chapter. We have determined that a virtue theory (Stoicism) can provide advice that is direct, immediate, and certain, and thus fulfills Louden’s (and our own) expectation that an applicable theory ought to be able to provide “concrete guidance” with a “high degree of specificity.” But we want not just a practical but a worthy ethic.

“Concrete guidance” with a “high degree of specificity” comes in the form of rules. As we have discussed them, the benefits of clearly formulated prohibitions and rules have been external. When agents are guided concretely recommended actions are more likely to get done. The encouragement of action, we had said, was practical. Now we would like to consider and see if we can approve of the internal phenomena involved in this process. We certainly should wonder whether the internal results got by encouraging ethical agents to follow instructions and rules could be good. Our recent history, after all, includes the example of Nazi apologetics at Nuremberg and cases of rule-following leading to both very bad results and very bad psyches.

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80 These passages are used by David Sedley in Sedley, David, ‘The Stoic-Platonist debate on kathêkonta’ in K. Ierodiakonou, ed., Topics in Stoic Philosophy, Oxford University Press, 1999, p. 128-52
In this chapter we are going to consider moral rules in light of two things: the fallibility of rules and the moral responsibility of agents. If agents can be got to do the right things by telling them what to do, but can only obey instructions by suspending their own judgment in, this trade-off is not one that we can endorse. Practical guidance, when it comes to ethics is not worth a sacrifice in agents' moral responsibility. When it comes to ethics our standard for "practicality" ought to include the impact on an agent's moral reasoning. In chapter one, we were merely beginning to make a case for what it would be for an ethical theory to be practical. Now we must add to those requirements that the effect of practical advice must have a salutary impact on an agent's moral reasoning. And now that we are discussing agent-centered ethical theory, this can be seen to be entailed by our expectation that practical advice be "accurate."

In chapter one, when we built up the criteria for what it would be to be "told what to do" by an ethical theory, we noted that in everyday life we are told what to do when we are at a loss or otherwise indifferent. Is this analogous to the only times it would be appropriate to receive specific instruction from an ethical theory? If so, how frequently are we ever in such situations when it comes to morality? Are we ever really at a loss or indifferent? Should we refrain from being guided concretely when we are not?

The argument of this chapter is that only given a Stoic account of ethics is the situation we are in, when given moral rules, analogous to being at a loss or otherwise indifferent. Only given a Stoic account of ethics are moral rules, in other words,

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81 Since our interest is in ethical theory, we cannot be pressured into accepting this trade-off due to any real-world exigencies. In an actual situation, if people need restrictions enforced so that they do not harm others: by all means, let us enforce restrictions regardless of whether everyone understands them. Desiderata for ethical theory should be arrived at through a more expansive set of concerns.
appropriate. It is how Stoic rules function in relation to the Stoic theory of indifferents that allow us to put to rest otherwise reasonable worries about the use of moral rules. Stoicism demonstrates that ethical prohibitions can coincide with the expectation that agents are always to engage their judgment and be held maximally accountable for their every choice. As promised, this chapter will explain how features unique to Stoicism enable the theory to offer moral rules in an exemplary way. Let us start by distinguishing rules from other types of moral guidance and let us then consider some common objections to the use of rules in moral theory.

*Principles and Rules of Thumb are not Rules*

In chapter one, I first assumed that Kant’s prohibitions were not principles but rules and then realized that Kant did not want us to apply his prohibition on suicide to a recognizable case of it. This made it seem better to follow contemporary Kantians in referring to Kant’s “rules” as principles. But the formulation of the maxim did not alter. You can follow a principle as a rule, I explained, if you merely obey a principle without understanding why. Principles are often more general formulations than rules are, but this is not what distinguishes principles from rules. The two types of guidance can be distinguished by looking to how immediately and directly an ethical injunction can be (or is) applied.

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82 The Certified General Accountants of Manitoba, in their statement of ethical policy gives us the distinction that must function for them. It is actually quite helpful. Principles are “relatively general and only rarely subject to revision.” Judgments are made in accordance with principles. Rules are “clear statements of required or prohibited behavior in specific situations.” Rules are necessary when the “standard of acceptable behavior is either vague or sufficiently important to formulate a written standard.” These rules, the doctrine continues, will be subject to “addition, modification, and deletion.”
Though rules are not applied as easily as is imagined in proposals of rule-case deduction, we are safe in assuming that rules are more directly and immediately followed than principle. If it is not that they are formulated so as to be more specific, it is a matter of how rules are received. Rules are treated by agents as applying more rigidly than principles. We might easily enough say that we are refraining from applying a principle. We find cases outside of rules.

Harsh critics of the use of rules in ethics suggest that the rigidity of rules indicates that they function as “the ultimate authorities against which the correctness of particular decisions is to be assessed.”\textsuperscript{83} But no approach that heeds the implications of situational inadequacy (a phenomenon widely acknowledge in the field of jurisprudence) holds that rules are practical because the agent is faced with a rule is given an injunction that is exceptionless. There is another way to interpreting the rigidity of rules, fortunately.

Frederick Schauer’s theory of rules, provided in his work \textit{Playing By the Rules: A Philosophical Examination of Rule-Based Decision Making in Law and in Life}, is described as “presumptive positivism.”\textsuperscript{84} He argues that rules, to function in the rigid way we recognize, must sometimes be followed even when careful consideration of circumstance would have us act differently. The \textit{presumption} is that the rule should be followed can be overridden if the rule fits very poorly. On this account rules are classified not as absolute or defeasible but as “entrenched.”

\textsuperscript{83} Nussbaum, Martha, \textit{The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy}, 1986, p.299
\textsuperscript{84} Rules are treated as absolute only if they cannot be overridden. If rules were presented in this way then a rule-follower ought to always follow rules even though they lead to actions that conflict with the original grounds of the rules’ justification.
Rules of thumb on the other hand are mere guidelines to a correct decision, a decision based on consideration of all the circumstances. Rules of thumb are not offered to agents with any of rules' familiar rigidity. “Cut once and measure twice” does not have the force of “buy silver not gold goblets.” Entrenched rules are more than general guidelines. They supply “reasons for decision independent of those supplied by the rule’s underlying justification.” This means that rules (and from now on we will follow Schauer in thinking rules proper are “entrenched”) have a degree of “independent authority.” This explains the rigidity and the practicality of rules. A rule functions in the way we have recognized by not turning an agent back to the justifying principles. A rule offers a more immediate (and perhaps competitive justification.)

Worries about Rules

Schauer’s description of rules makes clear enough what it is that makes some ethical theorists object to the use of rules in ethics. Rules specify particular action and are formulated generally, and this ensures that they have the potential to lead agents to conclusions that are in conflict with the grounds that originally justified the rule. Why would an ethicist, interested in encouraging agents to right action, want to tolerate the inaccuracy that comes from the following of always overly-general, imprecisely guiding rules? The complaint, put in the terms of this project, is that rules are not even “certain” guidance, and so they should not be considered practical (given our standards of what would count as practical for an ethical theory.)

85Schauer, p. 51
There are three worries about moral rules: moral rules are unnecessary, not justifiable, and misleading. Aristotle had these worries long ago. In book two, chapter two of the *Nicomachean Ethics* he points out that there no rulebook for telling a joke well. Aristotle recognizes ethics to involve an even more complicated criterion for success. And it is misleading to suggest that to be good, one must merely follow rules. Aristotle compliments the Lesbian rule, a type of measuring device that could wrap around rounded columns. (Jacques Brunschwig writes we should not, because of the Lesbian rule’s fame, “lose sight of the audacity and paradox in speaking of an indeterminate rule.”86)

Aristotle regards the data of ethics as indeterminate, and “for what is indeterminate, the rule (canon) also is indeterminate (aoristos), like the leaden rule used by the Lesbian masons: instead of being rigid, this rule bends and adapts itself to the shape of the stone.”87 His recommendation is that we use caution. His example has him offering very few flat prohibitions (adultery, theft, murder.) When we must speak universally (and he considers doing this in the context of creating law) we must do so without ignoring the possibility of missing the mark. A number of contemporary theorists agree. James Griffins, in “Virtue Ethics and Environs” writes that “purely moral considerations, for example, that life is valuable and must be protected -- often leave us far short of norms that guide action.” He writes that if we attempt to develop “fairly determinate moral standards,” in contrast to highly indeterminate moral thoughts, such as

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86 “Rule and Exception: On the Aristotelian Theory of Equity”, *Rationality in Greek Thought*, Frede and Striker, eds., p.115
87 *Nichomachen Ethics*, 5.14, 1137b29-32
the thought that personhood is to be protected, these will be “limited in much the same way, and for many of the same reasons as positive law” a “rough, inadequate instrument not always up to coping with the complexities of life and in need of revision.”

Yes, just as Schauer admits. We have no choice but to recognize that these warnings describe rules accurately and have merit. A commitment to following rules guarantees that, on occasion, the rule will get you to overshoot your mark. Any of the practical benefits of rules must be weighed against “the possibility of missing the mark.” For example, if you follow the speed limit to the detriment of other drivers, you have followed a rule to get a result that could not be justified in the same way that speed limits were. This may not seem to be a problem when it comes to speed limits. It may be a serious problem for ethics. At this point it may seem practicality may never outweigh the risk of “missing the mark.” A eudaimonist’s best option might seem to be the recommendation of what Hursthouse refers to as “virtue rules,” instructions that merely tell us to be virtuous (be just, be kind, be brave.) These “virtue rules” do not offer “concrete guidance,” but if we are interested in right action, why ever recommend anything that might mislead one from it? Why ever recommend entrenched rules?

One recent proposal of Anna Maria Ioppolo’s is that the Stoics did not offer what can properly be understood as rules at all but instead only offered defeasible rules of thumb, capable of assisting agents no differently than more general types of ethical advice do. In the recently published article "Decreta e praecepta in Seneca," Ioppolo argues that advice formulated as rules really functions just like just like all other sorts of

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moral advice the Stoics offer. This is consistent with how Seneca uses the Latin term *praecopta* and with how widely it refers. It is meant to refer to particular injunctions like “do this particular thing” as well as to inspiring lines of Homeric poetry.

Ioppolo explains that neither being offered an example of virtue nor being offered the rule “return your deposits” prescribes the content of a right action. Instead, this guidance only describes right behavior from, as she puts it, the “outside”. They give us a suggestion of “the what” but they tell us neither the “how” nor the “why”. This is useful for learners but not for actual Stoics. Seneca, she suggests, is describing how to teach beginners virtue in his *Moral Letters* 94 and 95 (where the longest extant discussion of Stoic rules is found.) This explains why he puts so much emphasis on “rules.” She finds evidence in how Seneca sometimes uses the word *praecopta* to refer to the most general forms of practical assistance (like memorizing bits of Homer.) Precepts are necessary, according to Seneca, because “those with imperfect wisdom need someone to precede them, to say: Avoid this. Or: Do that.”

An actual Stoic agent cannot be helped by this type of guidance or “rules” because the ultimate authority of any decision made by a Stoic is in the invocation of Stoic principles. Only the principles of Stoicism have normative force and Stoic rules can have none of the independent authority we associate with “rules.”

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89 *Moral Letter* 94.50

90 Stoic principles: An entire class of goods, including money, should be considered “indifferent” to our happiness

- Fear of anything but losing one’s virtue is baseless
- Death is not a threat
- A strong soul is the best aid one can have
- Pain is not an evil
I disagree with this deflationary account of Stoic rules because of the counter-evidence (and, as I will eventually show, because my own proposal makes sense of how easily integrated Stoic “rules” are with more general advice.) On Ioppolo’s account, what to make of Seneca’s insistence that “to return a deposit” is “desirable in itself?” Seneca continues, “nevertheless, I will not always return one, nor will I do so at any old place or time. Sometimes it makes no difference whether I deny the deposit or return it openly. I shall consider the interests of him to whom I am to return it and I will refuse to return something that would harm him. I shall do the same thing with a benefit. I shall consider when I give, to whom, in what manner, and why. For nothing should be done without reason.”

Stoic “rules” can be considered as more than just guidelines for those learning to be virtuous if, as the above passage makes clear, the virtuous are also shown to follow rules. The above passage certainly suggests that Stoic rules have a degree of independent force, but we must establish this further. How will this be possible, given the eudaimonist account of how eudaimonist principles must always be referenced in a right action? How could any authority ever be granted by rules alone so that they can function as more than summaries or shorthand for principles?

A final problem with Ioppolo’s account is how it (as she means it to) makes Seneca’s responses to the critic of moral rules (the unorthodox Stoic Aristo) differ only in emphasis from Aristo’s own view – the apparent foil in *Moral Letters* 94 and 95. I will

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We should conform to nature
Virtue is the sole good

91 *Ben*. 4.10, 1-2
get to this momentarily. First, Brad Inwood has a suggestion we should look to before I present my own.

Inwood finds Schauer’s account of “entrenched rules” particularly useful in explaining Stoicism because it lets us understand the independent authority of Stoic rules and that Stoic sages are free to ignore all Stoic rules. Sages are guided by principle alone, and this, in turn, explains their being perfectly wise. Because most Stoic agents are not fully virtuous, they benefit from being instructed, through rules, on what is involved in the content of virtuous activity. What Schauer’s account of how the “presumption” that we follow the rule and the possibility that it be “overridden” co-exist in rules that are “entrenched” allows us to interpret Stoic rules as having a very laudable degree of flexibility, according to Inwood. And this is just as would be needed if the virtuous are neither bound by rules nor to operate without them at all times. There are difficulties, however, with importing Schauer’s notion of entrenched rules to explain Stoicism.

First of all, Schauer understands entrenched rules to characteristically result in what he terms error, “a result other than that indicated by direct particularistic application of a background justification or theory of justification.” But a Stoic could not follow any rule the doing of which might result in error. This would be in violation of virtue. This would be to fail to abide by the theory’s principles. It would be inappropriate for Stoic rules to be presented with the presumption that they ought to be followed even if they lead to error. This means that the “independent authority” of Stoic rules cannot be established or justified in the way that Schauer describes the “independent authority” of

\[92\text{Schauer, p. 149}\]
entrenched rules being established and justified. This is the second way in which Schauer's own account does not fit Stoicism.

Schauer defends rule-following by arguing that the overly-general nature of rules is capable of getting us to integrate into our reasoning concerns about how our actions impact others. Rules function in our moral reasoning in competition with our egoistic concerns. He credits rules with introducing into our deliberations, in a non-obvious way (this may be what makes them effective), an aspect of other-concern. They "suppress the focus on the unique and the different." Rules encourage us "to see our welfare as inextricably linked with and dependent on that of the group and discourage us from claiming distinctiveness of situation and consequent distinctiveness of treatment." In this way rules can be "vehicles of community." Schauer describes the decision maker as being "disabled" by her acceptance of moral rules, and of course, this notion has the above positive spin.

The competition that Schauer describes between egoistic concerns and what is suggested by rules does not seem to recognize the possibility of these concerns being integrated. Some ethical theories, of course, encourage us to think that this is all we can

93 In his book Schauer puts to rest pervasive but false assumptions about why rule-following can is justified. Typical justifications include that they rules are justified because they let us predict people's behaviors, that they help us to reason about a situation efficiently, and that they increase social stability. None of these are right. Situational inadequacy is such that even a rule like "No dogs allowed" is too readily recognized as allowing of exception (in the case of emergencies, or of seeing eye dogs.) We cannot reliably predict that there will be no dogs in a park for this reason, and for this reason we cannot, in our own moral reasoning, fail to regard any rule as defeasible. When it comes to social stability, Schauer raises sociological issues in regard to how laws help generate law-breakers.
94 Schauer, p. 167
95 Schauer, p. 164
expect, and that prudential reasoning is always done apart from ethical reasoning. But this description of moral psychology is not compatible with Stoicism. It also has implications we might otherwise hope to reject. For example, it does not seem we can imagine the “disabling” of the agent working in only the one way that Schauer describes. An agent may become too “disabled,” even if this happens in the recommended direction. There are cases, for example, of the pathologically selfless. They neglect their own projects because due to placing so much weight on meeting the expectations of the community. They follow norms that are meant to off-set by more egoistic concerns, only without enough of this off-setting. We also ought not to imagine all rules as recommending the right sort of other-regard. Because of this, we might worry about making agents practiced at suspending their own judgment for the sake of following rules. Sidgwick’s judgment, that most people are better off following ethical norms without question, does not hold up in the light of the incidences of mass-collaboration in all sorts of crimes.

Other concern, for a Stoic, properly counts as other concern if it is not the result of an internal competition with egoistic reasons. According to Stoicism, to have other-concern is a matter of it being integrated into your prudential reasoning. If entrenched rule were needed for a Stoic to make a decision that was not self-centered, the problem the fundamental one of the agent not being virtuous. It is also inappropriate for a Stoic to be “disabled” in the Schauerian sense. Being alive to all the details of your personal situation does not get in the way of virtuous activity, as virtuous activity is not a matter of granting only enough importance to yourself.
I have a proposal as to how Stoic rules can be justified as "entrenched," a justification that is particular to Stoicism and that ensures rules given by Stoicism will not lead us to "miss the mark." This solution to the general worries about rules in ethics is a matter of the Stoic account of preferred and dispreferred indifferents. Though the Stoic account of value at first seems at odds with common sense, it is a value scheme that allows the ethical theory to be maximally practical to agents.

Let me start presenting my view by looking at the reasons attributed to the ancient unorthodox Stoic Aristo (the philosopher who Ioppolo thinks Seneca basically agrees with) for recommending that Stoics never follow rules, but only principles. Like other theorists who object to the use of rules in ethics, Aristo too thinks rules are unnecessary, unjustified and that they mislead. Aristo is reported as having said that instead of providing a student of ethics any set of rules, "instruction and practice" should be aimed at understanding the "actual dogmas of philosophy and the definition of the supreme good. He who has equipped himself [in this way] for the whole of life does not need to be advised concerning each separate item, because now he is trained to meet his problem as a whole." Guidelines on, for example, how to treat one’s spouse and children are unnecessary, according to Aristo, for the person who understands "knows not merely how to live with his wife or son, but how he should live aright. In this knowledge there is also included the proper way of living with wife and children."96

96 Seneca, Moral Letters, 94.23
A recent suggestion in an article by David Sedley points out that Seneca misrepresents Aristo’s actual worries in *Moral Letters* 94 and 95. Seneca portrays Aristo as worrying about the epistemic status of precepts. The range of precepts cannot be defined or listed, and “when things cannot be defined, they are outside the sphere of wisdom." Seneca sets up Aristo’s complaint in a way that makes it easy to respond that precepts, though they do not share the epistemic status of the dogma of true philosophy, are still not superfluous. (Seneca writes, “on that basis even consolation would be superfluous... as likewise exhortation, persuasion and even proof.”)

