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Methods of Bioethics:
Some Defective Proposals

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1

In these days of intense academic competition, which is supposed to keep us all on our toes, one has to publish or be damned; and for advancing one's career it is more important that what one publishes should be new, than that it should be true. Often it is not as new as one thinks it is; sometimes, if one looks back to the great philosophers of the past, one finds that one's bright new ideas have been anticipated by them. This has happened often enough to me.

As to being true, that is not so difficult. Most philosophical truths are fairly obvious, though people obscure them by their inability or unwillingness to express themselves clearly. The difficult thing is to grasp the *whole* truth. If you take a bunch of supposedly divergent theories on almost any philosophical question, you will find in each of them some points which are right, and some which are wrong. Those who criticize these theories often rightly attack the points that are wrong, but do not see that not everything in a theory is wrong; it also, usually, has hold of important truths. So, in putting forward their own opposing theories, these philosophers discard the good with the bad, denying truths that their victims had grasped. So they too land themselves in a mixture of truth and error.

The difficult thing, as I said, is to grasp the whole truth. This entails carefully disentangling the truths from the errors in *all* the theories one studies. It is the mark of the good philosopher to be able to do this. All philosophers can profit from the advice that I regularly give to my students: pinch your opponents' clothes. That is, find out what is right about what they are saying, and say it yourself. You will then be less exposed to their counter-attacks. You will end up, as I have ended up, as an eclectic – not the sort of eclectic that borrows

thoughts from all and sundry without seeking to make them consistent with one another, but the sort that sees that these thoughts are true, *and* that they can all be consistently held simultaneously. It is very difficult to be this kind of eclectic. It requires, above all, great clarity of thought and precision of expression.

I have called this essay 'Methods of Bioethics'. I could have called it, following Sidgwick, simply 'Methods of Ethics,' because the appropriate methods for bioethics are not, so far as I can see, going to differ from those appropriate for ethics or moral philosophy in general. But in attending to a branch of applied ethics like bioethics, we have brought home to us a requirement of which those who propound ethical theories seem often to be unaware: the requirement to say something that will help us answer important practical moral questions, on our answers to which lives may depend. I shall be showing later on that many of the theories that have recently won fame for their inventors are not of much use for this purpose.

In order to explain the scope of this paper I need to distinguish between different kinds of thing that have been called ethical or moral theories. I shall leave one of these kinds on one side, although it contains the more serious and useful sorts of ethical theory. I can do this, because I have written extensively about such theories in other places.[1] I mean theories about the nature and logical properties of the moral concepts, or the meanings of the moral words. This, I am convinced, has to be what we start with in any serious study of moral reasoning. But the advocates of the views I *shall* be discussing say little about ethical theory in this narrow sense. Perhaps if they did study these issues they would do more good. Ethical theories in the narrow sense, those that I shall be leaving aside, are such as naturalism, intuitionism, subjectivism, emotivism, and my own prescriptivist theory. These theories are grappling with serious problems about the logic of moral reasoning – problems which we have to solve if we are to make any progress in it. But, as I said, the theories I shall be discussing do not move in that world.

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Enough, then, for these very general remarks. I will now give some examples, from moral philosophy, of how people can be led into error by denying truths which they only deny because the truths are tangled up, in the writings of those who have grasped them, with errors, and it is hard to disentangle the truths from the errors.

I will start with an example which I can deal with briefly, because it is a fairly familiar one and I have discussed it before, though many people seem not to have taken in what I said.[2] This is the theory commonly known as situation ethics.

Admirers of the existentialists often say the same sort of thing. The situation eth-
icists have hold of an important truth, that one has to judge each situation on its
merits. Situations differ one from another, and the differences may be morally
relevant. One cannot assume that they are not. But the situation ethicists go on
from asserting this truth to asserting a dangerous falsehood. They say that in
morals one cannot appeal to what they call 'general principles' or 'general rules'.

In order to see what is wrong with this one has to make a distinction of which,
even now, many of our philosophical colleagues seem to be unaware. This is the
distinction between universality and generality. Many people think that 'univer-
sal' and 'general' mean the same thing. Many philosophers do indeed use them
as if they meant the same. Aristotle was, I think, the first offender, because he
used his expression *kath' holou*, usually translated, indiscriminately, 'general'
and 'universal,' without making clear that the term can have two entirely differ-
ent meanings.[3]

Consider the two statements, that one ought never to tell lies, and that one
ought never to tell lies to one's business partners. Both these statements are *uni-
versal*. They start with a universal quantifier ('never') and contain no individual
references. They apply, the first of them to *anyone* who says anything, and the
second of them to anyone who says anything to a business partner of his. But
the second is less *general* than the first. It is more specific, though no less uni-
versal.

