THEORY VS. ANTI-THEORY IN ETHICS

A MISCONCEIVED CONFLICT

NICK FOTION

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Introduction

What is the Problem?

More than a few philosophers are troubled by the suggestion that they should theorize as a way of dealing with ethical (moral) problems.[1] Theorizing makes them uncomfortable. Interestingly enough, there is no comparable discomfort in the sciences. Scientists often disagree among themselves as to which theory they should follow. The disagreement can last for years or decades before it is resolved, if it ever is. But they do not disagree about the usefulness of the process of theorizing. They argue about which theory is the right or the best one, but not about whether they should theorize. The role of theory in science is taken for granted. But it is not in ethics. Many do in fact insist that theories in ethics are very useful. Some of these theorists even go so far as to say that we cannot do without theories. But others, so called anti-theorists, argue that theories in ethics are a waste of time. Worse still, theories are said to be counterproductive. So one side says that ethical theories are necessary for dealing with our ethical problems; the other says that in order to deal with

these problems we need to find non-theory-based ways of thinking. They say this largely because they view ethics as being significantly different from science.

This conflict over theory does not separate the majority on one side from a small maverick minority on the other. Rather, both camps have renowned supporters. On the theory side we find such thinkers as Richard Brandt,[2] Alan Donagan,[3] Ronald Dworkin,[4] David Gauthier,[5] Alan Gewirth,[6] Jürgen Habermas,[7] R.M. Hare,[8] John Rawls,[9] and Michael Slote.[10] Their theoretic constructions are used by their creators and their followers to generate ethical norms, to help organize our thinking about ethical matters, and to justify that thinking. We are told that these and other uses of theory are not optional. It is not as if we could get along without theory much like we could without a bicycle when other means of transportation are available. Theory is said to be a necessity. Without it, we cannot justify or modify our rules, principles, virtue claims, etc., in any principled way. Nor can we deal with difficult new situations, generate new rules, or rationally assess the ethical (or moral) behavior of others in our own or in any other society.

But more is needed than theory—any old theory. As one reads the writings of the theory builders, the impression arises that they do not carry a modest countenance. Each thinks that to get things right ethically, it is necessary to get things right theoretically. And, of course, each thinks that his/her theory gets things right.

This gives the other side—including such thinkers as Annette Baier,[11] Alasdair MacIntyre,[12] Cheryl Noble,[13] Charles Taylor,[14] and Bernard Williams[15] —an opening. With each theory supported only by a leader and a small band of dedicated loyalists, and with the difficulties inherent in objectively deciding which theory represents the theory of choice, anti-theorists complain that we are suffering from a proliferation of theories. From the

theorist's point of view, this represents an embarrassment of riches. From the anti-theorist's point of view this proliferation is one of many sins of theorizing in ethics. Not having the means of choosing among the favored theories, one is left wondering how useful theories are. If the right theory is the only one able to generate the correct rules and principles for dealing with our moral problems, what good does it do to talk about that theory if there is no way of identifying it?

The anti-theorists are not content to snipe at the theorists because the latter create a variety of fabulously intricate intellectual constructions. They also argue that the principles found in the theory are too abstract to actually generate moral rules and principles; and certainly are too abstract to be of any use in dealing with concrete moral problems.[16] That is the argument. We will see, eventually, how valid it is. We will also see how valid another anti-theory argument is. This one says that there is no real need for theories because our intuitions are all we need to get things right morally—provided our intuitions are sensitized to the subtle aspects of the settings (contexts) in which we find ourselves. So even if some of the other arguments presented by the anti-theorists have no validity, an anti-theorist can always claim that there is no real need to write heavy theoretical books in ethics.

The disconcerting debate between the theorists and anti-theorists plays itself out with each side, it seems, feeling confident that the other is completely wrong. Theorists cannot imagine getting along without theories—and anti-theorists getting along with them. But another issue lurks behind the debate between the two antagonists. It has to do with the nature of ethical theory. Theorists and anti-theorists alike present us with a very demanding set of criteria that they expect theories to satisfy. The fight, then, turns into one between what I will call strong theorists on the one side, and strong anti-theorists on