Aristo’s actual philosophical motivation for thinking rules are not practical is not a matter of how well justified they are in relation to principles. He objects to rules because of how he regarded the class of indifferents. His unorthodoxy sprang from his denial that there could be any differential valuation within this class of value. There are, in other words, no indifferents to be preferred or dispreferred (as in a standard Stoic view.) Health is actually no better than sickness and virtue is the only good of any worth. Because of this, to formulate any rules to guide an agent’s choice of indifferents is misleading in its very intention. Ethical advice is not just useless, it is terminally distracting to the learning of Stoic principle according to Aristo. This understanding lets us put the proper spin on Aristo’s saying that it will “do no more good” to give ethical advice “than to place weapons by your side and bring yourself near the foes without

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97 Sedley, p. 128-52
98 Seneca, *Moral Letters*, 94. 16
99 94. 49
having your hands free to use these weapons."\textsuperscript{100} Cicero, in \textit{On Duties}, insists that Aristo's views are so unorthodox as to not warrant discussion and adds supports to our non-Senecan reading of Aristo. He writes, "they (including Aristo) would have had the right to dispute about duty if they had left any means of choice between things, so that there might be a path to the discovering of duty."\textsuperscript{101}

Aristo's unorthodoxy when it comes to Stoics being able to rank value within the class of indifferents helps us to clarify what it is about Stoicism that allows the orthodox version of the theory to offer agents rules. Stoics can offer rules because they deny what Aristo asserts, and they rank indifferents despite virtue's being of ultimate value. Seneca's misrepresentation of the grounds of Aristo's objections to rules has contributed to our proposal not being represented in contemporary debates over how Stoic rules function.

\textit{Choosing Between Indifferents}

My suggestion is that Stoic rules are capable of having independent authority because they are justified like this: given all things of moral concern are equal, pursue what then seems best. This process can be called the "selection" of an indifferent. Cicero writes, "the Stoics call valuable whatever is either itself in accordance with nature, or brings about something that is. Worthy of selection, therefore, is whatever has sufficient importance to be worthy of value (value the Stoics call \textit{axia}.)"\textsuperscript{102} The indifferents that are to be preferred are worthy of "selection." The process of selection is a matter of

\textsuperscript{100} 95.39
\textsuperscript{101} Cicero, \textit{On Duties}, I. 6
\textsuperscript{102} Cicero, \textit{On Final Ends}, 3.6.20
investigating "whether or not the course they are considering is conducive to the 
advantageousness and pleasantness of life, to opportunities and resources for doing 
things, to wealth and to power, all of which enable them to benefit themselves and those 
dear to them."^103

Lawrence Becker describes the phenomena of how we come to be able to select 
between indifferents in modern terms:

We move from ad hoc narrowly defined self-interested pursuits to ad hoc widely 
self-interested pursuits (including the pursuit of knowledge), and thence to the 
discovery of regularities in the way things work. From these materials we 
formulate rules of conduct and principles of choice, which we begin to test in 
action. Over time, as we refine such rules and principles and use them with 
increasing success, we become attached to conditioning our choices on the 
concept of "appropriateness"—that is, on their conformity to the rules and 
principles we construct.^104

The decisions we make in accordance with selection are called _kathekonta_ or what 
are called in English _due actions_. Arius Didymus puts the division this way: right acts are 
such as these: to be intelligent, to show self-restraint, to act justly... and neither right nor 
wrong acts ( _due actions_ ) are such: to talk, to pose a question, to answer, to walk around, 
to live abroad.^105 My proposal is that because there is a category of actions that are not 
wholly virtuous actions but only _due actions_ rules concerning these can be given 
"independent authority." This is possible because the category of _due action_ has the same 
relation to right action as indifferents have to what is of ultimate moral value.

That is, talking, questioning, answering, walking...these things are certainly not 
virtuous themselves. But they can be done virtuous. They allow for virtue because they

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^103 Cicero, _On Duties_, I. 9
^104 Becker, p. 57
^105 _Epitome of Stoic Ethics_, bk 2, ch. 7, 11e
are what virtue acts upon. When it comes to indifferents, they are what we select virtuously. When it comes to actions, they are what we do virtuously. Stoic rules give an agent *material* for virtue. The independent reasons for action given by a rule can be handled by an agent in her moral reasoning virtuously. If they are, then this very *process* of deliberation (on something even mundane like: should I buy this for dinner or not) can receive eudaimonism's highest sanction. A due action done as a good person would do it *is* a right action. As Inwood puts it, the type of action is virtuous, and the token is a matter of contingent determinations. As I would put it, rules under Stoicism serve as *objects* for an agent's virtuous moral deliberation. For example, when following any advice or rule, a Stoic must ask herself (or have already decided) whether following the precept is honorable, whether it is beneficial, and whether there is any conflict between either of these appearances. Being capable of answering these and responding correctly to the answers is constitutive of virtue.

This being the case, we see how the Stoics (and only the Stoics) can avoid the necessary conflicts between points of justification that Schauer anticipates. Again, Schauer explains that rules necessarily mislead us because, when followed, they can get us to do actions that would not be justified on the same grounds as the rule. This cannot happen in Stoicism. A rule with independent force, "buy silver and not gold," cannot lead us to buy the wrong goblet on occasion (thus doing the wrong thing) because, for a Stoic, buying the wrong goblet is never going to amount to viciousness. Why do Stoic rules not

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106 *Moral Letters*, 94, 34

107 *On Duties*, III.4
get us to “miss the mark?” The Stoics do not have marks of the sort Schauer and Aristotle have in mind.

The principles of eudaimonism cannot come in conflict with a moral rule (justified by them) because the principles of eudaimonism do not specify which actions (or due action) are right. The principles of Stoicism can not be used to derive sets of due actions. We have already shown how rules provide material for virtue, but they also provide the content of virtue. For example, we can consider the actual Stoic rule: educate girls like boys.\textsuperscript{108} The instruction to treat girls and boys the same is not derived from Stoic principles. It is not even necessary to them. (Just as neither is the rule: buy silver not gold.) Still, such a precept is capable of being granted the status of a rule because Stoic principles endorse the proper selection of indifferents. To not recognize the girls have the same mental capacities as boys is to be willfully negligent in paying attention to the facts, with which Stoicism does not approve.

Why Stoicism does not approve of this explains why it is that following a rule is not merely something we are prepared to do or “attached to” but something that can be “good in itself.” As I quoted Becker earlier to explain, the initial due action is to preserve one’s self in one’s natural constitution. The next is to take what is in accordance to nature and to reject its opposite. Once this method of selection (and likewise rejection) has been discovered, selection goes hand in hand with due action. The eventual result of this process is that proper selection becomes “continuous, and, finally, stable and in

\textsuperscript{108} Musonius Rufus, Stob. ii, 31 also 123
agreement with nature. At this point that which is truly said to be good first appears and is recognized for what it is.109

The process of coming to recognize what ought to be formulated as a rule is itself virtuous. Stoic rules are generalizations about those things conducive to the advantageousness and pleasantness of life, and investigating these is to investigate the same data that reveals the importance of virtue.

Stoic rules provide the content of virtue in more specific ways as well? The Stoics do not give advice when it comes to customs and the practices of custom. Why? For the Stoics custom is itself a type of advice. Of course customs cannot be derived from Stoic principles (as, again, neither could rules like: buy silver not gold.) Customs and practices serve as the material for virtue because a custom needs to be rejected or endorsed by the virtuous agent. A custom serves as the content of virtue when it has been endorsed and then is to be followed. For a Stoic, part of being a virtuous person is living up to one’s proper duties (which we formulate rules about.) “Prudence and justice consist of certain duties; and duties are set in order by precepts.” Stoic virtue appropriates all of the content of an endorsed duty, so if custom has one person cooking for the family, to “be virtuous” means cooking for one’s family. If an endorsed custom has us paying a certain percentage of our income in taxes, “be just” means we should do this. This passage continues in a way that demonstrates why rule-following is “good in itself”...”moreover,

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109 Cicero, On Ends, 3.6. 20
judgment of good and evil is itself strengthened by following up our duties, and precepts help us towards this end.\footnote{Moral Letters, 94. 34}

Stoic entrenched rules \textit{enable}, it is better said, rather than \textit{disable} an agent. It is the streamlined and viable account of value that the Stoics offer, in contrast to Aristotle and indeed in contrast to any other theory, that allows them an ethical theory that justifies the following of rules. When we considered what was attractive in the expression “told what to do,” part of what seemed relevant was that, in the everyday use of the word, those who were at a loss or otherwise indifferent used the expression to get assistance. How can it be morally responsible to recommend rules when they were needed only by those at a loss or otherwise indifferent (but wanting to do the one right thing)? It is morally responsible to recommend rules when they concern our relations to indifferents and our due actions. It is not that Stoics think we are “at a loss” but that they fail to think there is some one path to rightness that must be specified through our actions. It is not that Stoics think we should be “indifferent” towards indifferents, but that there is no one right thing to do.

We were going to consider ethical rules in light of their inevitable fallibility and moral responsibility. What is unique about the Stoic account of rules is that the fallibility is mitigated by rules specifying a choice between indifferents. For example, you enter the goblet shop but have not yet learned that silver goblets and better to buy than gold wine goblets. So you merely choose the goblet closest to the check out. Your action is also compatible with Stoic principle. This is not an error in the Schauerian sense because your
action can still be fully justified by Stoic principle. It is not Stoic rules that are laudably flexible in a Stoic account (as Inwood has it) it is Stoicism itself that is so. It is not a conception of ethics that prescribes single right results in any situation.

Moral responsibility is also not lost when a Stoic follows rules, as every action, however aided, must be fully justified. We can follow injunctions immediately, directly and certainly because, on a Stoic account, we do this properly only if we have virtue. Virtue is the buffer between the lack of moral responsibility needed to merely follow a rule. And the Stoic account of right action is a buffer between rules inevitable ability to mislead. These components of Stoicism can, clearly, be recognized as unique components of an ethical theory.
CHAPTER 4: APPLIED ETHICS AND THE APPLICATION OF ETHICS

If applied ethics could function as our standard for what it is for ethics to be practical, we could have begun and ended our investigation into the practicality of ethical theories by testing theories against the issues of applied ethics. And if this were the contest I suspect consequentialism would “win” as the most practical of ethical theories. But to use the field of applied ethics as a measure of the practicality of ethical theories would be to beg the question. The methodology of applied ethics is not neutral between conceptions of ethics, nor is it tolerant of ethical theory. In this chapter I will argue that the methodology of applied ethics ought to be revised.

Philosophers may have a propensity towards, as Aristotle puts it, “excessive theorizing.” Developed theories have a certain elegance. Those attracted to this elegance become philosophers. This same attraction may explain why philosophers are characteristically reluctant to disassemble theories even when unincorporated data require attention. So that their theories can be preserved, too often philosophers seek “conviction not out of the phenomena but out of the argument.” (Aristotle, *De Caelo* 293a27)

Aristotle uses an example that makes his warning about this temptation memorable: the theory that triangular surfaces cause physical bodies. This does help. *This is how false philosophical theories might be.* Start with the wrong first principles then attempt to “bring everything in line with some hard and fast theories,” and we could get similarly awkward results. (Aristotle, *De Caelo* 306a5)

To get our philosophy right is laborious. What Aristotle recommended (and did not always abide by himself) was the iteration of this process: theorize, check the theory
against the data (theorize again, check the data again, and so on.) To do philosophy successfully one needs a talent for recognizing universal truths and a penchant for research-- to be attracted to ideas and yet be willing to abandon even one's favorites. The promise is that it is not easy. It is to be pulled in two directions-- to have and to follow the impulses of both philosopher and scientist.

Could we divide the philosophical labor to mitigate this difficulty? Could some philosophers be assigned the development of theory while others are assigned to test theory through its application to cases? The iteration Aristotle prescribes could then be the joint task of two different camps of philosophers. Whether this strategy is sound or not (I will suggest later that it is not) it is not the way to describe the relationship between ethical theory and applied ethics as it exists today. As is often noted, the title of the field of applied ethics is misleading. It suggests that what is being applied is ethical theory.\footnote{Aristotle, *Nicomachean Ethics* (1145b1 ff) For a very readable description of Aristotle's methodology, see Martha Nussbaum's *The Fragility of Goodness*, chapter 8, “Saving Aristotle’s Appearances.” (John Cooper in “Aristotle and the Authority of Appearances,” collected in *Reason and Emotion*, critiques aspects of Nussbaum's account.) Aristotle serves as positive and negative example of the methodology he espouses. His most embarrassing mistakes have been attributed to his own excessive theorizing. (See J. Barnes or R.J. Hankinson on Aristotle's science.)}

\footnote{That theory is not applied in applied ethics is pointed out repeatedly by applied ethicists introducing the field. The following definitional account of applied ethics, however, reveals that confusion about this is not impossible to find. The Internet Encyclopedia of Philosophy has it that the difficulty of applied ethics is not in being able to apply a theory, but in choosing one theory from amongst the available options: “In theory, resolving particular applied ethical issues should be easy. With the issue of abortion, for example, we would simply determine its morality by consulting our normative principle of choice, such as act-utilitarianism.” The only problem, in reality, is that there are, “unfortunately, hundreds of rival normative principles from which to choose, many of which yield opposite conclusions.” Thus, the authors write, “the stalemate in normative ethics between conflicting theories” is what “prevents us from using a single decisive procedure for determining the morality of an issue.” As a}
And of course, work on contemporary ethical theory is incomplete and ongoing. Consensus has not been gained even on which general approach is correct. Applied ethicists, as prolific as they are, are obviously not given to waiting for the results of theorists’ efforts. The field of applied ethics arose because applied ethicists determined that ethical theorists were not worth waiting on (neither for a consensus on some pre-existing theory, nor for the completion of new theories. Ethical theorists were not considered to be doing work that was essential to the solving of practical ethical problems.

The field of applied ethics did not emerge as a field that understood itself as focused on a more limited set of tasks (the solving of practical problems) but as a field that was answering a different set of questions.

description of the field of applied ethics, these passages are misleading. It would be difficult to demonstrate that applied ethics is at a stalemate. There is not only increasing activity in these fields, but consensuses are common among applied ethicists. Because the authors of this definition do not recognize the methodology of applied ethics, they cannot explain why applied ethics is not stymied by the “stalemate” they described. A proper definition of the field would make it clear that large-scale ethical commitments remain beside the point.

James Rachels describes 20th century philosophy as being unconcerned with practical ethical issues because of its metaethical commitments. Rachels, James, *Can Ethics Provide Answers?*, Harper and Row, 1971, p.vii. (Eventually Rachels realized that his case analyses were compatible with Utilitarianism, but this was only something he came to discover.) For a suggestion of what one metaethics thinks about the position of most applied ethicists on theory, R. M. Hare writes that applied philosophy is precedes “as if nothing had been learned in the course of all (the previous years) analytical inquiry—as if we had become no clearer now than in, say 1936, or even 1903, how good moral arguments are to be distinguished from bad.” Chapter One, Ethical Theory and Utilitarianism, *Utilitarianism and Beyond*, Amartya Sen and Bernard Williams, ed. Cambridge University Press, 1982, p. 23. Reprinted from *Contemporary British Philosophy*, ed. H.D. Lewis, Allen and Unwin Press, 1976.

A quick survey of the recent articles in the *Journal of Applied Ethics* reveals that no mention of particular or older ethical theories (Kantianism, Utilitarianism) is made in the titles of recent articles. I listed these in chapter one, but, the titles include: ‘Parents’ Consent to the Post-mortem Removal and Retention of Organs”, “Revising the Doctrine
Since each applied ethicist has something distinctive in her approach, generalizations about the methodology of the field are more specific in negative terms. Applied ethicists are committed to bypassing the results of what has been called “standard” ethical theory and do not think ethical problems need to be approached in a fashion that has been described as “top-down.” (“Standard” ethical theory being the top.) Put positively, one could say that the decision applied ethicists made was to go ahead and analyze particular cases “on their own terms, using whatever intellectual resources were handy.”

As the language itself suggests, these “intellectual resources” comprise a broad category. What has been “at hand”? Much that is described as being, in contrast to standard ethical theory, at a “middle level.” “Middle level” resources are ones that emerge from the emergent intuitions of “common sense” morality and from the careful analysis of cases themselves. An example of this methodology would be an analysis of euthanasia that an applied ethicist uses to answer these questions: “What is a human life, and why does it have value? Does a person’s life have any objective value, apart from its value to us?” One description of the strategy of applied ethics depicts it as the "multiple triangulation of the region in which the best answer lies, the parameters or

of Double-Effect”, “Are you my Mommy?”, “On the Genetic Basis of Parenthood,” “Markets and the Needy: Organ Sales or Aid.” Of course, Utilitarianism is sometimes used by applied ethicists. Elsewhere I argue for why Utilitarianism, of all ethical theory, is uniquely suited to applied ethics as it is currently practiced.

115 Rachels, p. viii
116 Rachels, p. viii
boundaries of the region being determined by the relevant ethical principles. Applied ethicists invoke principles rather than theories (and independently of them) for the sake of expediency.