We can now see the first thing that is wrong with what the situation ethicists
say. 'Considering each situation on its merits' does entail not judging it by the
simple application of very *general* rules or principles. The situation ethicists
have a point there. But it does not entail refusing to judge it on highly specific
but still *universal* principles. Suppose one goes into the utmost detail about the
specifics of a situation, carefully noticing all the features of it which might be
morally relevant. Suppose, even, if that were possible, that one *describes* the sit-
uation at enormous length, leaving out nothing that could possibly be relevant to
a moral decision about it. Suppose, for example, that it is a situation in a short
story – or even a very long story in several volumes. And suppose that one
comes to a decision as to what one of the characters ought to have done at some
point in the narrative. The moral statement that one then makes is still universal,
logically speaking. It can begin with a universal quantifier, and not contain indi-
vidual constants or references to individuals. It can say that anyone of a certain
kind, in a situation of a certain kind (the kinds being as minutely specified as
you like) ought to do a certain thing.

It is true that the character is represented in the story as an individual. But in
order to represent him (or her) the novelist has to describe him. And the descrip-
tions have all to be in universal terms, because there are no other terms available

for the purpose. We cannot identify the person by *pointing at him*. What we have in the novel is a description, in universal terms, of a person of a very minutely specified kind, in a situation of a very minutely specified kind. Any moral statement that we make about him (or her) has to be of the form, that a person of that kind in that kind of situation ought to act in such and such a way.

The confusion between universality and generality, which I have been exposing, leads people to think that if one makes a universal judgment about a situation, one must be making a very general judgment about it. This is not so. The judgment can be specific enough to take in any details of the situation that anybody thinks relevant. Only a victim of the confusion I have been exposing will think that a statement cannot at the same time be universal and highly specific.

There is a lot more to be said on this topic, and many more mistakes that need to be pointed out. But since I have done this in other places,[4] I can skip it now. I shall be explaining later how it is that, though we have to consider each situation on its merits, rather simple and general principles do, all the same, have a use in our moral thinking.[5] I shall not have space to explain why it is important to have regard to universal but highly specific principles, although in the actual world no two situations are ever exactly alike.[6] And I shall omit here any discussion of the familiar confusion between singular prescriptions like '*He* ought to keep *his* promise to *her*', and universal relational prescriptions like '*One* ought to keep *one's own* particular promises to the *individual* to whom *one* has made them'. The second, like '*One* ought to be faithful to *one's own* wife', is a universal prescription, even though in most countries one can have only one wife.[7]

3

I am going on now to my next example of a theory that has hold of part of the truth, but combines it with serious errors through denying other parts of the truth. This is the theory known as 'virtue ethics'. Its adherents often appeal to the authority of Aristotle, and repudiate that of Kant; but I very much doubt, after reading those great philosophers, whether the virtue ethicists have hold of the whole truth even about what they actually said.

An ethics of virtue is often contrasted with an ethics of duty, or with an ethics of principle. Let us consider first the alleged contrast between virtues and principles. The contrast is supposed to be between having good states of character (which is what virtues are) and following good or right principles. But suppose we ask some proponent of virtue ethics to tell us what one would have to do, or what states or dispositions of mind or of feeling one would have to cultivate, in order to acquire virtue. To answer this question, he will have to *describe* the

states or dispositions, or the actions to which they lead. But now we have to ask, what is the difference between such a description, and a statement of the principles for living a good life. I cannot see any. It looks as if any ethics of virtue would have to borrow extensively from an ethics of principle in order even to tell us what virtue consists in.

To put it another way: suppose we have a *description* of one way of being virtuous (there are no doubt many ways). By a very simple grammatical manoeuvre, one can change the mood of this descriptive statement and put it into the imperative. It will then be a *prescription*. Or one could change it instead into an 'ought' statement; it will then be another kind of prescription. Both these prescriptions will be different kinds of *principles*. They will be principles prescribing how one should behave, and how one should be feeling, in certain kinds of situation. Behaving and feeling like that is one way of displaying virtue. Neither an ethics of virtue nor an ethics of principle has to assume, though many do assume, that there is only one way of leading a good life. Both virtues and principles could be like recipes in a cookbook; one does not have to cook them all at the same time. It is another question whether the good life *is* like that (that is, whether there are alternative possible kinds of good life); but that is a question which affects both an ethics of virtue and an ethics of principle, so I do not need to discuss it here.