the other. It is a fight between theorists who have a strong positive view of strong theory, and anti-theorists who have an equally strong, but negative, view of such theory. They differ not especially over the issue of the nature of ethical theory but as to whether the ethical theories out there in the world actually satisfy the demanding criteria these theories are supposed to possess. Theorists say that there is a satisfactory theory out there; anti-theorists say there is not. I will argue that this shared misconception of theory as strong causes no end of trouble. It shapes the arguments on both sides so as to keep one side from appreciating what the other is saying. To get out of trouble it will be necessary, in due time, to develop a theory of ethical theory other than a strong one. This other theory I will label weak theory. It makes fewer demands on theory construction. Speaking roughly for now, according to weak theory, a theory does not have to claim to explain everything and it does not have to make claims that it is *the* correct theory. These concessions to what a theory is increase the likelihood that a large number of theories can be seen to be viable, reasonable, or plausible. In the end, then, I take a stance on the side of the theorists. However, because this stance is sympathetic only to weak theories, many strong theorists will not be happy. They want strong, not anemic, theories. Anti-theorists will be unhappy as well, since they do not want to have anything to do with the process of theorizing. Defending weak theory, then, is not a stance one should take if one looking to make many friends.

I might add that in presenting the idea of weak—eventually to be labeled tolerant—theory, I mean to be pointing the reader in a certain direction. The intent of what I say is to encourage the reader to keep his/her eye on where I am pointing. I thus avoid engaging in critical analysis of the many theories discussed in this extended essay so as to keep the reader from being distracted. What I say about these theories is limited to bare

descriptions of them. For my purposes, it is enough to show that these theories are plausible, and surprisingly varied in nature.

Outline of Chapters

In Chapter 1, the approach to answering the what-is-a-theory question is negative. Insights into what a theory is comes by way of seeing what it might be like to get along *without* theory. An underlying assumption of this work surfaces right off in this chapter. It is that there is something suspicious about persistent high-level, abstract, *philosophical* thinking. This does not mean that we should never, or only rarely, engage in such thinking. Rather, such thinking needs to be seriously supplemented with down-to-earth examples.[17] So, in Chapter 1, examples are presented to show how we do (and should) think about ethical issues without having recourse to some ethical theory. As it is extended to later chapters, part of what makes this example-based analysis useful is that it also helps make clear how varied our thinking processes in ethics are.

Chapter 2 is a digression. Rather than directly attempting to answer questions like "What is (an ethical) theory?" and "Do we need ethical theories?" this chapter prepares the way to answering these questions. It does this by identifying and, in a preliminary way, clarifying two "logical" distinctions. The first is between critical and noncritical ("intuitive") thinking within ethics, a distinction championed by R. M. Hare.[18] The second is between meta-ethical and ethical thinking. This chapter is a bit like reconnoitering the lay of the land before farming it.

Chapter 3 is also a chapter of reconnaissance, only this time about theory itself. It takes an advance look at some of the arguments for and against theory in ethics, and also begins to give us a feel for what a theory in ethics looks like or might look

like. More specifically it attempts, again in a preliminary way, to answer the following overlapping questions.

1. What is a theory (in ethics)?
2. What is (are) the function(s) of theory? What are theories supposed to do?
3. What criteria need to be satisfied for a theory to be a theory—and what criteria need to be satisfied for it to be successful?
4. Are there various kinds of theories?

Chapter 4 also does reconnaissance work. Titled "Beginnings Theory," it speculates about how ethics began, and then how this beginning developed into what was called in the previous chapter the noncritical level of thinking. This chapter also prepares the way for understanding what work theories are supposed to do.

There is a radical shift in Chapter 5. This chapter, finally, begins looking directly at ethical theories. However, it departs from the usual (philosophic) custom of focusing almost exclusively on very abstract, or grand, theories. Instead, it focuses on so called local theories. Although grand theories will receive their share of attention later on, starting the discussion with local theories has a certain shock value. It significantly reorients one's thinking about the nature of ethical theories. The particular local theory discussed in this chapter is just war theory.

Chapter 6 is concerned with "exceptions theory." Such theory helps us to decide when we can make exceptions to the ethical guidelines that we accept. Just war theory is an example falling under exceptions theory. In this chapter, we see that there are other local theories that fall under exceptions theory. So just war theory is not an anomaly that happens to deal with the difficult ethical questions we face when nations go to war with

one another or when nations go to war with non-nation groups. That is, just war theory is not one of a kind. Rather, it is one of several similar theories that are, and can be, formulated to help us deal with situations when we feel we ought to make exceptions to the strongly held rules, principles, and virtue claims (norms) we live by.

Chapter 7 continues to look at "local" theories but, this time, ones that do not fall under the heading of exceptions theory. This chapter shows us that local theories are far more common and varied than we might suppose.