Could there be an overlapping set of results got from ethical theory and from a case-based approach? It is possible. An applied ethicist’s assessment of ethical theory is often left unclear. Is a particular analysis through the use of principles and not theory meant to serve as a supplement to ethical theory? An augmentation? A replacement? The expediency that motivates the methodology of applied ethics often keeps applied ethicists

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118 The field of environmental ethics is arguably an exception to these claims. Its case by case analyses are often clearly compatible with continued work on theory. Cases in environmental ethics are capable of relating to traditional ethical theories differently than other fields of applied ethics do because the environment offers us either a new type of value, or a new means of valuing, or a new object to value. Only rarely in the past has the environment been taken into consideration by moral theorists, and asking what sort of value the environment has can be seen as necessary to the proper revision of moral theory. To determine the value of *human life* apart from moral theory (as in looking to the case of euthanasia) is what I consider to be a needlessly resourceless approach. Environmental ethics is, of course, still similar to applied ethics generally when it comes to the matters of how it uses, as either data or as results, independent principles, principles apart from theory. Recently Brian Norton has criticized this aspect of the approach of environmental ethicists. He describes the methodology as the hope that philosophers can “resolve environmental problems by throwing fully formed, general principles over the edge of the ivory tower.” *Searching for Sustainability*, Cambridge University Press, 2002, p. 52. He does not, however, recommend the use of “standard” ethical theory to solve this problem (he recommends a pluralistic pragmatist approach.)

119 A recent symposium at the APA was titled, “Does Bioethics Represent a Challenge to Ethical Theory?” Of course, applied ethicists are not always silent about their assessment of theory. Stephan Toumlin has written a paper titled “How Medicine Saved the Life of Ethics” where he uses the consensus that can often be gained by the approach of applied ethics to argue as evidence against the appropriateness of general theory. *Perspectives in Biology and Medicine*, 1982, vol. 25.
from addressing these questions. Any connection between the conclusions of applied ethics and theory is beside the point.

Ethical theory and the issues surrounding it are not “handy.”\textsuperscript{120} Either standard ethical theory is useless when it comes to the issues of applied ethics because, as Bernard Gert asserts, not one of these approaches to ethics “will settle any of the controversial issues in bioethics.”\textsuperscript{121} Or standard ethical theories are useless because they are an ineffective means of communicating what is ethical. Tom Beauchamp and James Childress, the innovators of the dominant approach in bioethics, share this view. They argue that four “middle-level” moral principles “condense morality to its central elements” and give people from diverse fields “an easily grasped set of moral standards.”\textsuperscript{122} Any further attempt to systemize these principles (doing the work of theory: ranking them, explaining their connection to each other) would unnecessarily muck up their communicability and applicability.\textsuperscript{123} So even though some applied ethicists take a

\textsuperscript{120} Just one example is what Dan Brock writes in appreciation for Amartya Sen’s innovative account of utility. Sen has proposed that utility be measured along independent vectors, none reducible to the other but comparable across persons. Brock invokes these vectors in his analyses and explains that they allow him to avoid making the “mistake” of having to “choose between theories.” Brock writes that, thanks to Sen, rather than considering just the pleasure that results from a particular decision, one can consider this and the satisfaction of preferences, and the ideals of a good life. Brock, Dan, “Quality of Life Measures in Health Care,” in Nussbaum and Sen (eds.) \textit{The Quality of Life}, Oxford, 1993, p. 390 also Sen, Amartya, “Plural Utility,” \textit{Proceedings of the Aristotelian Society}, 81, 1980, p.193-218

\textsuperscript{121} Gert, Bernard, “Is Bioethics a Challenge to Ethical Theory,” APA Newsletters, Vol. 2, number 1, p.187


\textsuperscript{123} And as an example of how applied ethicists might be right about this, the concept of the stakeholder was introduced by business ethicists in order to “condense” morality to
rosier view of ethical theory because they think some of its results will coincide with conclusions got independently of the theory, this possibility is still not relevant to the aims applied ethicists have. (For example, an applied ethicists does not think Kant needs to be taught in order for a “Kantian perspective” on lying to be incorporated into a case analysis.)

So, we might ask, how is the communicability and applicability of applied ethics’ “common morality” faring? In his 2002 article “Social Moral Epistemology” Buchanan assesses the results of one of the first projects that contemporary bioethicists took on. At the time the field started medical paternalism was widely accepted by health care practitioners. There was seemingly no awareness of how “transparently unsound” arguments in favor of paternalism were. Bioethicists had no difficulties in knocking down these arguments. False premises and poor logic were identified; the principles of paternalism were refuted and replacement principles were justified in their stead.

Bioethicists considered the issue settled and moved on to other tasks. Buchanan points out evidence that the “successful” arguments against paternalism are not having “much direct effect on the behavior of the physicians.” To bioethicists’ dismay, physicians continue to act paternalistically and continue to maintain poor arguments for doing so.

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what was essential, and this term is now widely used by the public to communicate their grievances against business.

125 Buchanan writes that “the medical paternalist is making one or the other of two remarkable blunders: he is failing to see that an individual’s overall good is not reducible to his medical good, or he is assuming that the physician, not the patient, is the best judge of the patient’s overall good.” p. 130
126 Buchanan, p. 131
They do this even after being directly addressed on the lack of soundness of
“paternalism” as a principle. Buchanan explains this.

Applied ethicists, Buchanan writes, have been poorly served by their exclusive
focus on the identification and justification of moral principles (an implication of the
commitment to a case by case, bottom-up or middle-level methodology.) To isolate
principles as all that is meaningful in ethical practice is to ignore much that is relevant to
ethical practice. For example, “to say that the failure of the Nazis was that they were
mistaken in their moral principles or that they got the wrong principles because they were
inert at moral argumentation would be woefully inadequate.”

Giving paternalistic
physicians the right principles and hoping for the best is similarly mistaken. Paternalists
are like anyone else in being attached to their values and practices and interested in
defending them. Buchanan explains that medical paternalists think their paternalism can
be defended through their commitment to otherwise passable principles such as: always
act in the best interest of a patient. Paternalistic physicians do things like appeal to “vast
generalizations about the inability of otherwise competent individuals to handle bad
medical news.”

Such generalizations are often factually untrue, but, as Buchanan
points out, we might not expect this to matter to the physician who is defending not only
the practices she has habituated herself to, but also her position of power in society. If
bad arguments and the evasion of some facts benefit the medical community in a direct
way, we ought not be surprised that bad arguments and false claims are used. Poor ethical
behavior cannot be explained merely in terms of adherence to principles. We cannot,

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127 Buchanan, p. 133
128 Buchanan, p. 132
therefore, assume that good ethical behavior is directly impacted through the promotion of principles.

Applied ethicists developed their field so that they could promote moral behavior with expediency. But Buchanan's analysis supplements what we have observed: journals of applied ethics are not widely consulted by the industries they describe nor by individuals seeking guidance. Since the methodology of applied ethics has not been justified for independent theoretical reasons, the charge that applied ethics is not practically effective is devastating. Buchanan's suggestion is that applied ethicists shift their focus from the generation of principles to the investigation of why people hold the beliefs that they do. His recommendation is that applied ethicists begin to research the sociology of ethical beliefs, to do, as Buchanan calls it "social moral epistemology." In regard to the resiliently paternalistic medical workers, Buchanan suggests the reasons for their resilience be investigated. He does not want applied ethicists to ignore, any longer, the factor of our non-principled motivations (such as preserving our status in society.) This is a worthy project but it is not the same as addressing these particular paternalists more effectively. This is my suggestion. It differs from Buchanan's.

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129 In response to this suggestion I have had it pointed out to me that many paternalistic policies have been revised and that this has coincided with the rise of bioethics. And certainly the fields of business ethics, bioethics and environmental ethics are burgeoning. Business ethicists, bioethicists, and environmental ethicists seem to be frequently consulted. And paternalistic policies have been changed. What Buchanan points out, however, and as events such as the Enron disaster show, is that certain practices stay in place despite ethics board-endorsed changes of policy.

130 Buchanan describes "social moral epistemology" as "examining the ways in which different traditions may either facilitate or impede the formation, preservation and transmission of morally relevant beliefs." p.149
My suggestion is that we address paternalistic physicians not armed with better sociological accounts that help explain why people adopt (or fail to) certain principles. I think we need only arm ourselves with better moral arguments. These should be convincing when it comes to, among other things, why we ought to be moral. A good ethical theory does this work. A good ethical theory attempts to explain morality, not just its principles, and not without consideration of our motivations—as multitudinous as the nefarious ones might be.

Promises of what an ethical theory can do are empty without proof of the ability. And there is the further problem of specifying what type of ethical theory one is making the promises about. Ethical theory inhabits a wide territory. Before I give an example of an ethical theory that meets these criteria, let me give an example of an ethical theory that fails to. Bernard Gert has developed an ethical theory for the purpose of solving the issues encountered by applied ethicists. For this reason he distinguishes it from "standard" ethical theory. I would classify his theory as a "middle level" theory. Gert refers to his theory as "common sense" morality.

In a recent paper, he gives a number of examples to illustrate the effectiveness of his approach. Altering slightly an actual case considered by an ethics committee, Gert describes the process by which ethical experts determined that a medical worker need not consider it deception to withhold information about a patient's not being the natural father of his child. The process by which this conclusion is got is an exceedingly simple two-step process. (The simplicity is part of its appeal.) The duties of a physician are balanced against a set of moral rules (number six being "prevent deception.") The case is
solved when the medical workers' duties are specified so that they do not include telling a patient "what is not relevant to the patient's making a decision about a medical procedure." This means that the moral rule "prevent deception" need not be altered. It is merely shown not to apply in this situation. The reasoning gets circular. The rule does not apply because it is not medical workers' duty to reveal any other than relevant medical facts. A medical worker does not have further duties of truth-telling because medical workers' duties are circumscribed.

Gert writes that the reasoning in this case was used to solve another. A psychiatrist in a similar situation came to the committee of experts, was given this ethical conclusion, and was "delighted" to find that his withholding the information that his patient's wife was going to serve the patient with a restraining order was "not deceiving at all and so had no need to justify his not telling." 131

Though I find unrealistic the assumption that we can cordon off morality so that there are rules that apply in our personal life and not in our professional roles, the "delight" of the receiver of an ethical answer is perhaps the indisputably reliable indication of the sophistry in this approach to ethics. Ethics ought not to be something we receive as if from an oracle, as if it were a pronouncement to be delighted or chagrined about. The experts in Gert's examples thought of themselves as offering "clarification" on these issues. But the clarification of morality should not be the province of experts. This is not only an insulting practice, it demeans any results got by it. It matters that the medical workers themselves reason through what they ought to do. It matters for even the

131 Gert, Bernard, "Is Bioethics a Challenge to Ethical Theory?", p. 191-192
results, the ethical outcome of any situation. Because the medical workers in these examples were not encouraged to reason through their choices on their own, the recommendations of Gert’s ethical committees are as effete as the recommendations bioethicists have made to paternalistic physicians. Neither the explanation nor the motivation nor the psychological basis for morality has been addressed.

On the other hand, if Bernard Gert is right and “no one seriously holds” that standard ethical theory can “settle” the controversial issues of bioethics, then “standard ethical theories” will not be capable of being applied to practical problems. If this is the case, perhaps the issues of morality that I am accusing of Gert and others of leaving out of their approaches to real world problems are too abstract to be practical. Of course, Gert thinks that “consequentialist, deontological, contractarian, virtue theories and others” are not only “useless” but actually “harmful,” “insofar as they encourage persons to think that all controversial decisions can be settled by means of the theory.”

We might say that Gert thinks standard ethical theories are the result of “excessive theorizing.” If “standard ethical theories” do not apply to real world scenarios then perhaps we can do no better than we have been in our approaches to applied ethics. In this regard I agree with Gert and other critics of inapplicable ethical theories: theory is not like a pendulum, so that “excessive theorizing” is merely holding it to one side for too long, application being only a matter of letting the pendulum swing free.

It seems what is required is an example of an “standard” ethical theory that has proven its practicality. It is not currently popular enough to have come under Gert’s

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132 Gert, Bernard, p. 188-189
consideration, but ancient eudaimonist theory (whether a “standard” ethical theory or
merely a traditional one) is proven to be practical. Aristotle wrote on how many friends
to have; Epicurus recommended particular eating habits; the Stoics Zeno, Cleanthes, and
Chrysippus, Panaetius and Hecaton all devoted treatises to the topic of applied ethics. Most Stoics recognized a three-fold division of philosophy, one division being that of
praecepta, the giving of precepts as practical advice. Crowds gathered as the eudaimonist
Musonius Rufus presented discussions on topics such as: What is the best viaticum for
old age? Should daughters receive the same education as sons? Should a philosopher sue
one who has harmed him?

Ancient precepts were not like the recommendations we get from virtue ethicists
today, but were “definite and certain,” “concise and binding in all cases.” Through the
use of eudaimonism, public determinations of which actions are morally permissible can
be made; right and wrong actions can be definitively described; and more than the vague
instruction to act virtuously can be offered to agents. The sort of question that now makes
for a sensible book title: *Can Ethics Provide Answers?* would have seemed silly when
eudaimonism was the dominant ethical approach.

I would also agree with Gert and critics of “standard” ethical theory in this regard:
a proper ethical theory is double-edged-- that is, able to satisfy the demand for a coherent
account of ethics and to answer practical questions. Yet a theory must be designed with
these aims in mind, forged this way. Eudaimonist ethical theory was so forged. And it

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134 Seneca, *Moral Letters* 94. 15
does not offer just principles, or moral rules, or consensus about morality. Instead it offers principles attached to a theory that is itself a viable ranking of value. Any practical ethical theory should do the same. I will give three reasons for this—three benefits that come from principles being attached to a moral theory. I suggest that these benefits constitute desiderata for any ethical theory. Eudaimonism, if not acceptable for other reasons, will then at least serve as a model of what is minimally required in an ethical theory for it to be capable of addressing real world ethical problems.

**Desiderata One**

Paternalistic physicians remain uninterested in changing their practices or altering their rationalizations, though they have been addressed by the sound anti-paternalistic arguments of bioethicists. Buchanan uses this to illustrate how applied ethicists have been poorly served by their exclusive focus on the justification and recommendation of independent principle. The reaction of the physicians is presented as evidence that tells against the methodology of bioethicists, after the fact of it. But a moral theorist already understands, before any data about resilient paternalism come in, that principles tell only part of the story of ethics. Rarely are individual principles given a longer formulation than can be offered in *one sentence*. Physicians will not be convinced to give up paternalism (and the social power that comes with it) until they are convinced by *what* ethics is and *why* they should abide by it. These answers do come in a sentence. A moral theory, however, should contain these answers. No moral theory will convince everyone, but it ought to offer what would be required to convince anyone. In contrast to the approach of the moral theorist, the giver of independent principles seems to be giving
instructions from out of the blue. As Seneca wrote, “precepts by themselves are weak, and so to speak, rootless if they are assigned to the parts and not to the whole.”

The hope of those who supply independent principles must be that recipients have, in some other way, been made ready to receive guidance in the form of principles. They have had ethics justified for them earlier and elsewhere, and the experience has made them ready to obey principles as they are handed to them and vouched for as reasonable. Yet even if we grant that this sort of recipient exists, independent principles can not be readily applied by even these agents. Not even rules (much less principles) can be applied in a simple deductive move: from rule to case. Situations do not make their relevant features obvious enough so that rules can be automatically applied. The joke about the guy who cut once and measured twice and in that order—helps make this point. It turns out that it takes as much discretion to identify an appropriate case as it does to refer this case to the general rule. Does not paying for damage I did to this woman’s car constitute stealing?

The first desiderata for a viable (practical) ethical theory ought to be that it offer a full context in which to understand principles as formulated. If I may use eudaimonism as

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135 Moral Letters 95.12

136 Rule-case deduction of this sort is a myth. The explanation is what the field of jurisprudence refers to as “situational inadequacy.” Situational inadequacy is carefully documented by the field. Some theorists of jurisprudence, influenced by poststructuralism, have given up on law having any content at all, and argue that all law has a “crystalline structure.” That is, “the materials of law already contain justifications supporting every variety of liberal and conservative positions” so that the law imposes no constraints and the judge’s ideological disposition is all that determines the results of its application. Balkin, J. The Crystalline Structure of Legal Thought, 1989.
an example again, a sample independent principle, something like "be kind to animals" receives new content when adopted by a eudaimonist. A eudaimonist understands "be kind to animals" to be a specification of what it means to follow eudaimonism's best known principle: act virtuously. Acting virtuously is something that eudaimonism explains as providing the content of ethics, and it is something eudaimonism offers a motivation for. “Standard” ethical theories may not be practical in the way ancient eudaimonism was if they only function as a test of principles, so that principles, after endorsement, are left with the same content.137

Desiderata Two

The second benefit of principles being attached to (and deriving some content from) an ethical theory is that this helps us to understand what our aims are when following moral advice. Aristotle offers an ancient but rather clear example of how a theory’s account of value comes to the aid of agents attempting to apply principle. In chapter two of the ninth book of the Nicomachean Ethics Aristotle points out that our prima facie obligations potentially conflict. He gives a list of such conflicts: Obey one’s father, or obey your doctor; obey one’s father, or vote your conscience; help your friend, or help a good person; pay your debts, or give to your closest friend. Aristotle writes that such conflicts “are hard to decide with precision.” (1164b30-1) He offers his help.

137 Many contemporary ethicists describe the role of theory as that of endorsing principle. Eudaimonism functions very differently than most contemporary ethical theory in this regard, then. At this point, the reader may be thinking that eudaimonism is a peculiar theory, and that it cannot borrow the results of the independent analysis of cases and principles. This is right and that is the reason I think it is so crucial, if we wish to reconcile ethical theory and applied ethics that applied ethics be done differently.
Aristotle wants a decision made about which one formulation of principle should be followed. His expectation that we make a choice between principles (rather than accommodating each) is a way of keeping the formulations of the principles intact. Gert’s list of moral rules is a result of the same impulse. Ethics without the specification of resilient rules and principles is difficult to follow and to discuss with others. Aristotle next does what many applied ethicists do and offers a number of higher-level principles that might guide an agent making a choice: you need not defer to one person in all things; repaying debts is more important than doing friends favors (except for when your friend is your father); one may refuse claims that are unfair. But Aristotle points out that none of these higher-level principles is itself “always true.” If all the necessary qualifications were added to any of these, they would be formulated in a very lengthy way. Principles, meant to be practical, lose what makes them practical when too long. Aristotle finally recommends that the matter of which obligation to honor should be decided in terms of which accords with what is of greater value. Aristotle then offers a list of what is of value.