It is not surprising, in the light of what I have said, that Aristotle has a lot to say about principles, and Kant a lot to say about virtues (he devoted, after all, half of his *Metaphysic of Morals* to his *Tugendlehre (Doctrine of Virtue)*).[8] These great philosophers were not so one-sided as their modern self-styled disciples. To illustrate Aristotle's belief in principles, we have only to notice that the first premises of his practical syllogisms were universal prescriptions, that is, principles – though not all of them were *moral* principles. For Aristotle the better sort of people are those who 'desire and act in accordance with a rational principle'. They are contrasted with those immature people who 'live and pursue things in accordance with feeling'.[9] And in the most famous passage of all he says, rightly, that virtue itself is 'a disposition governing our choices, lying in a mean, which is determined by a rational principle'. The word I have translated as 'rational principle' is '*logos*' – the same word he uses for describing the universal prescriptions that form the first premises of his practical syllogisms.[10] They are the verbal expressions of the dispositions or traits of character that make us act as we do. But feelings are not left out of Aristotle's account. The mean is exhibited in feelings *and* in actions.[11]

Nor does Kant leave feelings out. His view is simply that the mere feeling without corresponding action is not enough, as he makes clear in his contrast between what he calls (unfortunately to modern ears) 'pathological' and 'practi-

cal' love.[12] 'Pathological' means, of course, consisting in having *pathê*, or feel-ings. Kant never denies that feeling is supportive of action, nor that it is important to have the right feelings. He says that one can do the right thing, ful-filling one's duty, even if one does not have them; but of course he could agree that this is much more difficult.

If virtue is contrasted with duty, the same happens. 'Duty' is thought nowa-days, though it was not in either Kant's or Aristotle's days, to be a somewhat pompous expression. But Nelson was not being pompous when he said that England expected every man to do his duty. Come to that, 'virtue' is a pretty pompous expression too, if one uses it that way. When Aristotle says that both with virtuous action and with virtuous habits of mind it is a question of 'when one ought, and under what conditions, and towards whom and for what purpose and in what manner', he was speaking of duty, or of what one ought to do or feel. One has a duty to cultivate the right feelings and to do the right actions. I can see no essential difference from Kant here. To delineate virtue is to say *what* feelings one ought to cultivate, and what actions one ought to do. This is a delin-eation of our duties, and requires statements of moral principles. The virtue eth-icists, it appears, have, perhaps in the interests of novelty, been making a distinction without a difference. At the most they are emphasizing the impor-tance of character for the moral life; but did Kant deny this?

4

Feelings are also stressed, to the exclusion of much else that is important, by the advocates of what we may call 'caring ethics', I include in this class such writers as Gilligan and Noddings, as well as more professional philosophers like Lawrence Blum, who has written a good book in a somewhat similar vein.[13] He has also published recently an article explicitly supporting Gilligan.[14] Though I shall not have space to discuss Blum's arguments in detail, I must say that I think his choice of antagonists was a pity. Neither Gilligan nor Kohlberg is a very clear thinker, important as their ideas are. I do not know Gilligan, but I knew Kohlberg quite well and learnt a lot from him. However, he lacked the analytical skills to give a clear account of his higher stages of development. In particular, I think he failed to make clear the crucial distinction between universality and generality that I explained earlier. As a result he gets accused by Gilligan, not unfairly, of putting in his highest stage of development people whose morality depends on very general rules, and of neglecting the special relations (especially of caring) that we ought to have with particular people. But there is nothing in the univer-salizability of moral judgments to prevent our being guided in our actions by very specific attachments to particular people with whom we have formed caring

relations. I would not myself put in the highest moral class people who cannot manage this. I have already spoken about the confusion (that between singular prescriptions and universal relational prescriptions) involved here.

The fault of the advocates of caring, as before, is not that the virtues they emphasize are not virtues. Everyone can agree that caring, and friendship on which Blum lays so much stress, are important features of the morally good life. Helga Kuhse, in an important paper,[15] has pointed out the baffling ambiguity of the notion of caring, which its advocates have not done enough to clear up. She also points out how little guidance the notion, even if clarified, gives to our moral decisions as to what actually to do when faced with difficult choices. But the main fault of the proponents of caring ethics is that they give a completely unfair and unbalanced caricature of the views they are attacking. One would think from the way they write that no philosophers before them had said anything about caring.

Gilligan thinks that the lack of attention to caring is a symptom of male domination of philosophical thought. Peter Singer has a useful discussion of the relation between gender and approaches to philosophy in his new book.[16] It has to be admitted that nearly all famous philosophers until recently have been male; but it is simply not true that they have ignored caring and friendship. People who think they have might start by reading Anthony Price's excellent book *Love and Friendship in Plato and Aristotle*,[17] and looking at the texts he refers to. Aristotle *EN* 1168a 28 – 69b 2 is especially relevant. After that they might go on to what Hume says about sympathy. Even Kant thought that we ought to treat the ends of other people as if they were our own. He says that we shall not be treating humanity as an end in itself, 'unless every one endeavours also, so far as in him lies, to further the ends of others'.[18] If this is not caring, I do not know what is.