Chapter 8 focuses on two theories that begin moving the discussion away from local theories: viz., those of John Rawls and T.M. Scanlon. Rawls's theory is not grand, since it is mainly concerned with the concept of justice rather than a wide range of ethical concepts. Still, it is a strange local theory since his view is that it is possible to patch together a series of local theories to give us a broader sense of what ethics is about. Scanlon's theory approaches grandness in that it purports to deal with a significantly large portion of the ethical domain. But he admits that it does not deal with all of the domains since it is concerned only with what we owe to others, but not to ourselves. Aside from gradually moving the discussion in the direction of grandness, these two thinkers are discussed together in one chapter as defenders of *contract* theory.

Chapter 9 is concerned with the ethical and meta-ethical theories of R.M. Hare. Hare is chosen to represent those theorists in ethics who call themselves utilitarians. Hare, unlike Rawls and even Scanlon, is clearly a grand theorist.

Chapter 10 investigates the writings of Rosalind Hursthouse, Michael Slote, and Timothy Jackson (a theologian). Having looked in previous chapters at contract theories (Chapter 8) and utilitarian ones (Chapter 9), we turn our attention here to theories that focus on the virtues.

Chapter 11 looks at the status of principles, rules, and virtue claims (norms) in ethical discussions. It does so by highlighting claims by those who call themselves particularists. These philosophers argue that such norms have, at best, limited roles to play in our thinking. The argument of the chapter goes against the particularists by claiming that the role of (general) norms in our thinking is robust.

Chapter 12 begins the overview of what theories in ethics are, and what criteria they do (should) possess. The criterion discussed in this chapter is privileging. Many (most) theorists in ethics believe that one correct theory can be identified so that all other theories should be rejected. Many (most?) also believe that their theory is *the* correct, right, true, etc., one and so deserves to be given privileged status. This chapter continues the discussion of privileging started in earlier chapters and arrives at the conclusion that privileging may be a mirage. It is logically possible that a privileged theory will be found. But given what the history of ethics has taught us so far, we should not expect that the day of salvation will arrive tomorrow or the next day.

Chapter 13 discusses three more key features that ethical theories are supposed to possess. They are supposed to be complete and they are supposed to generate all sorts of general guidelines to tell us what to do and/or how to live. They are also supposed to exhibit the feature of universalizability: on one interpretation, being complete means that the theory, to be a theory, or at least to be a good theory, must solve all our ethical problems. In this chapter, I argue that that cannot be right. Theories may be complete in some weak sense but they do not have to carry the burden of dealing with all our ethical problems. As to the generating feature, the argument is that either theories generate guidelines or they are not theories at all.

Chapter 14 discusses procedures, justification, and organization. Ethical theories tell us what procedures we should use to

generate our overall guidelines. A problem that emerges with identifying procedures is that different theories present us with different procedures. If no theory can be privileged, how is one to choose which theory (and its set of corresponding procedures) to use when dealing with one's ethical problems? A more serious issue arises with the justification feature. Ethical theories are supposed to be justified. But how is one to justify a theory when one realizes that the justification process cannot privilege that theory? How, in other words, is one to justify one theory in the face of the realization that other theories can also be justified? A further question dealt with in this chapter is: Does theory help organize the wide variety of ethical judgments we make so that they make some sense?

Chapter 15 is titled "Weak Theory." It identifies the criteria that belong to weak theory by, in part, making it clear which of the criteria of Chapter 3 are no longer to be taken seriously.

Chapter 16 tells how it is that we can live with one or another weak theory even though we know that we cannot privilege such a theory. It also deals with the consequences of Derek Parfit's claim that we should not yet give up on the idea of privileging one theory, or a small cluster of theories.

Some Comments

The reader should note that I generally avoid giving examples of and discussing social and political theories (Rawls being the main exception). I have done this in part because I am less familiar with these theories, but also because the primary home of the contemporary theory/anti-theory debate is in ethics. It may be that the same theory/anti-theory debate can be duplicated in social and political philosophy. In that case, my strategy of avoiding social and political theory is a shame. But, for better or

worse, I am leaving that debate about the worth of these theories for another time.

Some will think that this study suffers from another fault. All my examples of theory are contemporary. I avoid discussing Aristotle, Kant, Mill, and the rest. In part, I do so because the attack on theory these past few decades has been mostly aimed at contemporary theories, and also at the continued effort by philosophers and others to generate new theories. In part I also do so because focusing exclusively on the grand old theories prevents one from fully appreciating the variety found in the business of theorizing in ethics. So the question I am trying to answer is the following: Is it possible today to develop meaningful ethical theories? That question, I think, can best be answered by looking at a wide range of contemporary ethical theories. Besides, the theory/anti-theory debate, looked at from the point of view of history, has already been more than adequately addressed by Robert Louden in his *Morality and Moral Theory*.[19] I, as it were, am completing the work that Louden started by moving the discussion to today.