When we are determining greater and lesser value, Aristotle writes, we should consider the status of each claimant, and each one should get his honor and his due. For example, the claims of fathers, due to their proximity to you and to what you owe them, seem to be of the first importance. Also to be considered are the values of importance.

138 Aristotle does not suggest that we resolve such conflicts by attempting to satisfy all the competing interests involved. This would be to strike a compromise so that all claimants (principles and interested parties) are left as contented as possible. One would be seeking “equity.” Aristotle is known for this approach in other contexts, but it is not what he recommends in book nine.
(megethos), unimportance (mikrotes), fineness (to kalon), urgency, closeness, virtue and utility.\textsuperscript{139}

In the analysis of cases, applied ethicists sometimes list the values that matter to the issue.\textsuperscript{140} How is the example of Aristotle any different? Aristotle’s ranking of value, being part of an ethical theory, is systematic. By this I do not only mean that his very justification of ethics (desiderata one) includes a justification of these values as being significant to our choices (though this is very practical.) A systematic ranking of value has further benefits, such as promising to hold up in any context. There is no difficulty such as that involved in demarcating professional and personal duties. If Aristotle is right that this list of values is the one that always matters, then these values should guide us at all times. It is easier to test values ranked by an ethical theory than it is to test values

\textsuperscript{139} In contrast to Aristotle’s ranking of value, the Stoic ranking is far more helpful because it is a more determinate ranking of value. Aristotle has not come up with a theoretical account that integrates all of the value he describes, and this hurts his theory in terms of being practical. It keeps him, for example, from being able to offer moral rules more formally understood. The Stoics clearly offer rules. Incidentally, Aristotle’s methodology that Hursthouse, a modern day Aristotelian, uses in her approach to abortion in the second portion of \textit{Beginning Lives.}

\textsuperscript{140} Research being done by cognitive scientists helps bolster the notion concepts such as “values” are more readily applicable to us than prescriptive formulations such as might tell us what to do. This finding has been described as revolutionary, if the research is accurate, it has been discovered that our basic moral concepts are “defined by metaphors.” That we reason on the basis of metaphors, that metaphors not only guide but also constrain our moral reasoning. What people understand about ethics is often on the model of health, or on the model of transactions, what Johnson refers to as “moral accounting.” Our concept of wrong action involves the sense that wrongness is disgusting. Our concept of justice invokes the notion of a fair exchange. What has not been found, in the psychologist’s research that Johnson is reporting on, is evidence that we morally reason in terms of deduction from principles. The research in psychology explains what Buchanan is capable of pointing out without recourse to cognitive science: that an analysis of ethics that trades in only moral principles (which are held, which are sound) are not working to explain human behavior.
brought up only in relation to a particular moral issue (cloning for example.) The systematization of value makes ethical theory a better means of communicating ethics because it gives a more comprehensive picture of the subject – contrary to what Beauchamp and Childress presume. The second desiderata for a viable ethical theory ought to be that it include and justify a ranking of value.

_Desiderata Three_

The third way in which it is practically beneficial to offer principles within an ethical theory has to do with how this communicates the bindingness of certain moral recommendations. By being attached to a theory, agents are assisted in knowing which principles are mere guidelines and which ought to be applied in every case. There is a habit among applied ethicists of locating cases outside of principles.\(^{141}\) An example is how Gert’s team decides not to regard the withholding of information as “deception.” But what case cannot be found outside of a principle? Principles need to be grounded in theory in order to guide us and to be meaningfully invoked in our decisions. Only the backing of ethical theory assists us in understanding which principles ought to always be followed. As Buchanan shows, it is not principles that we lack. Principles are a dime a dozen. We can voice as many as anyone would like. We still act wrongly. The third desiderata of an ethical theory appropriate to being applied ought to be that it offers not a methodology by which to determine which principle to follow (no two-step method like Gert’s), but an actual _account of which_ principles ought to be followed in every case.

There are certainly principles like these, and the case-based approach of applied

\(^{141}\) I initially found this practice rather surprising, since it has been more common to locate cases outside of rules. Principles were merely considered inapplicable to a case.
ethics obscures them. In conclusion, applied ethicists may be right about the
ineffectiveness of "standard" ethical theory. But "standard" ethical theory need not
remain what it is. If applied ethics is committed to analyzing particular cases "using
whatever intellectual resources were handy" we ought not limit the resources that are at
hand.\textsuperscript{142} The methodology of seeking the "multiple triangulation of the region in which
the best answer lies, the parameters or boundaries of the region being determined by the
relevant ethical principles" should not be understood to exclude the resource of ethical
theory.\textsuperscript{143} The most important "intellectual resource" we have is the justification of and
the explanation of all that we understand about ethics. Ethical theorists can be very handy
in this regard. We need only encourage them to craft theories with an eye to explaining
the proper data of ethics: what policies to choose, what choices to make, what practical
guidelines to follow.

\textit{Leveling the Playing Field: the cozy relationship between consequentialism and the
methodology of applied ethics}

My recommendation is that eudaimonism ought to be used to address the issues of
applied ethics, but this could happen only after some of the background assumptions
applied ethicists share are revised. The three desiderata for applied ethics were
recommendations as to what an approach to applied ethics ought to include. These next
recommendations are on what should be \textit{removed} if eudaimonism is to be given a chance
to participate in the debates in applied ethics.

\textsuperscript{142} Rachels, p. viii
\textsuperscript{143} Bedau, Hugo, \textit{Making Mortal Choices: Three Exercise in Moral Casuistry}, Oxford University Press,
1997, p. vii
I propose that there is a close fit—nearing a match—between consequentialist theory and the contemporary practice of applied ethics. If we acknowledge this fit, and that it reveals that the field is working with ethical assumptions that are partial to only one type of ethical theory, we may more easily recognize what it is about applied ethics that will have to change for eudaimonist ethical theory to be accepted by the field. I will show that there are three assumptions that the field of applied ethics makes about ethics that are theoretical (and therefore contentious.)

James Rachels' intellectual biography is helpful in making my case. James Rachels created the anthology *Moral Problems* in 1971, when ethical analyses of particular cases were so rare that he had to commission several pieces. Rachels was an early advocate of the "bottom-up" methodology. He did not set out "to champion any large-scale ethical theory." If one is faithful to the methodology of applied ethics, any reconciliation between ethical theory and case-by-case analyses will be recognized only after the cases have been analyzed on their own terms. Rachels was faithful to this program. Yet "over the years" he began to notice that his "conclusions always seemed congenial to Utilitarianism." When he wrote about famine relief, he "concluded that we have an extensive duty to use our resources to help those in need"; when he wrote about euthanasia, he "concluded that it is justified to put an end to suffering." Writing about animals, he agreed with Bentham "that their suffering counts equally with our own." Rachels came to discover that even his concern for moral desert was something that could be justified through Utilitarianism. Though he "never aimed at any such destination" he
arrived at a large-scale ethical theory. What explains the coincidence? Why would an analysis of cases lead to the same results got by theorists working with what was presumed to be a different set of data?

The example of Rachels shows that the methodology of applied ethics is uniquely suited to consequentialism, so that the theory can be invoked by applied ethicists without their altering the way they normally proceed. Rachels' story is not surprising in the way that it would be surprising to learn that an applied ethicist, through the analysis of cases, came to discover that her resolution of moral problems was compatible with Kantianism or eudaimonist ethical theory.

Let me try to explain the fit between consequentialism and applied ethics by considering an example of practices in an applied ethics classroom. Imagine that students are given the following case to analyze: a patient who tested positive for a disease has told his doctor that he will kill himself if he finds out he has the disease. Should the doctor tell the patient that tests show he does indeed have the disease? In a recent article, Deborah Barnbaum describes how students in applied ethics courses have been taught to “find the right variables, plug them in, and generate an answer.”

She writes, “the student of medical ethics knows what to do at this point. If invoking the principles of biomedical ethics, he must employ considerations of autonomy, beneficence, and non-malfeasance. If he is invoking the principles of rule-utilitarianism, he must consider the value of truth-telling, being careful to weigh the utility-maximizing force of telling the truth in all cases against the value of preserving hope in circumstance

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144 Rachels, p.ix
of enormous medical and personal challenges.”\textsuperscript{145} The student invokes virtue ethics by considering which virtue the doctor should be led by. In applying Kant’s theory the student merely asserts that having respect for persons means “recognizing the importance of preserving the autonomy of the patient.”

Which theory, of all the ones the students learn in caricature, has a chance of incorporating most of the ethical considerations that have been raised in the rehearsal of perspectives on ethics? Will these students, having been presented with all a list of ethical perspectives yet with no means of deciding between them, find one of these approaches to ethics more congenial? Or will they instead, with no means of deciding between the theories, recognize no reasons for doing so and instead opt to accommodate as many emphases as possible? Students of applied ethics seem to be offered nothing to keep them from wanting to accommodate as many of these ethical perspectives as possible.

Consideration of an ethical issue might as well be thorough. The students’ given aim, in an applied ethics course, after all, is the resolution of moral problems -- not the evaluation of ethical theory. The students have not even been presented with the details of an ethical theory.

Though applied ethicists themselves do not make arguments that resemble what Barnbaum describes as “plug and play”, in another respect, applied ethicists are in a situation not unlike that of the students. Though applied ethicists have the requisite backgrounds that give them reasons for favoring a particular ethical theory over another,

\textsuperscript{145} Barnbaum, Deborah, “Teaching Empathy in Medical Ethics: The Use of ‘Lottery Assignments’”, \textit{Teaching Philosophy}, 24:1, March 2001 63, p. 63-65. Barnbaum’s own criticism is that empathy is not generated when students are taught applied ethics in this way.
they share the limited goal that has been given to the students: the moral resolution of a described case. Is there a reason why applied ethicists, given their aims, ought not try to accommodate as many intuitions about ethics as they can in their assessments? If applied ethicists are interested in doing this (and accommodating as many ethical emphases as possible is frequently an explicitly stated goal) then consequentialist theory offers a means by which to do it.

Rachels reports discovering that even what he thought were deontological restrictions can be incorporated into and justified by Utilitarian theory. On the other hand, an attempt to apply Kantianism to medical ethics limits a doctor’s options to telling only the truth for reasons that might be considered to lie outside the immediate objective. Kantianism justifies this restriction, but are such theoretical considerations relevant to applied ethics? The best solution for an applied ethicist not interested in defending a particular moral theory but interested in solving moral problems might be that “Kantian” respect for the dignity of persons merely get incorporated into the rest of her considerations in regard to a particular case. It might turn out that the right consequentialist analysis leads to a prohibition on deceiving patients, but if this conclusion is got through the consideration of consequences, the ethicist is not left with her conclusion tied to Kant’s ethical theory, and all the additional baggage that that brings.
We can also consider Dan Brock’s appreciation for Amartya Sen’s innovative account of utility. Brock writes that, thanks to Sen’s vectored account of utility, rather than considering just the pleasure that results from a particular decision, one can consider this and the satisfaction of preferences, and the ideals of a good life. It is hard to imagine another theory being more flexible than consequentialism when it comes to accommodating intuitions about what is right and wrong. Consequentialism is capable of functioning as a sort of “catch all” approach to ethics in a way that other ethical theories are not.

Our thesis certainly does not depend on all applied ethicists being consequentialists, not even of a latent sort. Instead, we are suggesting that the methodology of contemporary applied ethics and the flexibility of consequentialist theory are natural (not necessary) compliments to each other. Applied ethicists have reasons to value an ethical theory’s ability to accommodate as much as might be considered relevant to any case. This is the first way, but in other ways the field is not neutral between theories.

The second commitment of applied ethics as currently practiced is, as rehearsed, an opposition to a top-down application of theory to moral problems. The flip side of this commitment is a positive one. Applied ethicists tend to agree with consequentialists that intuitions about particular cases are the relevant data for the ethical resolution of these cases. Though it is obvious that both Kantianism and eudaimonism are at odds with this

146 Brock, Dan, “Quality of Life Measures in Health Care,” in Nussbaum and Sen (eds.) The Quality of Life, Oxford, 1993, p. 390
147 Sen, Amartya, “Plural Utility,” Proceedings of the Aristotelian Society, 81, 1980, p.193-218. For an example of this use of Sen’s innovation, see also the Brock cite (above.)
methodology of applied ethics, this is so rarely noted that I have not seen its mention. For
example, suppose a Kantian “perspective” on lying is accommodated in an applied
ethicist’s analysis. Kantians are not assured by their prohibition being reachable by all
sorts of other ethical approaches. Kantians care that we do not lie for the reasons Kant
gives in his theory. In *On a Supposed Right to Lie*, Kant writes of the need for
"truthfulness in statements which cannot be avoided in the formal duty of an individual to
everyone, however great may be the disadvantage accruing to himself or to another."
These reasons do not constitute a “perspective.” These reasons cannot be captured in a
“perspective.” They are a part of Kantian theory and are no longer the same reasons if
represented apart from Kantianism.

The final way in which the current practices of applied ethics are partial to one
way of understanding ethical theory has to do with the focus on solving sample cases.
The assumption that moral cases (such as whether a doctor in a stipulated situation should
lie) are the data that ethics should be able to explain is something that requires
justification. In the case of eudaimonist ethical theory Julia Annas explains the ancient
world did not see these theories “primarily as mechanisms for answering ethical
questions at all.” Ethics was thought to “arise from the reflection provoked in an
intelligent person about the shape and course of his life, not from the presumption that the
intelligent agent will find lots of ethical questions facing him and will require a theory to
answer them for him.\footnote{\textsuperscript{148} Annas, Julia, \textit{The Morality of Happiness}, p. 443. Annas appends a footnote to this passage which cites Brandt (1959), “What is an ethical theory about? Someone might propose such an answer: Everyone knows what an ethical problem is: ethical theory must be about the solutions to such problems.”} This does not suggest, however, that eudaimonism has nothing to say on the practical issues of applied ethics. I hope it is very much to the contrary.

It is not clear, however, that the results currently being presented by applied ethicists will be endorsed by eudaimonism. My establishment of a fit between consequentialist theory and applied ethics' methodology shows that a top-down application of theory and a bottom-up type of analysis of cases can bring us the same conclusions, but this does not provide assurance that the results got by “principlism” will be that could be got through the process of applying eudaimonism. On the other hand, some of the very good policy results endorsed by “principlism” are not ones that a eudaimonist wants to imagine her theory being in opposition to.

The relationship between the results already got in the fields of applied ethics and the application of eudaimonist theory is something I cannot predict with confidence. For example, I used Buchanan's description of how physicians were not reacting properly to the principle of non-paternalism that applied ethicists were offering them. But would a eudaimonist approach to the issue of patient care even generate the same principle of non-paternalism?\footnote{\textsuperscript{149} Certainly any necessary secrecy would be ruled out by eudaimonism (if we can presume that paternalism always includes this.)}

As it is, the field of applied ethics has hardly been introduced to eudaimonist theory and eudaimonist theory has hardly been introduced to the issues of contemporary applied ethics. If applied ethicists and eudaimonists can settle on some sort of
compromise when it comes to the proper methodology, they can start to work together to resolve practical problems. Then we will be able to watch and see what emerges from the pairing. I argued, in this chapter, that better justification of recommendations that already exist will result, and of this I am fairly certain. But what will the recommendations that come from eudaimonism be like? What will eudaimonism, for example, recommend when it comes to cloning? Once again, this is something I cannot predict. But I am certainly anticipating the answer.
CHAPTER 5: WHY POLITICS NEEDS ETHICAL THEORY

There are many ways in which, in one of two outcomes, people can be worse off. They may be poorer, or less happy, or have fewer opportunities, or worse health, or shorter lives. Though the difference between these cases often matters, I shall be discussing some general claims, which apply to them all. Derek Parfit, *Equality or Priority*?

It is useless for us to have mouthed out precepts, unless we begin by reflecting what opinions we ought to hold concerning everything—concerning poverty, riches, renown, disgrace, citizenship, exile. Let us banish rumor and set a value upon each thing, asking what it is and not what it is called. Seneca, *Moral Letter* 95.54

And besides, {those who propose property be communal} evidently abolish any function for two of the virtues, for temperance, since it is fine action to leave a woman alone because of temperance when she belongs to someone else, and for generosity with possession. Aristotle, *Politics* II. 5, 1263-5

Jurgen Habermas’s recent discussions of human rights make this difference especially plain: he thinks women’s rights to be free from various abuses must be justified as necessary preconditions for political participation; my own view is that this is too indirect, unreliable, and puts things in the wrong order. Martha Nussbaum, *Women and Human Development*, p. 150, footnote 83

Liberalism is a political system that does not prescribe “private” beliefs or behavior. According to liberalism, a well-ordered society is one which tolerates its members maintaining different comprehensive accounts of the good. As a political doctrine, liberalism is itself neutral between comprehensive ethical views. What does not follow, however, is that the philosophical justification of liberalism must proceed in a manner that is ethics-neutral. What political theory justifies is not the same as what it takes to justify political theory. That is, I do not think that political theorists ought to use as their model the sort of consensus achieved in parliments, senates, and in meetings of

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the UN. This is the wrong model for a political theory, I argue. Theories are not a means of brokering consensus. And they have such other important tasks.

In this chapter, I take on those who argue to the contrary. Contemporary political philosophers no longer think ethical theory can be used to justify liberalism. Let us start by looking to why. An ethical defense of liberalism can be referred to as a "traditional" or "comprehensive" liberal approach. Kant and Mill each defended liberalism in a "comprehensive" and "traditional" way by offering accounts of morality and then arguing that liberalism had moral premises and outcomes. John Tomasi, in *Liberalism Beyond Justice: Citizens, Society and the Boundaries of Political Theory*, describes approaches such as Kant’s and Mill’s as defending “some suitably general liberal view about true human moral nature against critics by means of philosophical argumentation.” Then, “the critics having been confronted with their beliefs about human moral nature shown to be false, philosophers could then use their own true view of moral personality as a shared moral basis for liberal politics.” Tomasi and other contemporary political theorists now regard this traditional approach as untenable due to what Rawls is credited for having pointed out, the fact of “reasonable value pluralism.” As Tomasi writes, “in conditions of institutional freedom, convergence on a single conception of human moral nature is unlikely, no matter how long or clearly philosophers argue.”