I shall be arguing later that it is quite easy to accommodate caring within a Kantian framework, as I have tried to do. I shall be arguing also, as I have argued elsewhere,[19] that there is no inconsistency between a carefully formulated Kantianism and a carefully formulated utilitarianism. Within such a framework the carers can have all the caring they need or desire; only they must not think (and I do not suggest that they do think) that caring is the *whole* of morality. Blum in particular is very fair about this: he thinks he is simply redressing the balance; but it needs to be asked whether he is not actually (again in the interests of novelty) tilting it too far in the opposite direction.

This is particularly clear if we consider what the carers say about impartiality. Wishing to stress the importance for the moral life of caring relationships, and recognizing the obvious fact that we cannot have such relationships with everybody, they are in danger of neglecting another important aspect of morality, namely justice and the impartial pursuit of the common good. What are we to

say of the doctor who cares so much for his children that he holds back supplies of badly needed drugs in scarce supply so as to have a reserve for them? To this question too I shall return; it will prove not so difficult to answer once we have a balanced account of morality as a whole.

5

The last group of theories I shall have space to consider is that known as 'right-based' or 'rights-based' theories. There are many varieties of these, but what is common to them is the thought that we can *found* the whole of morality on an appeal to people's rights. This kind of theory too grasps one part of the truth but neglects other equally important parts. It is certainly true that rights play a significant part in morality.[20] Nobody ought to want to get rid of them. But all the same, the appeal to rights has been much abused recently, owing to the idea that one can claim a right without producing any argument to show that one has it. Such right-claims rest in the end on nothing but the claimant's intuitions (some would say 'prejudices'). We have reached the stage at which, if anybody has a mind to something, he will say he has a right to it. Without a secure way of determining who has rights to what, disputes about rights will never end. And it is certainly going to be impossible to *base* morality on rights, if they themselves are based on nothing but hot air.

Wayne Sumner has written an excellent book about this question,[21] which I recommend to anybody who wishes to understand how to argue for rights. He comes to a conclusion with which I agree almost entirely, that the most satisfactory foundation for rights is a consequentialist one. I would put it by saying that we ought to acknowledge those rights whose recognition and preservation does the best for all those affected, considered impartially. But I shall return later to the details of this suggestion.

6

I have had space to list only a few of the ethical theories that have been popular recently; and my treatment of them has been very cursory. I will now go on to show how they all fall down through ignoring important parts of the truth about morality. After that I shall show how to fill in the whole picture, and thus give the supporters of these theories what they are after, without neglecting the truths which *they* neglect.

The situation ethicists, with whom I started, say that we have to consider each situation on its merits. But they do not say how we are to judge the merits of situations. In default of some *method* for judging, everybody will be at liberty to

say what they feel like saying. It is hard to see how any method for judging situations can get far without giving *reasons* for judging them one way rather than another. And any statement of the reasons is bound to bring in principles – not the very simple general principles that the situation ethicists so dislike, but universal principles all the same. If it is a reason for banning a drug from public sale that it could endanger life, then that is because of a principle that drugs which endanger life ought not to be on public sale. Of course reasons can be much more complicated than that; but they will have to state certain *features* of situations which make it right to do this or that; and these features will always have to be described in universal (though not always highly general) terms.

Even rather general principles, however, have their uses. If we had to scrutinize every situation *de novo*, we should have no time to make many decisions in the course of our lives. What sensible people do is to form for themselves some fairly general principles to deal with the general run of cases and reserve their attention for scrutinizing the difficult cases in more detail. But I shall be returning to this point.

Situation ethics does not do much good for bioethics beyond that of deterring us from oversimplification of the issues. Once we get into the really difficult problems, we find ourselves driven to give reasons for our opinions. We have, indeed, to look carefully at particular cases; but after we have done that we shall want to *learn* from these cases principles that we can apply to other cases. Cases differ from one another, no doubt; but that does not mean that we cannot learn from experience. The salient reasons for one decision may also be important for another decision. So, while avoiding oversimplification and too rigid general rules, we can still, and good medical practitioners do, form for ourselves and others general guidelines for the future. These guidelines have to be *to some degree* general, or they will apply to only one situation, and be useless for preserving the lessons of experience for later situations. I shall be coming back later to the different roles in bioethics of general principles and the careful examination of particular cases.