Notes

1. For my purposes, there is no need to distinguish between "ethical" and "moral." For other purposes it may be important to make a distinction here.

2. Richard Brandt, *A Theory of the Good and the Right* (Oxford: Clarendon Press, 1979).

3. Alan Donagan, *The Theory of Morality* (Chicago: The University of Chicago Press, 1977).

4. Ronald Dworkin, *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977). See also Dworkin's *Justice for Hedgehogs* (Cambridge, MA: The Belknap Press of Harvard University Press, 2011).

5. David Gauthier, *Morals by Agreement* (Oxford: Clarendon Press, 1986).

6. Alan Gewirth, *Reason and Morality* (Chicago: University of Chicago Press, 1978).

7. Jürgen Habermas, "Discourse Ethics: Notes on a Program of Philosophical Justification," in *Moral Discourse and Practice*, eds. Stephen Darwell, Allan Gibbard and Peter Railton (New York: Oxford University Press, 1997), 287–302.

8. R. M. Hare, *Moral Thinking: Its Levels, Method and Point* (Oxford: Clarendon Press, 1981).

9. John Rawls, *A Theory of Justice* (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 1971). See also Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

10. Michael Slote, *Morals from Motives* (New York: Oxford University Press, 2001).

11. Annette Baier, "Doing Without Moral Theory?" in *Anti-Theory in Ethics and Moral Conservatism*, eds. Stanley G. Clarke and Evan Simpson (Albany: State University of New York Press, 1989), 29–48.

12. Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (Notre Dame, IN: University of Notre Dame Press, 1981).

13. Cheryl Noble, "Normative Ethical Theories," in *Anti-Theory in Ethics and Moral Conservatism*, eds. Stanley G. Clarke and Evan Simpson (Albany: State University of New York Press,1989), 49–64.

14. Charles Taylor, "Modern Moral Rationalism," in *Weakening Philosophy: Essays in Honour of Gianni Vattimo*, ed. Santiago Zabala (Montreal: McGill-Queen's University Press, 2007), 57–76.

15. Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge, MA: Harvard University Press, 1985).

16. Stanley G. Clarke and Evan Simpson, "Introduction: The Primacy of Moral Practice," in *Anti-Theory in Ethics and Moral Conservatism*, eds. Stanley G. Clarke and Evan Simpson (Albany: State University of New York Press, 1989), 5.

17. Robert B. Louden, "Examples in Ethics," in *Routledge Encyclopedia of Philosophy,* ed. Edward Craig (London: Routledge, 1998.) 3: 487–490.

18. Hare, Moral Thinking (see chapters 2 and 3).

19. Robert B. Louden, *Morality and Moral Theory: A Reappraisal and Reaffirmation* (New York: Oxford University Press, 1992).

Chapter 1

Getting Along (Quite Well) Without You

Intuitions

Forget for a moment what the professionals in the field of ethics tell us about ethics. Think rather about how a young man comes to help some hungry people. This young man is in the military in a foreign land. It is after World War II and he, as an American soldier, has more than enough to eat. When he finishes eating, he gets in line where he is supposed to throw the food he has not eaten into the garbage can. Hungry people are standing nearby watching the process. They want the food that he and the other GIs are throwing away. Most soldiers laugh at the hungry "gooks" and throw their food away. But our hero feels their hunger pains and so gives them the food he has not eaten.

Now clearly, however our young soldier came to think that he ought to give away his surplus food, he did not appeal to some ethical theory. He had not yet gone to college and so had not experienced the joy of reading Gauthier, Gewirth, and Rawls, or even Plato and Aristotle for that matter. Furthermore, it is not

even clear that he appealed to some ethical rule that he might have learned at his mother's knee, in church, school, or wherever. He might have had a rule such as "Be kind to the needy." in mind but, in fact, he did not. To him it just felt right to give his excess food away even if, in doing so, he had to suffer the jibes from his comrades for being a "gook lover." It was as if he was just moved to do what he did.