In other words, because there will never will be agreement in a free society about “controversial philosophical and religious doctrines,” ethical theory cannot be used to ground political theory.\(^{151}\) The suggestion is if it is used it for this purpose, this is only

\(^{151}\) Rawls, John, *Political Liberalism*, Harvard University Press, 1993
done by the willful evasion of the fact of reasonable value pluralism. For example,

Tomasi writes that Aristotle’s “civic humanism” is hopeless out of date because it
involves the “coercive imposition of some people’s values on other people.” Martha
Nussbaum describes any approach that works with only one notion of what is good as
“platonic.” (The term is chosen, I think, so that her terminology signals an influence on
Aristotle that she finds regrettable.) "Platonists" offer some objective criteria for political
outcomes and attempt to determine what justice is apart from the consideration of
people’s preferences and desires. The association of politics with only one
comprehensive account of the good is, Nussbaum writes, “too disdainful of the wisdom
embodied in people’s actual experience.”

And there is, of course, a real-world association between the political
endorsement of ethical values and a lack of respect for individual choice in how to lead
lives. Antony Black, in *The History of Islamic Political Thought*, explains the connection
between contemporary Islamic political philosophy and ancient approaches to politics
such as Aristotle's. Black writes that "Khomeini asserted, in accordance with Islamic
Philosophy as it drew on Plato and Aristotle, that the aim of the Law is ‘to produce
integrated and virtuous human beings who are walking embodiments of the law, or, to put
it differently, the law's voluntary and instinctive executors.’” Khomeini’s political
philosophy is certainly “platonist.” What is interesting about the objection to the use of
ethical theory to ground political theory is that Kant and Mill are regarded as having

152 Tomasi, John, *Liberalism Beyond Justice: Citizens, Society, and the Boundaries of
153 Martha Nussbaum, *Women and Human Development: The Capabilities Approach*,
Cambridge University Press, 2001, p.118
made the same mistake as Khomeini. The problem, as Nussbaum makes clear, is a matter of poor epistemic method. No one comprehensive account of the good can possibly be the right for all of us.

In a number of different ways, contemporary political theorists have managed to avoid the mistakes associated with using comprehensive accounts of the good to justify liberalism. Each of these approaches rejects the attachment of political theory to any "comprehensive account of the good," and wants no particular core of ethical values to be endorsed by politics. How does one defend a political situation without endorsing a particular core of ethical values? One option is Rawlsian political liberalism, which justifies political arrangements by means of "broad consensus" so that "political theory is constituted by what we agree upon despite the fact of our diverse comprehensive accounts of the good." Political philosophers such as Ronald Dworkin and Thomas Nagel have reacted to Rawls' proposal by requesting a "deeper political theory," one that invokes "direct moral arguments." So, a second option is to specify what is good but only at a very general level, so that a range of comprehensive ethical views can be accommodated by the approach. And a final option is to defend a procedure of determining outcomes as being just—without specifying which outcomes would be acceptable. This can be referred to as liberal proceduralism. Let us start by reviewing Martha Nussbaum's critique of this last option, liberal proceduralism. After doing so we

Nussbaum on Proceduralism and Putting Things in the Wrong Order

If one does not want to impose a set of values on people, then perhaps actual political outcomes can be left up to people to determine, and philosophers ought to limit themselves to defending certain methods of public decision-making as just. Surely this approach to justifying liberalism would be as value-neutral as possible? Unfortunately, it is not. Martha Nussbaum points to two difficulties with liberal proceduralism. First, there is Amartya Sen's famous account of the "paradox of the Paretian liberal." Sen demonstrates that people have preferences about the activities of others, and that these preferences cannot be guaranteed to be that others have liberal rights. That is, liberalism is no way guaranteed to be the result of a polling of subjective preferences.

Nussbaum's second point has to do with the efforts that proceduralists take to get around this difficulty. John Harsanyi requires, for his proceduralism a community of equals. Richard Brandt has an ideal of a democratic citizenry with a particular set of

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156 Nussbaum derides the "limited conceptual toolbox" of preferences and desires with which economists and social choice theorists work. When philosophers have established (and cognitive scientists have followed) that we have beliefs, perceptions, appetites and emotion, inclinations, feelings, and intention, there is no excuse for such paucity of resources. To the extent social choice theory ignores these non-reductive phenomenon, it provides us with no accurate summary of human behavior. Gary Becker and Amartya Sen have a more sophisticated account of preferences and desire than most economists, as they hold that "preferences lie behind actual choices and have psychological reality. They are entities that, together with beliefs, go to explain choices. For users of this approach, preferences are rather like desires; indeed it would appear that desires are one subset of preferences." This still does not satisfy Nussbaum, however. Nussbaum, p. 120

characteristics, and Gary Becker's ideal is of a free citizenry with a certain type of self-worth. These are efforts to remedy the actual results of "social choice" reveal that the authors of these accounts of procedural account of justice are devoted to liberal principles. (Which Nussbaum thinks is laudable.) But liberal principles, Nussbaum writes, ought to get a direct defense. If some values are so important that they are not up for subjective determination, we would like to know why. If no explanation is given, we are, as we quoted Nussbaum earlier, left with only the "indirect" and "unreliable" justification of political outcomes. If a community of equals determines it would be better for there to be no community of equals, for example, on what grounds can Harsanyi object?

Nussbaum actually approves of the value judgments she identifies each of the authors as making. For example, she writes that Harsanyi's real interest is in a Kantian defense of the autonomy of persons. When Gerald Dworkin specifies that a fair procedure involves our engaging in critical scrutiny to make sure one's preferences are the result of reason and not mere habit, he is merely attempting to preserve respect for the intrinsic value of each of us. Nussbaum does not approve of proceduralists' efforts to "load the deck" by altering what counts as a fair procedure in order to ensure liberal outcomes. If the prima facie reason for recommending procedural over substantial justice was that procedural justice maintains a more neutral stance towards value, Nussbaum lets us recognize that this type of defense is disingenuous. Liberal accounts of procedural justice are not neutral when it comes to value. Proceduralists instead think the safer, more reliable route is to specify only what procedures might be good, but our intuitions about
what is actually good for humans, Nussbaum writes, are “at least as trustworthy as our intuitions about what constitutes a good procedure.”\textsuperscript{158}

Since Nussbaum’s points seem so obvious, ought we to consider that what proceduralists have in mind is not neutrality about value but a type of neutrality being a matter of the number of possible outcomes procedural justice can generate? A non-value-neutral account of procedural justice may be capable of endorsing a range of different political outcomes (even if each is liberal.) But why this type of “flexibility” should be considered laudable then becomes the question. Nussbaum argues that unpredictability of outcomes is not a good, and that it is instead only a feature of the difficulties philosophers have generated for themselves (in pursuit of neutrality.) We might want to term this an “over-reaction” to worries about political “platonism”. If proceduralists disagree with Nussbaum, we can merely ask, once again, what is there to be afraid of in directly defending a set of non-specific political recommendations?

Since “traditional” and “comprehensive” approaches to justifying liberalism are no longer tenable, John Tomasi writes that now justice must be politicized, that is, established through the invocation of only political (and not ethical) principles. Justice must be justified as legitimate through “overlapping consensus” or the “public justification by political society.”\textsuperscript{159} Tomasi is following Rawls in an attempt to “apply the principle of toleration to philosophy itself.” Liberals should look for “the shared

\textsuperscript{158} Nussbaum, p.150
\textsuperscript{159} Tomasi, p.7-8
moral basis for liberal politics merely in the cluster of moral ideas that people in Western democracies already hold, however inchoately, regarding their political lives.\footnote{Tomasi, p. 6-7}

According to Rawls, political theory works within the limits of public reason; political theory does not depend on claims or assumptions that others could reasonably reject. What Rawls then takes this to imply is not something that all "Rawlsians" accept (and Nussbaum does not.) According to criteria repeatedly emphasized by Rawls, political theory rests on a more sound foundation than the "comprehensive" accounts of the good, the ones that he tolerates within his political proposal but that exceed the limits of "public reason." As an example, political theory in The Law of the Peoples is described as a theory about morality and justice.

The stakes involved in this claim are high. If Rawls is right to regard the better part of "morality" as a matter of the outcome of public reasoning, there is no independent, ethical means to evaluate justice.\footnote{Rawls describes a process of moral development, where the end is that one starts to care about justice (and think in accordance with justice) and where one eventually desires justice. Since these types of stories are normally the province of ethical theory, this makes it very clear that ethical theory is being replaced in Rawls by justice.} Rawls' account of justice is thus given a worrisome and circular justification. When contemporary theorists establish what justice is through the consideration of various abstract principles and then attempt to derive results such as "all humans have rights," they have justified rights in a manner that Martha Nussbaum describes as "too indirect, unreliable, and (that) puts things in the wrong order."\footnote{Martha Nussbaum, Women and Human Development, p. 150, footnote 83. In particular she is referring to Habermas, J. "On the Internal Relation between the Rule of Law and Democracy," European Journal of Philosophy 3 (1995), 12-20}
Nussbaum's own Rawlsian proposal is designed to avoid such difficulties, by more directly defending certain political outcomes. Let us look to her political theory next.

**Nussbaum’s Political Liberalism**

Unlike Rawls, Nussbaum thinks human rights need to be defended *directly*. What she thinks is required is that Rawls' approach be supplemented with what she calls “substantive” (not “comprehensive”) ethical theory. Substantive ethical theory is the working out of an explicit account of value, but one that still remains neutral between different *comprehensive* conceptions of the good.\(^{163}\) Direct justification of human rights involves, for Nussbaum, “the concept of a human being at a very general level.”\(^{164}\) Her “substantive theory” is capable of defending liberal rights and fair political outcomes by having determined, through a Rawlsian-inspired process of reflective equilibrium, that humans have certain capabilities that are salient. These capacities function as “provisional fixed points in our judgments.” They are to be used as a means of “testing the theories we examine against them.”\(^{165}\) Any number of ethical theories may be acceptable to Nussbaum if they only pass the test she designs by determining what our basic capabilities are.

There is currently a list of ten basic capabilities,\(^{166}\) and our political obligation is to guarantee the bare minimum of goods that each person needs to gain these ten basic capabilities. Once we have guaranteed people the basic capability for functioning, we are

\(^{163}\) Nussbaum, p.138
\(^{164}\) Nussbaum, p.120
\(^{165}\) Nussbaum, p.121
\(^{166}\) Life, bodily health, bodily integrity, emotions, practical reason, affiliation, concern for other species, play, control over one's environment. (October 2000)
not to violate people’s freedom by attempting to encourage the functioning itself (or virtues themselves, for that matter). She is not attempting to make citizens virtuous, nor to encourage them in this direction. To promote actual virtue as this would fail to respect individual autonomy. You do not fail to respect autonomy, however, by attempting to provide the conditions for the potential for virtue.\textsuperscript{167} There is widespread agreement on such matters, she argues. Bodily health, control over one’s material environment, these types of goods we recognize is need for any attempt to pursue our particular “conception of the good.” The distribution and protection of these types of goods, Nussbaum argues, are the matters that are truly neutral.

By more directly arguing for liberal rights and just outcomes, Nussbaum does not make the mistake of liberal proceduralists. Even though, however, her concern is with justifying outcomes, I would like to suggest the reach of approach is limited by its Rawlsianism in three ways. First of all, her commitment to “provisional fixed points” makes her account depend on what it is that people already think to be true. In contrast, ethical theory, is known for being effective in changing people’s views about what is right. For Nussbaum, “it is only if the person really does think practical reason and sociability extremely central elements of human life that the argument will do work against political conceptions that wrongly slight or demote them.” She contends, however, that “most of us actually do agree... about these core elements of our humanity and their salience” so that “pointing out how other conceptions slight or demote them does real

\textsuperscript{167} In this way, she distinguishes herself from an Aristotelian essentialist or a “platonist.”
work." Nussbaum is, in other words, rather hopeful about the degree of consensus there is among those who hold different comprehensive accounts of the good, worldwide.

The second limitation of her political theory is another limitation she readily admits. Her theory is capable of assessing different political conceptions for failing to respect human capability, but it does not work to settle or inform the details of actual political systems. And finally, her political theory involves the same dissonance of other Rawlsian accounts: that between the justification of liberalism and they way individuals hold "comprehensive" accounts of the good.

Let me consider some examples that show how specified limitation of Nussbaum’s political theory seems troublesome. Nussbaum’s most recent formulation of the capabilities approach rests on the general acceptance of what is required for human dignity. Yet consider that Kant held that kneeling down, even to express your reverence for heavenly things, is contrary to human dignity. Certainly Kantianism is a comprehensive account of the good that ought to be accommodated in the method of reflective equilibrium. What will the outcome be? How reflective equilibrium might settle a disagreement between Kantians and members of particular religions on what human dignity is? Perhaps Nussbaum would suggest that the procedure she invokes would not be able to determine whether dignity is violated by such a practice. (So that she would admit to the charge of "vagueness.") Perhaps instead a conclusion would have to be something more abstract, such as: humans treated with dignity only when they are left to make

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168 Nussbaum, p. 121
choices like these (kneel or not) for themselves. But how would this argument be put
against a religious view that maintains, with internal consistency, that humans must show respect to God and kneel?

The force of any conclusion got from a process of reflective equilibrium, however we imagine it, would be difficult to interpret. This is partly because this process is not capable of recommending specific policies, it is partly because of the status of reflective equilibrium as an argument. It is, as Rawls puts it, not an “argument.” Nussbaum’s innovation, her account of “provisional fixed points,” does nothing to change what how reflective equilibrium fails to work as an argument.170

Consider the religious opponents of legal abortion in this country. According to Rawls, they can be regarded as liberals if they actively consent to the liberal ideal of toleration and, on this basis, recognize the rule of law. Many abortion opponents function well as citizens, and recognize as legal the laws they disagree with. But is it because they endorse toleration as a higher value than the sanctity of life, or religious instruction? How well reconciled can any opponent of abortion be to the ideal that morality is constituted by public consensus on such matters? If Rawls wants to attribute to such people coherent belief sets, I think he is expecting too much. I suspect that abortion foes abide by the rule of law for reasons of prudence, and not because they hold in their minds as separable what they think is right and what they think is “reasonable.”

There is a short-term type of practical appeal to ethics-neutral defenses of liberalism. Bought at face value, such defenses help keep disagreement between those

170 On p. 123 of The Law of Peoples I find Rawls to be helpfully candid on his understanding of his methodological approach.
with radically different ideas on what is right at bay. For example, it might be helpful to liberal consensus if abortion foes do get convinced that to be good liberals they must not hold their views on morality very deeply. This phenomenon, which has already been noted by political theorists, seems to me disingenuous. And I am not certain that Nussbaum's account can be directly implicated in this regard, as she lessens any tension by limiting her concerns to what humans can be recognized to need (one can easily maintain that even opponents of your beliefs can use food and shelter to meet their ends.) But I wonder if people might be better trusted to integrate their concerns with their respect for rule of law. I wonder if people might not be addressed directly with arguments. I wonder if I could hope for the same sort of social stability that might be got by promoting tolerance as important, by instead offering an argument as to why social stability is good. I imagine such an argument could be accepted by people, regardless of their other commitments. Some type of argument as to why following the rule of law is in their interests has already been made, for example, by abortion opponents in this country to themselves. We must consider what the benefits are to the guise of neutrality involved in defending liberalism, and we must consider whether defending liberal arrangements and specific liberal policies more directly than Nussbaum does is more democratic as well as thorough. My worry is that when it comes to Rawlsian reflective equilibrium, the average citizen would find the abstraction involved in the talk about justice off-putting, and once the account was understood, that they would not endorse it.

My suggestion is that we are given a false alternative if our choices are only between the methods of reflective equilibrium and attempts to foist one comprehensive account of the good on everyone. An account of value does not need to be understood as proselytizing, nor in any way functioning like religion. As an example of this, let us look to the efforts of contemporary ethical liberals, philosophers who attempt to offer moral arguments for certain liberal arrangements but who do so at a level so general that their proposal can accommodate a range of different comprehensive accounts of the good. This approach might be able to make more clear the force of their arguments for liberalism, and it may be able to avoid the positing the moral psychology that Rawlsianism depends upon.

If we opened the book of contemporary political philosophy, flipped through the pages and let our fingers land where they may, we might end up on the page with Harry Frankfurt’s article Equality as a Moral Ideal. In this article, Frankfurt critiques Nagel and Dworkin’s accounts of justice. Nagel and Dworkin each argue that for a political system to be just, it must distribute goods (variously specified, but always including material goods) equally. Frankfurt disputes the contentions of Nagel and Dworkin, who

172 The alternative I intend to recommend, through the use of ancient examples, respects differences of opinions and different comprehensive accounts of the good better than I think Rawlsian-inspired theories do.

assert that people find equality of distribution to be intuitively good, and suggests through examples that such a suggestion is in fact unintuitive. Frankfurt then suggests that "equality" does not capture what it is that people are satisfied with when considering social relationships. Instead, Frankfurt argues that what matters to us morally is that the worst off be taken care of. The worst off must be given, not what is equal, however that is specified, but what is sufficient. What matters more than any determination of equality is that "sufficiency" be determined by the worst-off themselves. From here, Frankfurt’s account might seem relatively straightforward. Sufficiency is to be determined by the worst-off’s discovering "what he himself really cares about and what will actually satisfy him." This involves "formulating their economic ambition" and "measuring the requirements to which their individual natures and their personal circumstances give rise." Finally, enough will be distributed if people have "roughly enough money for what is important to them… more money will not make you significantly less unhappy" and "the difficulties you do have will not be alleviated by mere money."