7

Virtue ethics, which I mentioned next, falls down for a different reason; it ignores *another* part of the truth about morality. It shares this fault with a type of ethical theory that in other respects might be thought antagonistic to it, namely that of a typical intuitionist deontologist who believes in the ultimacy of duties. Both of these kinds of theory are exposed to the question, 'How do we decide *what are* duties or virtues?'. We should most of us agree that there are duties and that there are virtues, and that both are important in morality; but it is no use the

moralist saying to us just that we have to acquire virtues or perform our duties; the difficult part of morality is knowing what these are. I have written a lot in other places about intuitionism and its failings.[22] I shall be coming back later to my way of meeting this deficiency in both virtue ethics and intuitionist deontology. But it should be obvious already that neither theory is going to do much for bioethics unless it can tell us how to answer what I said is the difficult question. If we do not know what traits of character are virtues, we obviously cannot know what we have to do in order to display them.

There is also another fault in virtue ethics, which, however, may not affect all varieties of it. It does not affect Aristotle, but then that is because he is much more than a virtue ethicist. This is the fault of concentrating attention on the character of the moral agent, and diverting it from the scrutiny of what he actually does. It is possible for very virtuous people to do terrible things – and not necessarily by mistake or inadvertence.

Let me take the example of a very devout Roman Catholic missionary, a saintly man, who accepts wholeheartedly the teaching of his church about contraception. He therefore does all he can to stop the government of the African country in which he works, and in which he has some influence, from encouraging the provision of contraceptives. If successful in this, he will be contributing to the population explosion and to the keeping of women in subjection, which, we may agree, are great evils. But we may still think him a very good, though misguided, man. Devout Roman Catholics will not like this example; but they can easily find others which illustrate the same point.

The point is that very good people sometimes do things which they ought not to do, and we must preserve the possibility of saying this. If I were to confine my moral thinking to the improvement or at least preservation of my own good character, I might sometimes fail to question the morality of my *acts*. Aristotle is immune to this danger, because he explicitly says that nobody would have even a prospect of becoming virtuous by *not* doing virtuous acts.[23] A person becomes upright by doing upright acts;[24] and this can be taken in two senses; doing upright acts is *part* of the qualification for being *called* upright, and doing upright acts is a way of *making* oneself into an upright person. It is not the *whole* of the qualification, for the acts have to be done *because* one is that sort of person.[25] But for Aristotle, nevertheless, right action is a necessary condition for virtue. Like Kant, and like any balanced moralist, he appreciates the intimate link between character and action in morality. I shall be returning to the nature of this link.

8

The third on my list of ethical theories I called 'caring ethics'. If all that the pro-

ponents of such theories did was to encourage us to be more caring, in most of the senses of that ambiguous word, we could applaud them for that. But caring people, like virtuous people of all kinds, can do wrong things. I mentioned earlier the example of a doctor who cares so much for his children that he deprives other doctors' patients of drugs that are in short supply. We might condemn him even if the beneficiaries were not his children but his own patients. If there is in force a fair system for distributing the drugs, we might think that he ought not to try to cheat the system. We should say the same about a nurse who found that she was caring so much for one of her patients that she neglected the others. It is a difficult question, how to reconcile the duties or virtues of caring and justice. Many of the most difficult issues in bioethics hinge on this question, to which I shall be returning.

9

The last class of theories that I mentioned was that of rights-based theories. We have already noticed one of their faults, that they commonly give no way of deciding what rights people have. But, apart from this, it is hard to see how a rights-based theory could cover all that we want to say by way of moral judgments. Some of the aspects of morality that such theories leave out are, indeed, those emphasized by the other theories we have been discussing. For example, it is hard to see how a rights-based theory can give an adequate account of caring or of virtue. A virtuous person is much more than someone who respects other people's rights, and caring for someone is much more than not infringing his (or her) rights. So here again we have a one-sided theory which emphasizes part of the truth about morality to the exclusion of other equally important parts. An adequate theory, such as I shall be sketching shortly, will cover all these aspects of morality. It is not difficult to do this, once the structure of moral thinking is understood.

A rights-based theory is likely also to give an inadequate account of yet other moral notions besides those emphasized by caring ethics and virtue ethics. It will find it hard to give a full account even of duties. Most moral systems contain duties which are not duties *to* anybody, and which therefore generate no rights. For example, many people think that we have a duty to develop our appreciation of great art and great music and great literature; but it is extremely strained to say that this is a duty *to* anybody – for example to ourselves, or to the artists or composers or writers, most of whom are dead. Nobody, therefore, has a right to have us appreciate these things.