A social scientist most likely would comment at this point that what he did was a function of some sort of (unconscious) social influence on him, and the biologist would likely also have some comments about our soldier's genetic or hormonal makeup. However such accounts might play out, for the soldier himself, having the feeling that he ought to help the hungry was a first-time experience. He had never seen people this hungry before, had never thought about hunger except when he was hungry for ice cream, had never heard a lecture about mass hunger, nor even heard anyone talk informally about such hunger. Indeed, our naive young warrior was both shocked and surprised when he saw all these people standing there yearning for a piece of bread or a scrap of meat. Later, when he talked about what he did, he expressed himself in quite simple terms. He repeatedly said "They're starving after all," "They're like you and me – they're humans too," and "We ought to help those in need." So, talk about justifying what he did entered into our little drama, but only after the deed was done.

Scenes like these are not uncommon. Young people facing the problems of life for the first time, both younger and older people facing special life problems (e.g., of a severely sick and dying relative), people having to make decisions when time is short, and certain people who just act "intuitively" on a regular basis are all somewhat like our soldier. Some believe that women more than men belong to the group who regularly appeal to "intuitions."[1]

Women tend not only to be "intuitive" thinkers but tend, so the claim goes, to engage in this form of thinking in a more apt way than men. What can this mean? That their intuitions are more sensitive to the context? That instinctively they take in more of, or are more attuned to, the situation before their "intuitions" fire off than (most) men are? Perhaps so—but it would be difficult to verify such a claim. An indirect way of doing so would be to examine everyone's intuitive judgments after the fact much as we did with our young warrior. Although he articulated no reasons as he gave his food away, and although he did not have any reasons he could have given at the moment of his giving to justify what he did, he did offer reasons later. These later reasons, then, can be used as a way of assessing the goodness of his "intuitive" decision. If women have richer intuitions than men we should be able to show this is so since, after the fact, their "intuitions" would hold up better in being in accord with some process or other of (good) reason-giving. At least that sounds like a plausible way to proceed.

Two things are suggested by this line of thinking. One is that "intuitions" might not be so trustworthy as we often suppose. If some of us make "intuitive" judgments better than others, this means that others must be getting things wrong more often.[2] Is the daughter who "intuitively" decides to assist her sick and suffering mother to commit suicide, even though her mother's medical condition has not yet taken her to death's door, firing off a sophisticated or an out-of-control intuition? It is not easy to tell.

The second is that we do not have to accept an "intuition" as right just because it feels right since we can, and are normally expected to, back that "intuition" with reason-giving. This suggests that something more than "intuitions" is needed before we feel comfortable with decisions people make. This something more need not be a theory, although it might be. But it certainly

involves a process of reason-giving that appeals perhaps to other more abstract intuitions, or to rules, or something of the sort. There is more to be said about the matter; and, later, more will be.

For now, however, we should note that the kinds of "intuitions" we have been discussing are probably not the most common we have as we go through life. Although common enough, they are restricted in number because they have to do with first-time or once-in-a-lifetime experiences. More common are "intuitions" dealing with everyday life. Lauren is asked an embarrassing question to which she responds, without hesitation, by telling the truth. Later, Lauren finds an expensive earring she knows belongs to Lana; and again, without giving it a thought, she returns it to its owner. Here Lauren is acting "intuitively," the way she has always acted in similar situations. The only thoughts she has are concerned with her appraisal of the situation. "This is the earring Lana wore last night at the party. Lana was fiddling with it earlier in the evening. Obviously it must have been giving her trouble. She finally lost it." What Lauren does not think about is "Should or should I not return the lovely earring that obviously belongs to Lana?" Her "intuitive" conclusion after assessing the situation is "I must return it."

Notice that even after Lauren finds Lana and returns the lost earring, she need not have cited a rule or a theory. Again, she could have cited a rule after the fact, or possibly right from the beginning, but she can get along quite well simply by acting "intuitively." It is as if the rules that might have helped her govern her behavior are irrelevant since she is fully capable of doing what she ought without a thought, that is, by acting "intuitively."

Lauren's honesty can be discussed without recourse to talk about "intuitions." We can say, instead, that she has certain virtues. Shortly, I will have something to say about how she might have come to possess her virtues, but for now I want to focus on the virtues themselves. Lauren has the virtue of honesty. At

least minimally what this means is that she has a habit of telling the truth, and to do other such things. It seems natural for her to be honest in the sense that if, for example, she were encouraged to lie, she could not do so effortlessly. She also has the virtue of wanting very much to return things she has found to their owners no matter how much she might want to keep them. This means again that she is in the habit of returning things. It is as if she is moved by inertia to return things, and that if someone tempted her to keep what she has found, she would think that it would be unnatural to do so. Telling the truth, returning items that others have lost, not deceiving others by hiding the truth (i.e., being open), etc.—all seem so natural to her, so much a part of her, that it is hard for her to conceive how others might behave differently. Not surprisingly, she is critical of these other people.[3] We also find her doing whatever she can to make certain that her friends and her children act as she does rather than in unnatural ways.