My quibble is not with what Frankfurt argues for, but the level of abstraction at which his argument works. In the article only "sufficiency" is a technical term. Of all the concepts invoked only "sufficiency" and "equality" are treated as the contenders for normative status. But consider the issues that get passed over, considered too obvious to be normative. What makes the worst-off that? What is satisfaction? What ought economic ambition be? What matters in individual natures? What is important? What is happiness? What makes unhappiness significant? Which difficulties matter most? What seems arbitrary is that each of these issues are left untouched by Frankfurt’s
philosophical talents (perhaps they are considered issues only those polled, the worst-off, should answer) when what “equality” is and how it matters are considered to be topics appropriate to philosophy. Perhaps an ethical theory’s account might seem burdensome and unnecessarily contentious if there were general agreement on the issues that Frankfurt fails to analyze. But the evidence is not that there is agreement on such matters, not inside liberal society let alone outside of it.

What seems more likely than that Frankfurt is regarding each of the issues he invokes as only subjectively determinable is that he has assumed quite a few answers that ethical theorists have to fight for (he is clearly assuming, for example, that more money increases happiness.) I am not arguing that just for the sake of better philosophy our accounts ought to be complete. I am suggesting that if Frankfurt fails to defend all of his assumptions his account will be neither practical nor convincing. If Frankfurt is right about “equality,” his ideas could be accepted and eventually applied by law. But if Frankfurt is wrong about “equality” it might be because he is wrong about what is of value in human life. The final reason I have for urging political theorists to defend their accounts "all the way down" is because eudaimonism, the ethical theory I recommend, disagrees with so many of the assumptions made. Assumptions that go undefended can be shown to be the incorrect assumptions if only they are defended in a way that allows them to be responded to.^175

^175 It is interesting to think that Nussbaum might agree with eudaimonists on all of these points, but to imagine if her account would allow her to put the “wrongness” of Frankfurt’s assumptions as stridently. Frankfurt, from a eudaimonist perspective, is wrong on about happiness, the development and transformation of human desires, and the value of money.
Let us summarize where we have got. Liberal proceduralism seems to smuggle in normative premises that Nussbaum argues ought to be made explicit. Nussbaum's political liberalism makes her normative premises explicit, but these are justified only if and to the degree that they arrive from general consensus—a requirement that keeps her proposal from being able to make recommendations at the level of policy. The deeper moral arguments of Dworkin, Nagel and Frankfurt could be used to recommend policy, but only if those who receive the accounts of liberal justice are already in agreement about rather controversial ethical issues. Contemporary approaches to political theory attempt to do without ethical theory for one of two reasons: either they take many issues to be easily assumed or neutral between theories; or they think political theory merely is the consensus that exists. I have argued (and will continue to) that the issues that are merely assumed (what is good for humans) are neither easy nor are they neutral between theories; I have also suggested that we should be uncomfortable assuming that consensus exists. The solution to all of these difficulties is the use of ethical theory to justify political arrangements. A completed ethical theory provides an account for every value it recommends and can inform policy as well as the notion of justice people actually use in their own decision making. Ethical theory has been considered inappropriate to political theory, however, because to recommend one comprehensive account of the good is to evade the fact of reasonable value pluralism. Here is how we will have to get around this objection, in order to recommend the use of ethical theory. This will be in two parts. First, I must convince readers that ethical accounts need not be assumed to be coercive and designed so that lifestyles and values are imposed on others by showing that the
“platonism” that liberals (rightfully) disdain is not a necessary component of every ethical approach to politics. If we look to Aristotle, his work reveals much that is relevant to what I am attempting to do as well as what I am attempting to avoid. Looking to Aristotle gives us the opportunity to develop a means of distinguishing political theory from ethical theory in a way that will help all of our remaining points. Second, in chapter six, I will have to show that the use of an ethical theory to justify political arrangements can be limited to the recommendation of the very goods that Nussbaum describes as being neutral. I will provide examples of how an ethical theory can argue directly for why food, shelter, and health are goods (and exactly how good they each are.) Without being “platonist” an ethical theorist can argue for political outcomes (like liberal rights) more directly than Nussbaum does.

The Over-Used Example of Aristotle

And besides, {those who propose property be communal} evidently abolish any function for two of the virtues, for temperance, since it is fine action to leave a woman alone because of temperance when she belongs to someone else, and for generosity with possession. Aristotle, Politics II. 5, 1263-5

So that he does not seem appear to be a person who is “trying at all costs to show their ingenuity,” Aristotle, in book two of the Politics, considers whether citizens should hold property in common. This was a proposal that was already, so to speak, on the table. Aristotle refers specifically to Plato’s Republic, but other philosophers had suggested the same: that an ideal constitution would require communal property. A second reason for Aristotle to consider what citizens should hold in common follows the first: What citizens should share in common is, writes Aristotle, the “natural starting point” for any “discussion of politics.”
Aristotle then supplies a number of reasons for rejecting communal property as an exclusive policy. Though Aristotle’s ethical and political theories are often regarded as one in the same, ethics being, as Aristotle himself insists, a part of the larger subject politics, the bulk of the reasons Aristotle supplies against communal property are distinctly political. For example, Aristotle considers the consequences of a city’s instituting communal property (including wives.) The first consequence he rehearses may be the first articulation of the tragedy of the commons problem: Goods held in common are not cared for in the way that private goods are. Holding wives in common would, he predicts, “water” down family relations. And he next suggests that communal property would result in our experiencing less pleasure, as pride in ownership brings us pleasure. In using these reasons to reject the proposal that property be held in common, he is endorsing the following specification as to what is to be valued: the preservation of property, strong family relations, and pleasure.

Interpreters have not agreed on what Aristotle meant when he writes that the end of the science of politics must include those of the other studies, including ethics.\textsuperscript{176} Ethics is to be subsumed by politics. There are at least three ways in which it is possible to understand the suggestion. The first is that ethical theory can be no more than an account of how the good for an individual relates to the end of the state. The second, that one’s role as citizen is essential to one’s good life, so that an ethical theory must include an account of what is required for the city’s good to then inform an account of citizenship. And the third possibility, the most mild: ethical theory must be understood as

\textsuperscript{176} C.C.W. Taylor writes that this is “one of the superficially most surprising features of Aristotle’s practical philosophy.” p. 233
working in concert with any political theory, since proper accounts of either would be well-fitted to each other. I find it impossible to determine whether Aristotle was committed to the second or the third interpretation (which is a problem to be expected from an account that melds political theory with ethical theory.)

It is clear, however, that Aristotle distances himself from the first interpretation. This is what he accuses of Socrates in Plato’s Republic. In only “one sense of the term” is ethics is political science, for Aristotle. Socrates takes the good of a city to be its “unity” making, in effect, a category mistake by taking an individual’s good for the city’s good. In this uncharitable reading of the Republic, Aristotle attempts to highlight this incoherence by pointing out that one class of citizens in Plato’s ideal city is not made happy at all. Yet significant for our immediate purposes is to notice that Aristotle makes this diagnosis of Socrates’ mistake after presenting only political reasons, those I offered above, as to why communal property would be ineffectual. That is, though Socrates and Plato have ethical theories that Aristotle discusses elsewhere, they are not made relevant here, in a discussion of what political arrangement is best.

This strongly suggests that Aristotle has a discrete account of the good of political organization. Let us look to the evidence that suggests Aristotle had just this. The

177 “Since politics uses the rest of the sciences, and since, again, it legislates as to what we are to do and what we are to abstain from, the end of this science must include those of the others, so that this end must be the good for man. For even if the end is the same for a single man and for a state, that of the state seems at all events something greater and more complete whether to attain or to preserve; though it is worth while to attain the end merely for one man, it is finer and more godlike to attain it for a nation or for city-states. These, then, are the ends at which our inquiry aims, since it is political science, in one sense of that term.”
evidence, though mixed, does not leave the matter indeterminate.\footnote{It is worth noting that Aristotle’s having a discrete account of political theory does not determine which of the remaining interpretations of his methodology is correct.} If Aristotle invokes a discrete account of the good of political organization, then Aristotle’s ethical theory alone will not be capable of generating a prohibition on private property. Yet there are ways in which Aristotle’s ethical theory could, perhaps indirectly and with the addition of qualifications, endorse the above list of political values that are preserved by a policy of private property. Preservation of property may be good because I need property to survive, a prerequisite for becoming virtuous. Strong family relations are essential to the process of moral habituation that Aristotle recommends, so his ethical approach could endorse the preservation of these. But what about pleasure coming from private possessions? It is puzzling that Aristotle would speak here about pleasure without invoking the distinctions he so painstakingly makes between different varieties of pleasure, for the sake of explaining his ethical theory. Aristotle, who makes it clear that the good man experiences a wholly superior type of pleasure, also, in his ethical work, worries about how pleasure tempts many of us away from virtue. Why would the results of his research in ethics not be relevant here?

Perhaps what I have evidence of here is that Aristotle is considering the matter of what is good for cities as a political theorist, and not an ethical theorist, would. This suggestion is consistent with what Aristotle determines after rejecting communal property. What he determines reveals what he thinks the context of the communal property issue is: it is a matter that is to be determined by looking to what is the good of a city. The “premise” of Plato’s Socrates in the Republic: that the greatest possible unity of
the city is the supreme good, is wrong, and Aristotle offers an alternative proposal. Self-sufficiency is the proper aim for a city. Unity should be sacrificed for self-sufficiency, as the supreme good of the city is self-sufficiency. (At least this is how he puts it at the end of book two, chapter two.)

When I earlier referred to the reasons Aristotle invokes as political, here is the distinction I was working with: political reasons are components of a political theory, political theory is concerned with measuring situations against what is specified to be the end of political association. Political association may be defined in terms of concepts that make no direct (or indirect) reference to normative recommendations for individual lives. Political value schemes need make no reference to ethical ones. In most of the Politics, I find Aristotle in engaging in straightforward political theory, in his analysis of constitutions he reveals none of the analytical constraints that would be required by a political theorist that thought ethics must inform all political accounts. He critiques other political theories on the basis of expediency. He challenges Plato’s account in the Laws on the issues of elections, currency, population size, territory size, and foreign relations, the topics typical of political theory.

One encounters momentum from reviewing the sheer number of topics that Aristotle covers in his analysis of constitutions. This suggests to us that at times he is envisioning the connection between politics and ethics along the lines of the weaker connection I offered in the third possible interpretation: the two studies should be fitted

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179 The parallel use of "self-sufficiency" here and in his description of a person’s final end is suggestive, but ultimately not very revealing. Accounts that take this parallel is meant to be formal have not convinced me, as Aristotle seems to be keenly aware of the differences between the aim of individuals and cities.
together, as any coherent account of either fits the other. In Aristotle’s account I am able to discern a discrete political theory, one that provides an account of the nature of the polis that uses a separate standard of value than that he offers for individual lives. That a city is to aim at self-sufficiency does not fall out of his ethical theory, nor is it necessary to it. I have two things to consider. First, if I am right to have identified Aristotle’s use of a separate standard of political value, self-sufficiency being a city’s aim, why does he then include among his reasons for rejecting communal property one explicitly ethical reason for the proposal’s rejection? And then, this question: if political theory does not depend on an account of ethics, what does it depend on?

_Aristotle’s mixed approach_

Along with what I have claimed are the distinctly political reasons for rejecting private property, Aristotle offers as a final reason the idea that the implementation of communal property would impede our ability to act with temperance and generously. If in Aristotle’s analysis of constitutions, this reason stood on its own, and were the only reason he offered for private property, I would be able to understand him as having presented an integrated ethical and political account, invoking just one standard of value (the happiness of an individual human life.) I might call this the subsuming of the political to the ethical.

That this is not Aristotle’s only reason for recommending private property does not keep him from being implicated by contemporary political theorists in having produced an irredeemably out-of-date account of politics. Aristotle’s attempt to integrate his approach to political theory with his ethics is criticized by contemporary political
theorists who see it as what keeps Aristotle’s recommendations from approaching liberalism. To include a normative account of human beings in a theory of political organization is to have confused two different domains, to have, perhaps, “smuggled in” a normative account of human beings. There are, on the contemporary understanding, two reasons why this approach is mistaken. The first reason is the one I mentioned previously, that to use ethical reasons to evaluate political situations is also to violate contemporary commitments liberals have to a political theory that is neutral between conceptions of the good. The second reason: that political theory has no need for supplement from an ethical theory. This reason is what supplies implicit support for the first reason. Let us question it by continuing with the example of Aristotle.

*Putting Ethics and Politics in the Right Order: Aristotle*

Terence Irwin, in his article “Aristotle’s Defense of Private Property” argues for how “seriously defective” Aristotle’s to defend private property in terms of the virtues is. Aristotle proposes that private property is required for generosity. But Aristotle cannot assume, Irwin argues, that generosity may only be generated through property being private. As a counter-example, Irwin images a scheme where property is only held temporarily. Such a system would not preclude our sharing with others.

I think Aristotle can be defended against this particular charge of Irwin’s (an account of why political philosophy should be formulated only around real-world counter-examples should do the trick) but what occurs to Irwin after analyzing Aristotle’s proposal that property be private interests us greatly. He is not at all opposed to the idea that private property can be justified through the virtues. “Individual liberty and
initiative” might have been put to better use by Aristotle. Then Irwin concludes his piece with a few lines of thought:

Some defenders of private property may not be worried by Aristotle’s failure because they rely on a deontological argument for the right to private property, and Aristotle does not rely on any such argument. If someone is prepared to argue that we have a right to private property, he will be well advised to appeal to some further principle about the value of individual freedom and initiative as the basis of this right. Such an appeal takes us straight back to one of the Aristotelian ideals. If my objections to Aristotle are right, an appeal to these ideals is unlikely to show precisely that we have a right to private property. Though Aristotle himself does not explicitly appeal to rights, the weaknesses in his argument allow us to predict weaknesses in arguments appealing to rights.¹⁸⁰

In a conclusion from an article on one portion of Aristotle’s philosophy, I have found a diagnosis for what is wrong with contemporary attempts to justify liberalism neutrally. Our concern is no less than this: contemporary work on political philosophy rests on unarticulated and unsure philosophical foundations. Issues that require justification (of the sort Aristotle fails at) are taken to be assumed. Rights are taken to be utterly unproblematic, in the sense that they can be used as the unexplained building blocks of more “complicated” notions, like justice. In *Taking Rights Seriously,* Ronald Dworkin writes that our “intuitions about justice” presuppose that “people have rights.”¹⁸¹ Definitions such as these are used, “an action is just if, and only if, it is prescribed exclusively by regard for the rights of all whom it affects substantially.”¹⁸²

No matter how elaborately structured contemporary accounts of justice are, I believe, with Irwin, that ultimately these must be justified by an account as comprehensive as Aristotle’s own. As Irwin puts it, any appeal is “taken right back” to something of a similar nature to “the ideals of Aristotle.” I need not agree with Irwin about the force of his particular criticism in this article to recognize that even Aristotle’s rather comprehensive account of the foundational issues ethics is still subject to question and still in need of revision. I will attempt to argue for what Irwin assumes and finds obvious: political accounts depend on ethical accounts, and ethical accounts are still in need of completion. The order, in other words, matters. Ethics must be done first, and this is merely a matter of giving a complete account. To quote Irwin again, given what we know about the difficulties in constructing foundational accounts (the sort that weigh in on the issues ignored above) we are able “predict weakness” in contemporary political theories, even upon an attempt of their complete justification.

The Stoics and the Epicureans: Other Eudaimonists on Justice

The Stoics and the Epicureans will not confuse an account of the good for the city with the good for individuals. There will be no proposals that a city’s end is “unity” or “the virtue of its citizens.” Cities, instead, ought to do very mundane things for us. Allow us to have the security we need, to be able to trade and to profit, to own our own homes. The recommendations are not dramatic, but I think, given that they are based in complete accounts of value, that they are sound.

By now, we can identify the cause of political “platonism.” It results from there being an account of what it is for a political arrangement to be good. The Stoics and the
Epicureans are not in danger of being “platonists” because unlike Aristotle they do not posit that something like “unity” is a city’s end. The idea that ethical theories think specific political situations are capable or necessary to making people good is too frequently associated with ancient ethical theories generally when such a suggestion is merely one particular to certain political philosophers (well known ones of course, such as Aristotle, Plato, Kant and Mill.) The “apolitical” approach of eudaimonism functions as a way of endorsing systems that are compatible with human virtue rather than by producing positive proposals to increase virtue. It is not Aristotelian civic humanism, an approach to political theory that recognizes the integrated use of ethical and political theory to evaluate proposals.

This can be demonstrated if we contrast the Stoic account of justice to Aristotle’s own. So that we can draw a close parallel, let us look to the same issue in regards to which we looked to Aristotle: private property. Just as Aristotle did, the Stoics are developed arguments against the views of those who have proposed that property be held in common. (The passages we are citing are from Cicero, and by his time the proposals were that landlords give up their land and that debtors be freed of debt.) The Stoics offer two reasons for why property is to remain private: concord, “which cannot exist when money is taken from some and bestowed on others,” and fairness, “which would utterly vanish if every may not keep what is his.” Aristotle argued similarly, but mixed concern for virtue along with the notion he had of the city’s supreme good. The Stoics, in

\[183\] II. 78
contrast, hold the "the proper function of a citizenship and a city" to be "to ensure for everyone a free and unworried guardianship of his possessions."\textsuperscript{184}

The Epicureans, another school of ancient eudaimonists, have, like the Stoics, a deflationary approach to questions on the end of society. This is what we promised, that when eudaimonist ethical theory is used to assess possible social arrangements it does so by means of ethical reasons alone. Unique political principles will not be generated; justice will not be composed of free-standing principles that are independent from an understanding of virtue. The Stoics and Epicureans offer different versions of eudaimonism, recommend different value schemes and recommend different accounts of what is just. Yet each approach can protect what we think of liberal rights as protecting today. The Epicureans do this by operating the way Aristotle's account would, if only, in Aristotle's account, political reasons were separated from ethical ones. For example, the Epicureans justify private property through consideration of the virtues alone, just as Aristotle attempted to do when he raised considerations to do with generosity. Communal property was a bad idea, Epicurus wrote, because it made people greedy. This, I will show, can be used by the Epicureans as a justification for private property even though the Epicureans are not attempting to impose any sort of value scheme on others.