The matter becomes even worse when we pass from the narrow notion of duty to the wider notion of what we morally ought to do. To cite a familiar

example: if when driving on a dirty night I pass someone who needs a ride and does not look like a criminal, I might think that I ought to pick him up. But I am unlikely to think that I have a duty *to him* to pick him up, or that he has a right to be picked up. Such acts of kindness are not obligations, but we may all the same commend them morally. So again, something important has been left out.

10

It is time we turned from this fault-finding to something more positive. Is there a theory that can cover *all* the aspects of morality that these different theories emphasize? I shall argue that a carefully formulated combination of Kantianism and utilitarianism, such as I have advocated in my books, can do this. In case any of you think that Kantianism is incompatible with utilitarianism, I can now refer you to a paper in which I argue that this is a mistake.[26] Kant *was* not a utilitarian: he held views which no kind of utilitarian theory could justify (for example, about punishment). But it is doubtful whether these views could be justified by his own theory either. If we look simply at his theory of the Categorical Imperative, it can be argued that this *is* compatible with a carefully formulated version of utilitarianism. What this version is, I have tried to explain elsewhere.[27]

The key to an understanding of all these problems is to see that moral thinking takes place at at least two levels. There is, first of all, the day-to-day level at which most of us do most of our moral thinking. I say 'moral thinking'; but a lot of what goes on at this level can hardly be dignified by the name of 'thinking' at all. If we have been well brought up, we often know at once what is right or wrong without doing any thinking. Philosophers call this knowledge of right and wrong that most of us have, 'moral intuition'. What intuitionists say about this intuitive level of moral thinking is mostly correct, except that they think that it is self-supporting, which it is far from being. Most of the difficult problems in moral philosophy arise because intuitions conflict: either the intuitions of one person, or the intuitions of different people. A different level of moral thinking is needed to settle these conflicts.

This higher level of moral thinking can be called the critical level. It cannot appeal to our intuitive sense of right and wrong to settle conflicts between intuitions, because that would obviously be arguing in a circle. The method of thinking to be employed in critical moral thinking is radically different from that appropriate to the intuitive level. Here we *have* to reason. *How* we have to reason remains, however, a matter for dispute. My own account of the method of moral reasoning at the critical level draws heavily on both the utilitarians and

Kant and is based on an analysis of moral language and its moral properties. It makes no appeal to moral intuitions at the critical level. However, I do not need to defend my view here, because the mere distinction between the two levels is enough to sort out our present problems, which arise mainly through neglect of the distinction.

The critical level of moral thinking is used, not only to settle conflicts between intuitions at the intuitive level, but to select the moral principles and (which comes, as we have seen, to the same thing) the virtues that we should seek to cultivate in our children and ourselves. On my own account of critical thinking, the selection is done by assessing the acceptance utility of the virtues and principles – that is, by asking what are on the whole the best for society to acknowledge and cultivate. Those who have absorbed these principles and acquired these virtues will have the corresponding intuitions about right and wrong, good and bad, and will also, unless overcome by temptations, follow the principles and display the virtues in practice. If the critical thinking has been well done, and if, therefore, the right virtues and principles have been chosen, the person who has them will be a person of good character, that is, a morally good person.

The structure that I have outlined is therefore able to give an account both of moral virtues and of moral principles. It has to be added, however, that for goodness of character or virtue it is not sufficient to do the right actions. As Aristotle saw, it is necessary that they should be done on the basis of settled dispositions, which *constitute* a person's character. The distinction between levels was anticipated by Aristotle, and indeed by Socrates and Plato. To have virtue properly so called, it is necessary to do *what* one ought to do, and to know *why* it is what one ought to do. In other words, *both* right actions and good dispositions, *and* the ability to explain why they are right and good (to give their *logos*) are necessary for virtue. The person who merely knows which actions are right and which dispositions are good, and does not understand why, lacks something, namely the intellectual virtue that Aristotle calls *phronêsis* and Plato and Socrates call *epistêmê* or understanding, as contrasted with mere right opinion. He can do only intuitive, but not critical thinking.

This two-level structure can therefore account adequately for the place of virtues *and* of principles *and* of duties in our moral thinking. But among the virtues are those on which caring ethics lays so much stress. To be a caring person is to have the disposition to feel sympathy for other people, especially when they are suffering, and to act accordingly. This is a very important virtue, but not the only one. Justice is also important, but is underemphasized by caring ethics. Sometimes justice requires us to be impartial between people for whom we care and people for whom we do not.

Here the distinction between levels is extremely important. The better of us have principles to be followed, and virtues to be exercised, at the intuitive level that require partiality to those for whom we care. A mother *should*, we think, give priority to the needs of her own children over those of other people's children. Doctors and nurses should devote themselves to their own patients more than to other people's patients. Partiality in caring is required by the intuitive principles that most of us have been taught,and probably these partial principles are sometimes innate. Here again we must avoid the confusion between singular prescriptions and universal relational ones.