Lauren possesses other virtues besides those of honesty. She is known for being thoughtful, candid, congenial, loyal to her friends, hard-working, prudent, and even brave. With respect to the latter virtue, she once put her life at risk to help work with patients who had a contagious disease. On other occasions, she spoke up against those in authority in order to help a friend who had been demoted even though, by doing so, she put her job at risk.

These and other virtues Lauren possesses seem to have always been a part of her. Those who remember her as a child recall that she was encouraged by her parents to develop her virtues. Indeed, her parents rewarded her when she told the truth and was thoughtful of others. Her parents themselves acted as role models for Lauren. But Lauren herself seemed inclined to be virtuous in so many ways without much encouragement. As a result, she became the woman she is without much of what

philosophers call reflective thinking taking place. In one sense, of course, she is reflective. She has a knack for sizing up a situation before acting. So, in addition to her other virtues, Lauren is also perceptive, sensitive to, or aware of what is going on around her. But she has never been reflective in the sense of asking why this virtue is important or what this virtue really is. It seems to her, especially since she has been lucky enough not to have had to face a serious moral conflict, that there is no need to ask these questions. And, there is certainly no need for her to articulate some ethical theory. She is who she is without having any inkling about any of these things.

Other more self-conscious persons like Louie also can get along without theories, but they find appealing to rules helpful. We can imagine Louie in a similar situation as Lauren. He finds a billfold full of money and credit cards. Not being like Lauren, he momentarily considers keeping what he has found. It would be nice, he thinks, to have all that extra cash. But he finally locates the owner and returns the billfold, all the while citing the rule that one should return to the owner what he/she has lost rather than follow the policy of "Losers weepers, finders keepers." For Louie, the rule served to keep him from making himself an exception that would allow him to keep the billfold.

Casuistry

Consider another way of dealing with moral problems without appealing to theory. This time, imagine someone more sophisticated than either Lauren or Louie when it comes to dealing with moral problems. Smith is a retired member of a hospital ethics committee who has had experience dealing with dying patients. As it turns out, a neighbor of his, Jones, is experiencing consid-

erable pain and suffering. Although not yet dying, it is rather obvious that he will be dead within a matter of months. Jones appeals to Smith for help knowing that his neighbor is experienced in these matters. He wants Smith to help him end his life, later, when things get worse. He says that he wants help from Smith in a private setting. He does not want to be hassled with committees, lots of doctors, government officials and, least of all, the courts. When the time comes, he wants to get things done quickly and quietly.

Smith is suddenly hit with the force of the responsibility that Jones is laying on him. For him, it is all well and good to make decisions with others on a committee. But to help Jones die on Smith's own authority, and to do so with someone he personally knows and likes, is more than he can bear emotionally. So he puts Smith off with a let-me-think-about-it response. Indeed, he does think about what he is being asked to do, and does so in the following manner.

In his mind, he reviews paradigm (i.e., clear-cut, ideal, standard) cases where we are condemned morally and legally for killing another human being. These are cases when we kill in order to gain money and property, sexual access to the victim's spouse, power, and the like. Having done that, he also reviews, in his mind, paradigm cases of killing another when we are not condemned as killers. Here, quite naturally, he thinks of cases where the only alternative to killing an attacker is to lose one's own life. What he does next is ask himself two questions. "Is the situation I find myself in with Jones more like unpermitted killing or permitted killing?"

His answer is that his situation is not very much like either of his two paradigms. If he kills Jones he is not personally gaining anything (e.g., Jones's money); but he is not defending himself from attack either. Evidently, Smith's casuistic approach requires that he look for other analogies.

He next remembers an event that took place while he was serving in the army during World War II. A friend of his and that friend's buddy found themselves behind enemy lines. They had valuable information that they knew the Germans knew they had. So they were keen not to be captured. They knew that capture meant torture and, then, most likely, death at the hands of the SS. Unfortunately, while working their way back to their own lines, the buddy was shot in the leg. Smith's friend tried to help him, but to no avail. Knowing what was in store for him and knowing that, under torture, he might "spill the beans," the buddy said to Smith's friend "Shoot me." Smith's friend hesitated a moment but, then, seeing the Germans approaching, shot him and so put his buddy out of his misery.