The Epicurean account of justice is that it is an agreement "neither to harm nor be harmed." (\textit{Principle Doctrines} (KD) 31) This is an instrumental conception of justice, where justice has no more metaphysical status than "a thing found useful by men in their relations to one another." A benefit to Epicureanism backing this type of account,
however, will be revealed when we show how the value schema of the Epicureans is used to justify arrangements and to determine what is "usefulness." It is to provide the natural and necessary desires and to reduce physical pain. This is a benefit of backing political recommendations with ethical theory that we hope to demonstrate: they include explanations of why goods are good, which makes any recommendation of goods rest on an account we can consider "complete."

The Stoics have a more nuanced approach because their theory involves an additional classification of value, the sort of value that is termed "indifferent", but that may be preferred or dispreferred. The implications of this Stoic innovation include that the Stoics do not determine what justice is through consideration of what is compatible with virtue. They are, that is, not functioning like the Epicureans and justifying arrangements to the degree they contribute to virtue. The Stoics, when advocating particular political arrangements does, however, map onto concerns for the preservation of persons and society. The "provisional fixed points" that Nussbaum counts on being so widely held can be defended through Stoicism, and the sort of concern for human well-being that Nussbaum considers a part of "substantive theory" I will show to be a part of Stoic and Epicurean "comprehensive theory." This is means we have found a method to justify Nussbaum's conclusions while bypassing the Rawlsian-aspect of her theory, and its associated limitations and difficulties.
CHAPTER 6: STOICISM, EPICUREANISM AND PRACTICAL ACCOUNTS OF JUSTICE

The Stoics have been receiving a great deal of attention for their political recommendations of late. The reasons contemporary political theorists have for rejecting the use of ethical theory, however, are reinforced by some recent assessments of the Stoics and the origin of natural rights. Authors are stressing how different Stoic cosmopolitanism is from anything we would recognize today. Certainly "rights" as they exist today, associated with certain justifications, instantiated in our legal codes, are not found in ancient Stoic philosophy. But too often this conclusion is being supported by assessments of Stoicism that hold it to be a stranger and a more foreign sort of ethical theory than it actually is. In this chapter, rather than contrasting Stoicism (and Epicureanism) to liberalism, I am attempting to use these ancient accounts of ethics to demonstrate that their means of arriving at justice is a sound and practical approach that could be used, in a modern context, to justify liberal arrangements.

Phillip Mitsis, in "The Stoic Origin of Natural Rights," writes that "excluded" from the concerns of Stoics, due to their "conception of value" would be the "array of economic, social and political rights covering such things as health care, employment, property and education." The conception of value he implicates? One that holds that what matters (an individual's "personality") "is not tied in any fundamental way to any external thing such as property or ... even to one's life or one's body." John Cooper, in "Eudaimonism, the Appeal to Nature, and 'Moral Duty' in Stoicism," determines that the

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186 Mitsis, p. 172
theology of Stoicism, which holds that individuals are parts of the whole, “precludes out of hand” any conception of individual rights. At any moment a Stoic would happily face sacrifice for the good of the whole, and this, Cooper thinks, undermines any establishment of security in society. Finally, Richard Sorabji argues that the Stoics can not be said to grant rights to individuals because the primary concept endorsed by Stoicism is duty. Any semblance of rights, any protection of a person, is merely a result of others having a duty not to harm others. Good treatment is not due to these individuals having rights.

Each of these criticisms rests on mistakes, the correction of which is crucial for contemporary acceptance of Stoicism as a viable means of justifying political arrangements. The mistakes made are interestingly opposed. Cooper and Mitsis both take the Stoic account of value to be something a Stoic imposes on other persons. They are regarding the Stoic value schema to be something that is in place to apply to individuals regardless of any individual taking it up. As we saw in the last chapter, ethical approaches to politics have been rejected because they have been considered to ignore the fact of “reasonable pluralism.” It matters crucially that we understand Stoic ethics as not imposing a value-scheme on others. And Stoic ethics does not impose on others but offers to its agents a value scheme. This lets them function amongst the plural values they encounter and to recognize the value of others. What I will show is that Stoic theory does not encourage that the world be molded in accordance with what they value (as Cooper

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has it) nor does it promote the idea that values matter only because a Stoic is there to do
the valuing (as Mitsis and Sorabji have it.)

According to Sorabji, Stoicism recommends a value scheme that cannot reach
beyond or apply to anything other than the agent. This would mean that the Stoics offer
no proper account of justice. This too we must counter with our presentation of Stoicism.
Otherwise, Stoicism is either unrealistically expansive or unrealistically restricted. I will
show that none of the results anticipated by the above criticisms are a part of Stoic
political theory nor its application. 189

The Stoics, with no discrete political theory, provide us with a cosmopolitan
theory of justice. Stoic cosmopolitanism can be described in this way, “it recognizes in
persons what is especially fundamental about them, most worthy of respect and
acknowledgement: their aspirations to justice and goodness and their capacities for
reasoning in this connection.”190 This description, however, misleads us if our interest is
in contrasting liberal approaches to justice with eudaimonist ones. None of the depths of
eudaimonism’s “normativity” are on display in this quotation. Let me try to remove the
vagueness, and explain where respect for others (contra Sorabji) on a Stoic account,
comes from. In doing this, I show that cosmopolitanism is a got by Stoics as a results of
their not subscribing to a discrete political theory, to their giving no weight to merely
political obligations.

189 The debate between ancient scholars over whether Stoicism is like other variants of
eudaimonism or whether it receives more external justification due to its conception of
the universe as ordered is not one that I will engage here. It is a debate where the same
texts are read differently, and I think, the matter cannot be determined so that all readers
will be satisfied.
190 Nussbaum, M. Duties of Justice....
To start from the beginning, the founder of Stoicism wrote a work called the *Republic*. We have very scant evidence about it, and what we have is from hostile sources. Later Stoics were so embarrassed by parts of Zeno’s text that they both took pains to explain away Zeno’s more radical recommendations, and the work was actually at some point expunged from the record of Stoic texts. From Diogenes Laertius we get the following report on Zeno:

At the start of the republic he pronounced the ordinary education useless, the next is that he applies to all men who are not virtuous the insulting name of foes, enemies, slave and aliens to one another... he declares the good alone to be true citizens or friends or kindred or free men; and accordingly in the view of the Stoics parents and children are enemies, not being wise.\(^1\)

This most pointedly poses the following problem for an ethical theory’s attempt to proceed without political theory: If one’s only community is that of the virtuous, then how does one treat mere fellow man? How can an ethical theory that values the ethical more highly than the vicious, defend providing all humans, wicked or not, with respect (or even rights)?

Diogenes continues describing Zeno’s work:

It lays down a community of wives, prohibits the building of temples, law courts and gyms, we probably won’t need currency, and men and women dress the same, and keep no part completely covered.

These were the scandalous bits. We may also note that this account is at odds with Cicero’s on property. As we have only bits, we are left with very little information as to how seriously Zeno meant his *Republic* of the virtuous to be taken. It is difficult to discern, generally, what the intentions of the ancient writers of “Republics” in the

\(^1\) Book 7, 32-34
tradition of Plato were. But it is worth noting that Zeno’s bit of a proposal sound less like
a positive proposal than like a critique. That is, he is asking, in a sense, less of the
citizenry: don’t build temples, don’t create money, don’t make unnecessary distinctions
between the sexes. I am of course merely speculating when it comes to the sort of
direction Zeno had in mind for his Republic, but this suggestion resonates with what we
suggested earlier would be the case if political theory were subsumed to ethical theory.

The few extant suggestions of Zeno certainly do not account for the way we
remember the Roman Stoics. They were known for being Senators, there was an Emperor
among their ranks. Chrysipus, often referred to as the second founder of Stoicism,
formulated the injunction, and it later became known as the lex Chrysipus: Do your
political duty, unless something prevents you.

So now a number of puzzles have arisen: how to reconcile the Stoic’s citizen of
the world status with local citizenship, and how to reconcile a Stoic’s having a political
duty with sentiments that are not too far from Zeno’s (those which regard the common
man as the virtuous man’s enemy.) Add to this that by the time Stoic philosophy came
into full bloom, it involved the division of value schemes that I mentioned earlier, where
only morality was of true value, everything else: from family to social position, to
material good to health was classified as a lesser sort of value, to be preferred or not.
How are Stoics not quietists, this being the case? Allow me to solve these three puzzles
before we evaluate Stoicism’s success in political theory.

In the Epitome of Stoic Ethics, recorded by Arius Didymus, we find these lines:
All men have from nature initial impulses for virtue, and they have, as it were, the logic of iambic half-lines, according to Cleanthes, while they are incomplete they are worthless, but once complete they are worthwhile. Arius Didymus, 5b8

Virtue is of course the supreme good when it comes to Stoicism, and this passage emphasizes this along with our inherent potential for virtue. But the passage is also ambiguous, and it involves an exaggeration. We are not worthless when our virtue is incomplete. We have the half-lines, at least. And though it is not clear in the case of Zeno, who we have recorded as insisting that a community exists only among the virtuous (this expression was never abandoned, but later it was recognized as being compatible with cosmopolitanism) the Stoics saw themselves in a brotherhood of man.

Is this because each individual has, literally, the potential for virtue (which may be unrealistic, given that some are known to be destined to die young, and still, we imagine, to be respected) or is it because each individual has the ability to reason, and that this is familiar to virtue, that each person deserves respect? The Stoic attitude towards animals is illustrative, though it does not help us choose between these two options. Animals were to be accorded no respect, as they had nothing in common with us, as they had no share in reason. What is the content of these half-lines?

One means of answering seems a bit quick. Cicero often writes as if an intelligence common to us all makes things known to us and formulates them in our minds, so that morally good actions are ascribed by each of us to virtue, morally bad actions to vice. This formula, however, seems too simple; the proposal as to what our
natures are, seems to simple. The optimism a bit far fetched. Stoics are also known for warning that man delights to ruin man. (ML 53) That:

You are wrong to trust the countenances of those you meet. They have the aspect of men, but the soul of brutes, the difference is only that beasts damage you at first encounter; those whom they have passed by they do not pursue. (ML 53)

We find Seneca being asked, in On Favors, if he will give to the ungrateful. Initially, he answers that on principle he will not benefit an ingrate. But then he qualifies this. He says the reason for this might be that he denies what he gives the ungrateful need count as an actual "giving" or favor. Either what he does give is so trivial (given the Stoic value scheme) so as to not amount to a "gift" or, as is significant to what we are after, he gives not to the ungrateful "man, but to humanity."

There is some further evidence from Cicero on how a Stoic is to act towards other, in a passage that feels like a response to the quotation from Arius Didymus:

Since we do not live with men that are perfect and clearly wise, but with those that are doing splendidly if they have within them mere images of virtue, I think that we must understand this too: no one should be wholly neglected if any indication of virtue appears in him.

There are two ways of taking this suggestion that "any indication" of virtue is all that is required for someone to not be wholly neglected. The first is that implicit in Cicero’s response to the question of whether you should take a bad man’s coat if you need it. He argues no, that is against nature to take another person’s property, but does

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192 Book 4, 28.6
193 Book 4, 29
194 Book 3, 46.1-4
not argue that the man, having some semblance of virtue as all men do, deserves this treatment. The other option Cicero gives is that if you do it for the sake of doing more good, this could be allowed. Perhaps we can consider again the suggestion that we first thought too optimistic, but supplement it with the Stoic philosophy of mind. Marcus Aurelius’ fourth meditation reads:

If we have intelligence in common, so we have reason which makes us reasoning beings, and that practical reason which orders what we must or must not do; then the law too is common to us and, if so, we are citizens; if so, we share a common government; if so, the universe is, as it were, a city.\(^{195}\)

To have intelligence in common is something may be cashed out in terms of Chryssipus’ account of how we reason. He defines reason in terms of our having certain common conceptions, and that, due to what is universal in all experience and due to the way human minds are similarly structured. We can be referred to as rational only because of the common conceptions we share. These common conceptions are the starting points (the half-lines of iambic verse) of virtue. Virtue requires as a starting point all sorts of abilities we often take for granted: that we can distinguish between objects, that we can identify some situations as better than others, that we recognize violence when we see it. This is the sense in which the potential for virtue is shared by us all. This account would rule out the possibility that a human could be wholly bad.\(^{196}\)

Rousseau and now Rawls are famous for stating that they are after accounts that involve “men as they are, and law as they might be.” The Stoics are after something

\(^{195}\) 4.4

\(^{196}\) This was the thesis of Henry Dyson’s paper, “Stoic Cosmopolitanism and Chrysippus’ Theory of Reason”
rather different. Their account is based on men as they might be, and law as it is. That is, the governors need not be imagined as virtuous, and the laws need not be designed according to a political theory or through political science. Instead, laws must not present any ideals that conflict with what is the final measure of value for a Stoic, the virtue in one's own life. How virtuous people actually are is not part of the Stoic calculations or their aims in governing or in promoting justice. Let us next look to a recent criticism about the Stoic's account of justice that regrets its lasting influence and accuses it of functioning only due to a "lurking account of the good." This is the very same account of value that we think is quite explicit, as well as praiseworthy.

Nussbaum against the Stoic notion of justice

In her 2000 article, "Duties of Justice, Duties of Material Aid: Cicero's Problematic Legacy" Martha Nussbaum takes up Cicero's account of the duties of justice in On Duties. 197 She explains how Cicero's presentation of Stoic philosophy on the matter of justice in this work has been seminal in our thought on justice today. Though he can be praised for his insights such as to not resist and repel injustice is to act unjustly, Nussbaum blames Cicero's influence for how we fail to think of ourselves as positively obligated to the aid the material poverty of the world's poor today. The tradition we have inherited, she argues, is one where we conceive of ourselves as positively obligated only when it comes to issues of justice that are not marked by material poverty. That is, we

think we should end murder, rape, and slavery\textsuperscript{198} in the world, but the list of horrors to stop does not include poverty.

Initially this reading seems strange, because Cicero so clearly recommends that we provide material aid to those in need. For example:

The most widespread fellowship existing among men is that of all with all others. Here we must preserve the communal sharing of all the things that nature brings forth for the common use of mankind, in such a way that whatever is assigned by statutes and civil law should remain in such possession as these laws have laid down, but the rest should be regarded as the Greek proverb has it: everything is common among friends....(Book 1, 51)

If any assistance can be provided without detriment to oneself, it should be given even to a stranger. (52) Therefore such tings as the following are to be shared: one should not keep others from fresh water, should allow them to take your fire, should give trustworthy counsel to someone who is seeking advice. For they are useful to those who receive them and cause no trouble to the giver.

But Nussbaum thinks that material need has been ignored despite recommendations like those above due to the Stoic's peculiar position on how material want is "indifferent" to virtue. It is not that Cicero was not relying on the notion of a negative duty (one not to harm) and that of a positive duty (where one must act to serve someone else) Nussbaum points out. He clearly combines these categories when it comes to the duties we have to our \textit{philia}. Instead, Nussbaum attributes the Stoics' shortsightedness when it comes to what I will call economic-harm (as opposed to freedom-harm), to the Stoic account of external goods and the Stoic reaction to the idea that our own resources would be drained if we were to provide for all of those in material need.

\textsuperscript{198} It is a virtue of Stoic theory, one that even its opponent Nussbaum notices, that it can be updated, and be used against the crime of slavery, even though the philosophy was formulated by those who were not active in ending slavery.
She picks up on an inconsistency in these two reasons. If the Stoics can acknowledge that some people are in material need (as the do when they recognize the duty of material aid to their \textit{philia}), then there account of the external value of material goods must be something the Stoics themselves cannot live with. The charge: it is theory bought at the price of common sense. I would like to take Nussbaum's worry about the lopsidedness of the Stoic notion of justice seriously, while defending the Stoics against the errors she believes they have made.

I remind students, "it is not as if the Stoics are indifferent about indifferents." External goods cannot be placed on the same scale of value as virtue, because the two goods are incomparable. But this does not mean that external goods have no value at all. It just does not follow. They have a different sort of value. And, as we have rehearsed in chapter 3, the sort of value that external goods have is crucial for the virtuous person to be capable of recognizing. For a Stoic to act virtuously in a given situation is for a Stoic to choose between indifferents correctly. The rhetoric of the Stoics when they are writing for a popular audience at times conceals this. Authors such as Epictetus like to emphasize that nothing compares to virtue, by writing that nothing matters other than virtue. And, of course, when the topic is virtue, nothing does compare. This does not imply nothing else lesser matters. When the topic is living our natural lifespans, a Stoic will not deny the role that external goods play.

Since though the resources of individuals are small but the mass of those who are in need is infinitely great, general liberality must be measured according to the
limit laid down by Ennius\textsuperscript{199}, that his own light shine no less; then we shall still be capable of being liberal to those close to us. (Book 1, 52)

The second error of which Nussbaum accuses the Stoics is that the determination as to how far our obligations to aid extend is made through the practical consideration about our resources being drained if charity were always required. Presumably, Nussbaum thinks philosophy ought to offer us ideals, even if they are difficult to live up to. To bring in practical considerations too early, so that our ideals are lessened, must seem, to Nussbaum, to be poor philosophy.

But, instead, this seems to be a characteristic of eudaimonism we might think good.\textsuperscript{200} Some non-eudaimonist ethical approaches are interested in articulating a vision of how the world would be best. Eudaimonist theories are about how we should live our lives. Eudaimonism is viable precisely because its ideals are realistic, because one can follow the theory consistently, without interruption, without having to stop thinking ethically to consider things prudentially a few times a day. In any case, the proper subject matter of ethics and content of an ethical theory is a matter for debate, and the Stoics can lose no points on this subject before a case is made for why an ethical theory ought to function differently than eudaimonism does.

Nussbaum has acknowledged the Stoic's ability to recognize what aid and harm to others is from the perspective of the Stoic's living one's own life in accordance with virtue. (This is what the set of ancient philosophers we first cited do not acknowledge.)