However, this is all at the intuitive level. Partial principles at the intuitive level can be justified by *impartial* thinking at the critical level.[28] If we were concerned impartially for the good of all children, we should want mothers to behave partially toward their own children and have feelings which made them behave in this way. We should want this, because if mothers are like this, children will be better looked after than if mothers tried to feel the same about other people's children as about their own. The same applies to doctors and nurses. Thus, impartial critical thinking will tell us to cultivate partial virtues and principles. But it will also tell us to cultivate impartiality for certain roles and situations. These obviously include that of judges, but also those of anybody who has to distribute benefits and harms fairly, as doctors do when they have to divide scarce resources between their patients.

Lawrence Blum, whom I have mentioned already, considers the possibility that he can hive off the virtue of impartiality into these particular roles, and thus exclude it from other parts of morality.[29] This is all right at the intuitive level. But, because he seems not to understand the importance of the distinction between the levels, he misses the point that impartiality is required in all thought at the critical level, even though this impartial critical thought will bid us be partial in certain roles at the intuitive level. He does indeed consider the possibility that rule-utilitarianism (which is a kind of two-level theory) might make a distinction of levels, and thus seek to show that partial virtues should be cultivated because that is for the best for all considered impartially.[30] But his book was published before my own book *Moral Thinking*, and he probably had not come across earlier writings of mine in which I sketched a two-level theory that escapes the faults he finds in the cruder two-level theory he discusses.[31]

In that book I gave enormous emphasis to the place in moral thinking of empathy. Indeed, it is one of the crucial elements in the system of moral reasoning that I am constructing. In default of the ability to represent to ourselves fully what it is like to be the other people that our actions affect, we are not making our moral decisions with an adequate understanding of the facts of the situation

in which we are acting. To enter fully into their situation, we have to think of them as if they were ourselves. And if we then universalize our prescriptions, we are led to treat their preferences as if they were our own preferences. This gets in all that the carers are asking for.

11

Coming now to rights-based theories: it is extremely easy to find a place for rights in the kind of two-level structure that I have been suggesting, but impossible to *base* the whole of morality on them. They have a place both at the intuitive level and at the critical level. I can be brief, because I have explained elsewhere what these places are.[32] At the critical level we are constrained only by the formal requirement that we eliminate all individual references from our moral principles. That is, we must not give the fact that any particular person is in a particular position in a situation as a reason for a moral judgment. This has the consequence that we have to treat all individuals on a par – to give them equal concern and respect, as some writers say. None has a greater claim on us *qua* that individual. We could, if we wished, put this in terms of rights, saying that all individuals have a *right* to equal concern and respect.

However, it has been generally recognized that from this formal requirement no substantial or contentful rights can be derived. We have to reason, in accordance with the formal requirement, counting everybody for one, as Bentham said,[33] or treating the ends of all others as our own ends, as Kant said.[34] And what *substantial* principles we then select will depend on what ends the others have. For example, since nearly everyone has the end of not being killed, we are likely to have a principle giving them a right not to be killed.

But these substantial principles will all be for use at the intuitive level. They will be defeasible or overridable. For example, if some suffering terminal patient beseeches her doctor, as happened in a recent case in Britain, to end her misery, it would be foolish to base a ban on euthanasia on the right to life of the patient.[35] The right exists because in nearly all cases people want not to be killed; in cases where a patient does want to be killed, can she not voluntarily waive the right, as we can most rights?

It will be found that by keeping substantial moral rights at the intuitive level, while preserving the formal right to equal concern and respect at the critical level, all the problems about conflicts of rights, and conflicts between rights and other duties, can be resolved. But since I have dealt with questions of rights and their place in morality at great length elsewhere,[36] I shall not go into any more details here.

12

I come back last to the theory with which I started, situation ethics. It is obvious that a distinction between levels can explain what is right and what is wrong about such a theory. Taken literally, the theory would require us to use critical thinking in all our moral decisions however straightforward. But usually we do not have time for this, nor always the necessary information about the consequences of alternative actions. We are also affected by personal bias, which, in spite of what some of the people I have discussed say, is often a source of wrong decisions.

So the sensible thing to do is to form for ourselves principles and cultivate virtues, which in the general run of straightforward cases will lead us to do the right thing without much thought, and reserve our powers of deep thought for the awkward cases. If we do not have time for this deep thought when the decision confronts us, or if we do not then have the full information needed for a right decision, we can think about it afterwards and perhaps modify our intuitive principles accordingly. When we do this critical thinking, we have to consider each situation on its merits and in detail, as the situation ethicists say we should. But it would be absurd and impracticable to do this on every occasion.