Contemplating this case, Smith feels that he now has a useful analogy with which to work. Just like dealing with Jones, his friend was asked to help someone in dire straits, and, as in Jones' case, the help requested is drastic. So Smith thinks to himself that if what his friend did was wrong (was condemned) what he is contemplating would be wrong (condemned too). Of course he recognizes that there are some differences between dealing with Jones and what his friend did to his buddy. He is not acting in a war setting and there are laws against doing what he is contemplating. Nonetheless, the similarities between the two acts are close enough that he feels he can gain insight into what he should do from this World War II tragedy.

As he remembers it, his friend was not condemned for what he did. Everyone, including his commander, expressed their sorrow about what happened but, in essence, told him "You did the right thing." So Smith concludes that he has in hand an analogy that leans him in the direction of helping Jones. But he is not content with just this analogy. He brings to mind other analogies as well such as how we put animals down when they are hopelessly ill or injured, and how we normally help our friends (if we can) when

they ask for help. Contemplating these analogies, and now comparing them with the lack of analogies found on the other side (that condemn killing), he concludes that he should help Jones.

Smith might very well have contemplated additional cases (or types of cases) before drawing his conclusion. Had he done so, and had he thereby turned himself into a better casuist, he might have arrived at a different conclusion. But the point of this exercise in casuistry is not to judge Smith, but to display still another way of thinking about moral issues without the help of ethical theory. That way involves immersing oneself in the details of the situation under consideration, comparing the situation (case) with other cases (or types of cases), presupposing that these other cases have a settled solution morally, cautiously arriving at a conclusion, and, finally, being prepared to alter one's conclusion should further facts come to light or further analogies suggest themselves.[4]

The method Smith uses gains credibility when we realize how extensively it is used. What many thinkers in practical ethics call the case-study approach is casuistry in one form or another. Many of those who engage in medical and business ethics live by this method, but so also do those in law who try to show how a current case in law is or is not analogous to ones from the past.

As these uses of casuistry suggest, the method does not recommend itself to the lazy. Looking for analogies takes time, and is complicated by the fact that it is always possible for a new analogy to emerge after one has come to a decision.[5] Then there is the problem that analogies may come into conflict, as they do when one considers the issue of abortion. One side cites the liberation analogy, the other the sacredness of life analogy.

So this method contrasts sharply with the more intuitive methods discussed earlier. These often involve little or no deliberative thinking. Yet both ways, the "intuitive" and the casuistic, seemingly involve arriving at an answer to a concrete ethical

problem without recourse to anything that sounds like an ethical theory. To be sure, rules and maxims might very well be part of any non-theoretical way of operating. Still, if much can get done without having to appeal to some theory or other, one quite naturally begins to wonder if theory has much value in ethics at all.

Appealing to Literature

There is reason to wonder even more when one shifts attention to how literature, novels, and other storytelling forms contribute to our thinking about moral issues. Novelists can simply convey the message, as did Norman Mailer in *The Naked and the Dead* and Leo Tolstoy did in *War and Peace*, that war is cruel, futile, and thus immoral. Charles Dickens does much the same in *Oliver Twist*, where he portrays the ugly side of 19th century industrialization and urbanization. Others write about human selfishness and its evils. No aspect of human life is exempt from the attentions of storytelling messages of wrong and of right.

Of course, styles of storytelling vary considerably, so it is not possible to identify a method, procedure, or set way of dealing with ethical issues within literature. But a large part of literature's effectiveness is due to acute authorial sensitivity to detail. These authors seem to see things that most of us miss. Their antennas detect emotions, feelings, significant physical movements, twitches, social change, etc., that are significant in assessing moral settings. In addition, their way with language makes us, as readers or viewers, more sensitive. So we learn the lessons of the novelist and other narrators because of their command of language and the stage (whether in the theater, television, radio, or wherever). The story itself and the way it is told contain the lesson.