\textsuperscript{199} A man who kindly shows the path to someone who is lost lights another's light, so to speak, from his own. For his shines no less because he has lit another's. Ennius

Nussbaum does not dispute the basis whereby Cicero determines that we are obligated to stop freedom-harms as we find them, and to benefit our philia. But surely Nussbaum could come to see that the same "practical" limits put on the eudaimonist agent's responsibility to fight for freedom across the globe can be placed on the Stoic's responsibility to care, materially, for others? It sounds less crass to explain that one is not a freedom-fighter because one has duties to one's family (or own projects generally), but this is the same type of reason given by people for declining to give their possessions to those in material need. It sounds better, I think, to say one's time is precious than to say one's accumulated wealth is. But they are no different.

*The practical benefits of one theory with two levels of value on an account of justice*

The eudaimonist's ability to move from the requirements of her own virtue to the material needs of others must be established as it is not the same as the Stoic's ability to generate other-concern.\(^{201}\) For the Stoics, deriving the material needs of others does not proceed through the same route as the generation of other-concern does (in contrast, it *does* for the Epicureans.) The obligations we have to rectify the bad situation of others (freedom-harmed or economically-harmed) are not as intertwined with our own aim at being virtuous, as for example, our other-concern is. To have other-concern *constitutes* virtue. A virtuous person's reasons for action already involve care for others. How much material aid you ought to provide another, on the other hand, is something that can be

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\(^{201}\) Explaining how our determining our own good is intertwined with the good for others is not what we need to do to defend Stoicism as a political theory. This, which has required defense, accounts for how we get rewarded by caring for something other than ourselves, and how we identify with other beings, seeing what we have in common with them.
recognized prior to one’s becoming virtuous. It is a matter of how much you need to hold on to ensure your (or your community’s) continued flourishing. You do not need to have virtue to be able to recognize economic necessity. When we think of what it is that is best for a state, as a Stoic, we are not thinking of the requirements for virtue. We are thinking about the distribution of the very goods that Nussbaum in her own political philosophy specifies as neutral. The potential to separate concern for virtue from concern for other’s basic needs makes Stoicism as applicable as it is to political thought, I will argue. I can do this while also answering one last puzzle: why the Stoic might participate in politics.

If you asked a Stoic if you should live a life of politics or a private life she would suggest: live a life of reason. This life, the Stoics explained, combined theory and practice. But this is so little help! Seneca helps more, by rehearsing some of the reasons a Stoic might be able to opt out of Chrysippus’ injunction to do your political duty: he reads the inclusion of: unless something stops you, in Chrysippus’ injunction to actually invite a Stoic’s choosing a private, over a public life. Seneca puts it this way:

If someone says that the best life is to sail the sea, then says that I must not sail upon a sea where shipwrecks commonly occur and there are often sudden storms that sweep a helmsman in a contrary direction, I conclude that this man, while he praises me sailing, forbids me to weigh anchor.

Here is what Seneca, in his letters to Lucilius, specifies as possible to choose before the political life: the development of his moral character, the contemplation of nature (in today’s terms, the study of science), and moral teaching. Political service is also to be avoided if one must run for office or bribe your way in. Here we see a suggestion as to how to read Chrysippus’ injunction so that we do not have
to see Chryssipus and the other leaders of the Stoic school as living hypocritically, as they did not take office. (They were criticized for this in ancient times.)

Since the Stoic’s priority is always, categorically virtue it seems much that would be involved in being politically active today has already been ruled out. Yet there were Stoic rulers. Why did a Stoic ever rule and how would a Stoic ruler function, given the Stoic commitment to virtue at all costs? Let see if we can answer why by looking to how.

As we might have hoped, the Stoic emperor, Marcus Aurelius, gives us much insight. We are lucky to be able to turn to one who was in a position to actually practice what at least seems to be very tricky business indeed: ruling people with a different value scheme than his own. This is the advice Marcus wrote to himself:

Do not let yourself be completely carried away by their representation. Instead help them as far as possible and in accordance with the value of things at hand. If they occur a loss in the domain of different things, do not say to yourself that they have suffered harm, for that is a bad habit.

This might seem like quite a balancing act, to rule as if the loss of externals were an actual harm, and to reflect as, a Stoic, that they are not. But here is how we can imagine what Marcus Aurelius was trying to do as possible: by realizing it is that Stoics do all the time. They act, all the time. Virtue requires action, and they are acting in a world of indifferents. That is, they tie shoes, they put clothes on, they go to the market, and none of these things are in themselves virtuous, they are all classified as indifferent, but they are the material for virtue. That is, they are the actions the good person undertakes virtuously. It is the same with a position in government.

Marcus Aurelius writes: What brings me joy is to keep the reasoning within me healthy, so that it has no aversion for any human being, nor for anything that can
happen to them, but can look at all things with benevolent eyes, and knows how to receive and to utilize each thing in accordance with its value.  

That is, the life of a Stoic is a life spent navigating through and intelligently determining which indifferent is to be chosen: what action among the actions that, really, are indifferent to one’s virtue, one ought to take. The balancing act of any Stoic ruler or Stoic holder of political office is just the same one that Stoics manage all the time: all they care about is virtue, but in the morning they put on clothes and perhaps lace up their shoes. And this is really not a balancing act at all. It is acting in awareness of what is of value. It does, however, invoke different levels of evaluation, as I suggested earlier.

But even if Stoics have the ability to act in a the realm of indifferents, have we no suggestion yet as to what actually motivates a Stoic to make the decision to rule, and the decisions involved in ruling actual governments? We have suggested the how now what about the why?

Aristotle thought one’s practical intelligence must be developed through legislating about politics, the Epicureans, as we will see, think one’s practical intelligence keeps one out of politics, the Stoics seem to think that one’s practical intelligence can work on what it will. And what it is applied to makes no difference to the person’s virtue.

Again, Marcus Aurelius is a good guide. He writes to himself: We are all working together in order to complete one work: some of us knowingly, and consciously, and other unconsciously.

Eric Brown in his article “Advising the Cosmopolis” offers a different explanation of why the Stoic would get involved in politics. It is, he argues, because they aim to make people better. He explains that beneficence is what motivates the Stoic serving in government. I agree this is a motivation to serve in government, but I do not recognize in the Stoic texts much, if any, optimism, about the mechanisms of government and its ability to make people better. This and that beneficence is an overly general explanation of a Stoics motivation is why Brown’s account does not convince me.
And also: The value any indifferent has is in relation to the whole and in relation to mankind, insofar as mankind is a citizen of the highest city, of which the other cities are mere households.

These passages suggest the following: that a Stoic does not lack for a proper range upon which to work his practical intelligence, no matter what her social role. The smallest of tasks has in common with the largest of tasks that one may apply one's reason to it and doing so is in concord with the workings of the universe.

Plato famously included in his *Republic* the suggestion that we will want the rulers that are reluctant to rule, their reluctance being some sort of evidence of their virtue. Today we get rulers who have “fire in their belly” and want, sometimes it seems, more than anything, to rule. The Stoics offer an interesting third option. Given a situation stable enough so that they can act, a Stoic is always ready to rule, not eager, but equipped to rule. With one more passage from Aurelius and we can draw our conclusions.

He writes:

> Be impassive with regard to the events, brought about by exterior cause. Rightness in actions brought about by the cause that is within you. In other words, let your impulse to act and your action have as their goal the service of mankind, because that, for you, is in conformity with your nature.

And we notice, once again, that the matter of what sort of service you provide mankind is not relevant. And we notice, once again, that what matters is your goodness. This is no proposal for how to bring about a good state. It is a proposal for how the good person is to relate to the events that happen in the world.

*The Epicureans*
The Stoics suggest that society be organized as if every person were virtuous. The Epicureans recommend an opposite tactic: Men as they are, laws as they need to be, given men being as they are. The Epicureans recommend society be organized around the assumption that people will be vicious. What they are after is the protection of the virtuous from the vicious. Justice is a matter of contractual agreements between these camps. The wise, Epicurus writes, do not need laws other than for protection.

While the Stoics understood engaging in politics to be a duty, the Epicureans suggested to their followers that they “live hidden”: stay out of political society altogether. As eudaimonism offers no exceptionless rule other than be virtuous, we can understand “live hidden” to be a general principle that did, as the Epicureans grant, in cases admit of exception. Yet here is an example of an Epicurean attitude towards politicos from Metrodorus, cited by Plutarch in his work *Against Colotes*. Note the sarcasm.

Certain sages, in their prodigal conceit, have been so well able to detect the function of the state that in their discourse about ways of life and virtue they go flying off after the same desires as Lycurgus and Solon. ... It is therefore fitting to burst into the laughter of one truly free at all [other] men and more particularly at these Lycurguses and Solons.

Later in Plutarch’s passage, an Epicurean is described giving this advice to an ambitious general: Why didn’t you stay home and wear a warm hat?

Political involvement for the Epicureans was not a necessary means of developing one’s practical intelligence (as it is for Aristotle) nor is it one means among others of applying one’s practical intelligence (as it is for the Stoics) it is instead a threat to the project of being virtuous, on the Epicurean account. By the lights of Epicurean theory,
the very ambitions of the politically active are suspect. Epicureans are quite prepared to
diagnose anyone in pursuit of fulfilling lofty desires as being merely misled about their
true nature and what actually brings happiness.

What actually brings happiness is being virtuous, which Epicurus equates with
a type of prudence that secures our primary and natural concern with personal security
and peace of mind. (KD 6) A wise person, Epicurus writes, is like the gods: not disturbed,
nor does he disturb others (SV 79) as the necessities of life are easily obtained and there
is no need for a life of struggle. (KD 21) The Epicureans, like the Stoics, did not honor in
their ethical systems local divisions of persons, and instead the Epicureans thought
themselves members of the community of the virtuous, members of this community
wherever it might be found in the world. We have evidence of the
Epicureans acting on these notions, as we look to the remnants of their invitations to their
communal dinners. From papyri found in Herculaneum, Epicurus is recorded as inviting
"all those who are members of his household and he asks them to exclude none of the
outsiders, who are well disposed both to him and his friends."  

This is not Stoic cosmopolitanism, and neither do the Epicureans engage in the process of
oikeiosis that the Stoics describe, where we expand of our circle of "other-concern" with
our awareness of our rationality so that we become "familiarized " to all. And the
implications of the difference can be seen in what the Epicureans, recommend: an actual
retreat from greater society and its political corruption. Epicureans create their own sub-
communities, referred to as "gardens."

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200 Cicero, ND II. 154
204 fr. 8, col 1, the 'Queen' passage
Anthony Long in “The Virtues of Being Epicurean” feels compelled to defend the Epicurean practice of creating sub-communities as he think the practice puts the ability of Epicureans to generate other-concern at risk. Long feels he needs to explain why the Epicureans did not work in their official communities for the public good. But the Epicureans understood their ability to become virtuous was a matter of finding security, and for this reason needed to retreat to their philosophical communities in order to become virtuous. Long’s worry is one that is appropriate for anyone interested in making an Epicurean account of political obligation contemporary: for, as we have noted, in contemporary political theory, the order is reversed from that in ancient approaches. An ethical theory that does not honor political obligations, on a contemporary account, is not meeting the criteria for an ethical theory. But it is even worse than this, when it comes to the Epicureans’ practices. Their security in the subcommunities, admittedly, was dependent on the protection offered by the larger communities they attempted to not participate in. They were willing free-riders. Long’s proposal, that actually, in creating sub-communities the Epicureans were creating enough social-utility that their failure to respect the standard social obligations could be made-up for, does not seem on the mark for us. The Epicurean account of ethics is capable of justifying this “free riding.” This apolitical approach to ethics finds all value to be captured in their account of what is good for a human life: so it is not that another account of value is being violated in pursuit of one’s personal aim of virtue.

According to Epicurean theory it is obvious why it would be of benefit to set up contracts for mutual noninterference with the non-virtuous, but scholars have puzzled
over why such contracts would be necessary even in the "gardens" of the virtuous. They have wondered how to literally to take Epicurus's mention of a "contract" or "agreement." The wise Epicurean surely needs no incentive to not cause another harm. One recent suggestion from Tim O'Keefe's article "Is the Community of Epicureans Just?" seems both most promising in that it answers previous interpretative puzzles and in terms of the answers we are after in this investigation. O'Keefe finds evidence that the Epicureans understood these contracts to involve the requirement that one keep from indirectly harming other contractors as well, and he makes a case for this indirect harm to be the positive provision of certain material goods. He writes:

"The catch-phrase "neither harm nor be harmed" recurs repeatedly in the sources we have. Besides that slogan, however, another claim also occurs frequently: the prolépsis (basic conception) of justice is that justice is what is "useful in the requirements of social arrangements." (KD 47)

In fragment 56 Diogenes of Oinoanda describes the farming operations that would be carried out in a community of wise Epicureans. O'Keefe imagines that the members of the community freely cooperate in performing the activities that are needed in order to feed them all: "As for the necessities derived from agriculture, since we shall have no [slaves at that time] (for indeed [we ourselves shall plough] and dig and tend [the plants] and [divert] rivers and watch over [the crops] ... for [the] farming operations [will provide what our] nature wants."205

This also accords with Lucretius' description of why society came about. It was not because we needed protection just from each other, but we need protection from

205 Cited by O'Keefe, Smith translation
animals and we needed help in farming. The obligations generated by community membership are such as could be specified, the standard being what the community needs according to their nature (and Epicurean theory giving us a description of the limited but legitimate needs we have.) This means that even the less nuanced Epicurean approach to justice can be determinate in a society and prescribe particular policies. Even such things that Mitsis thinks are purely modern requirements, “health care, employment, property and education” the Epicureans could recognize as being required in a society so that we can not be understood as indirectly harming others.

*Can Politics be Reduced to Ethics?*

Let us conclude by placing the ancient approaches to political arrangements in context, between contemporary efforts to justify politics. The oldest way in which liberalism is justified is through the attempt to argue that liberalism and its associated rights are necessary means to bringing about the optimal sort of human character and society. These efforts are no longer regarded by contemporary liberals as capable of respecting pluralism. I earlier promised that if we considered ancient ethical approaches to ethics other than Aristotle’s civic humanism, we could find a way to improve Nussbaum’s own political proposal in the following ways. We would not need to assume or count on pre-existing agreement, but would be prepared to argue directly for why food,

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206 The Stoics deny this story. In Book One of *On Duties*, Cicero, summarizing Panaetius, writes “it is not true, as some claim, that men embarked upon communal life and fellowship in order to provide for life’s necessities just because we could not manage, without others, to provide ourselves with our natural requirements.” (I. 158) If this were so and a “magic wand” could supply us with our needs, we would not want to do without society. We would be lonely and want others as companions and want to learn from others.
shelter, and health are goods (and how good they each are.) We could assess real world policy-making in a way that Nussbaum acknowledges she could not (she thinks she can critique only different political conceptions.) And finally, an approach to politics based in ethical theory could avoid the strange dissonance between the acceptance of a Rawlsian-type justification of liberalism and they way individuals hold “comprehensive” accounts of the good.

A eudaimonist approach to politics takes advantage of ethical theory’s unique feature: it is an argument for a particular value scheme. “Comprehensive” liberal accounts have attempted to provide an account of human nature and its good, but eudaimonism, I think, has the better and more limited and therefore plausible argument. It remains an ethical and not a political theory. It endorses no political system as good, and this is because so much that results from the imposition of any political system is contingent or ethically ambiguous. (For example, liberalism has brought some losses, and an “ethical” defense of the system is likely to gloss over these.)

On the matter of specific policy arrangements, it is because the account of value that the eudaimonists offer is such a stable basis, and “apolitical,” that makes it capable of assessing particular social arrangements and outcomes. The principles of society, I suggest, ought to be a matter of either, as the Stoics have it, what is compatible with individual virtue, or, as the Epicureans have it, what is required for individual virtue. This puts the justificatory basis of a society’s arrangement on a firm and non-contingent basis. And this is useful, we think, because social arrangements are ever-changing and
have so many dimension along which they can be analyzed. The values that matter ought to be made clear in contrast.

Finally, this solves the Rawls-like problems of Nussbaum’s account as well. Where what we have now is a system in which the political philosophers are imagining public consensus to particular liberal ideals that the public is likely not very well-acquainted with, so that an ardent anti-abortionist is left to admit both that she can not be certain that she is right about the morality of abortion all the while maintaining that she is certain. A Stoic account of government would does not attempt to work at a general level that is abstract where agreement is assumed. Instead, it presents it account of value explicitly, and as one piece, and invokes justifications that even the most ardent anti-abortionist could recognize and accept: we follow the law for the sake of fairness and concord. The consensus a eudaimonist approach to politics can generate will be the honest sort; when a conception of human good competes with it, it will be allowed to compete.

Let us return to consider Terence Irwin’s suggestion at the end of his criticism of Aristotle’s defense of private property. Irwin suggests that if Aristotle, willing to specify what is of value in a straightforward manner, has actually failed to do what he thought he could (justify private property) it is much less likely is it that political theorists have, without specifying their value commitments, managed the complicated feat? We might think we have confirmed Irwin’s suspicions in part one. Contemporary theorists are not justifying property being held privately. But we hope that the Stoics and Epicureans might have satisfied Irwin. Aristotle’s account considers too few options when it comes
to what systems allow for generosity. The Epicureans, deciding that private property is the best arrangement, recognize that this is provisional in a way Irwin might approve of, but private property is also safeguarded in the Epicurean account because the needs of humans are so limited according to them. The Stoics offer a defense of private property that can be construed in terms of the value of "individual freedom and initiative" just as Irwin suggested Aristotle would be better to do.

A final benefit to the approach to politics grounded in eudaimonist ethics would be more obvious if liberalism were to come under siege from a value schemes contrary to its tacit assumptions. In such a case the contemporary value-neutral approach to justifying liberalism will not, we believe, convince its opponents to tolerate rights. But if we defend our notion of justice through an ethical account, we would at least be capable of engaging in a debate with non-liberal and comprehensive accounts of the good. I hope, that though "liberalism" refers to a certain history and method of justification, we have suggested the same protections liberalism is intended to grant can be found in an ethics-based politics, even though these protections come about, in a sense, negatively, from no initiative to remove freedom being justified. There is this, but also that, when it comes to what is of value, and given how well the theory works --eudaimonism just might be right.
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