Literary writers need not be our moral teachers in quite this direct way. Instead of simply telling a story with a built-in moral lesson, the storyteller can create characters who show us how we should proceed to deal with our moral problems. The author is still our moral teacher since he/she creates the characters. But it is the characters we now focus on, not the author, who help us deal with our moral problems. Martha Nussbaum writes about this more indirect teaching method in her well-known article "Finely Aware and Richly Responsible: Literature and the Moral Imagination."[6] The author she writes about is Henry James, and the book is *The Golden Bowl*. The protagonists of the novel are a father (Adam) and his daughter (Maggie). They have been and are very close to one another. Each depends heavily on the other for support. But now Maggie is a grown woman and in love with a young man (Amerigo). Maggie's marriage with Amerigo means that the old closeness of father and daughter must end. But there are many wrong ways to bring about this end, and evidently only one right way. Maggie and Adam find the right way by meeting once again, doing ordinary things together such as dining and taking a boat ride, sometimes just looking at one another without saying anything, gesturing, reminiscing, talking about Maggie's love for Amerigo, and talking about the future. In the process, they both search for ways to think about one another. Adam's search changes how he thinks of Maggie. Instead of a kind of art object to be possessed and protected, he comes to view her as a free-roaming sea creature that must learn to live with danger on her own. With this change of view he more easily comes to accept the idea that he must give Maggie up to Amerigo. She too undergoes a change of outlook. Her father now is viewed not so much a provider who, nonetheless, is dependent upon the person he is providing for, but as a person who is capable of choosing and living on his own.

According to Nussbaum, the lessons James teaches us through his characters is how we should live, how we should act in certain situations, and also how to go about deciding how we should live and act. If, then, we follow in the spirit of his high-minded characters, we come to live in the right way and do the right thing in the right way without recourse to theory. Instead, the appeal is to intuitions, keen perceptions, and to the imagination.

But high-minded fictional characters and perceptive authors of novels are not the only ones who can tell stories in such a way as to help us do more than muddle through our moral perplexities. Little stories told by mothers, friends, and teachers can help. So can larger narratives about others or ourselves told by ordinary people.[7] So called self-narratives, presumably partly autobiographical and partly fictional, are likely to be especially helpful in dealing with the question "How should I live?" by encouraging the author to engage in, among other things, self-reflection.

There is more, much more, to be said about non-theoretical ways of dealing with moral problems and situations. So far all I have done is suggest that the job can get done in more than one way. There is much (perhaps too much?) diversity here. There may be, indeed there are likely to be, still other ways available. But for now, enough has been said to challenge those who are theoretically inclined. In time, they will be given their chance to respond by explaining to us why it is sometimes important to cook up monstrously technical moral theories in order to help us deal with the moral issues we face. However, before they are given their chance, it is useful to step back from the battle between the friends and enemies of theory. Stepping back helps frame the battlefield. In the next chapter, then, I will discuss some concepts that will be useful in assessing the claims of both sides, but especially of the theory-friendly side. These concepts themselves are not benign. Battles have been fought over them as well. But I will try to employ relatively benign versions of these concepts so as to keep casualties at a minimum.

Following that chapter, I will examine the nature of ethical theories, especially as it is conceived by many, probably most, thinkers in the field.

Notes

1. Carol Gilligan, *In a Different Voice* (Cambridge, MA: Harvard University Press, 1982).

2. Robert Audi, "Intuitionism, Pluralism, and the Foundations of Ethics," in *Moral Knowledge? New Readings in Moral Epistemology*, eds. Walter Sinnott-Armstrong and Mark Timmons (New York: Oxford University Press, 1996), 108–109.

3. Rosalind Hursthouse, *On Virtue Ethics* (New York: Oxford University Press, 1999), 11.

4. Albert R. Jonsen and Stephen Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning* (Berkeley: University of California Press, 1988), 42–46. See also page 257, where the authors give us a definition of casuistry as ". . . the analysis of moral issues, using procedures of reasoning based on paradigms and analogies, leading to the formulation of expert opinions about the existence and stringency of particular moral obligations, framed in terms of rules, or maxims that are general but not universal or invariable, since they hold good with certainty only in the typical conditions of the agent and circumstances of action."

5. Ibid., 45. "Yet when all these qualifications are taken into account, it is still true that moral arguments can no more lead to final and definite conclusions than do the parallel arguments in clinical medicine. In both fields the best we can do is appraise the particular situation in which we find ourselves with the highest degree of clinical perceptiveness we can bring to the situation. But our judgments are always made at particular times, on the basis of the given facts and observations, and so are often 'timely' and 'context dependent.' They remain, that is, *substantive* and *practical*, with all the fallibility and revisability that these terms imply."

6. Martha Nussbaum, "Finely Aware and Richly Responsible: Literature and the Moral Imagination," in *Anti-Theory in Ethics and Moral Conservatism*, eds. Stanley G. Clarke and Evan Simpson (Albany: State University of New York Press, 1989), 111–134.

7. Diana Tietjens Meyers, "Narrative and Moral Life," in *Setting the Moral Compass: Essays by Women Philosophers*, ed. Cheshire Calhoun (New York: Oxford University Press, 2004), 288–308.