13

I will end by pointing out how important these considerations, which apply to all moral thinking, are for bioethics in particular. I have attended a lot of classes on medical ethics, such as the best medical and nursing schools make their students take. Often these classes have the form of a discussion of particular awkward cases in which doctors and others have to make agonizing decisions. The reason why they are agonizing is that principles that most of us accept conflict with one another.

For example, there are cases in which we cannot save a patient's life unless we do something to him without his consent, or even contrary to his express wishes. There is the principle requiring informed consent, and there is the principle bidding us save life if we can. Both are sound principles, but they are defeasible or overridable. The right way of handling such decisions is provided by the structure I have outlined. We have to decide what is the right decision *in this case*; and that entails examining the case on its merits and in detail. So far the situation ethicists are right. But what we decide in this case may well, and should, get incorporated into our general body of principles for use in the future. We may decide that one of the competing principles, though sound, has exceptions; and sometimes these exceptions need to be written into the rule as qualifi-

cations of it. That is what it is to learn from experience, as I said. The person who has been through such an agonizing decision ought to have learnt something, even though all situations, and all patients, are different.

In very awkward cases, we may have to use critical thinking, though our intuitive principles will probably help us decide what aspects of a case to think about first. But the cases are awkward precisely because they are not like the general run of cases, in which, if we have sound intuitive principles, they will guide us without too much thought.

Some of the cases will be awkward because different rights, whether rights of the same person or of different people, conflict. Because these rights are defeasible or overridable, we shall have to use critical thinking to determine which of them should yield in this particular case. And here again this may add to our wisdom for the future, if we incorporate the lessons of this case into our body of moral principles.

In other cases it may seem that what is required by duty conflicts with what is required by caring, or by the pursuit of some other virtue. These are all conflicts at the intuitive level; at the critical level they can be resolved by the application of the formal or logical requirements for moral thinking, in conjunction with the facts about the particular case, and especially the facts about what those affected by our decision prefer, or what their ends are. To understand these facts fully, empathy is required; otherwise we shall be making our decision in ignorance of what the outcome means for those affected. The caring ethicists do right to stress this.

It is at this higher level that the combination of Kantianism with utilitarianism that I have advocated comes into play. At the lower intuitive level we have to be guided by the sound principles that we have learnt, and by the virtues (including that of caring) that we have acquired. But when these sound principles and admirable virtues conflict in a particular case, we may need to have recourse to critical thinking to sort out the conflict, dangerous and agonizing as this may sometimes be. This thinking may even lead us to qualify one of the principles. If the students in the classes I have attended had known about the distinction between the levels of moral thinking, they would have found it easier to sort out their problems. But nobody had told them.

Notes

1 For example, R.M. Hare, 'How To Decide Moral Questions Rationally', *Critica* 18 (1987); reprinted in R.M. Hare, *Essays in Ethical Theory* (Oxford: Oxford University Press, 1989). See also 'Objective Prescriptions', in *Ethics: Royal Institute of Philoso-*

phy Lectures, 1992–93, ed. A.P. Griffiths (Cambridge: Cambridge University Press, 1993); also in *Naturalism and Normativity*, ed. E. Villanueva (Ridgeview: Atascadero, 1993).

2 R.M. Hare, *Moral Thinking: Its Levels, Method and Point* (Oxford: Oxford University Press, 1981), pp. 36, 39.

3 See R.M. Hare, 'Principles', *Proceedings of the Aristotelian Society* 73 (1972–3); reprinted in *Essays in Ethical Theory*.

4 Hare, 'Principles'; *Moral Thinking*, p. 41.

5 Hare, *Moral Thinking*, pp. 35ff., 43ff.

6 Ibid., p. 42.

7 See R.M. Hare, 'Universalizability', in *Encyclopedia of Ethics*, ed. L. Becker (New York: Garland, 1992).

8 I. Kant, *Tugendlehre (Tgl.)*, trans. M. Gregor. *The Doctrine of Virtue* (New York, 1964).

9 Aristotle, *Nicomachean Ethics (EN)*, 1095a 8–10. All references are to pages of the Bekker edition.

10 See, for example, ibid., 1147b 1ff.

11 Ibid., 1104b 13, 1106b 24, 1109b 30.

12 I. Kant, *Grundlegung zur Metaphysik der Sitten (Gr.)* (1785), BA13 = 399; *Tgl.* A118 f. = 449 f. (all references are to pages of original editions and of the Royal Prussian Academy edition).

13 L. Blum, *Friendship, Altruism and Morality* (London: Routledge, 1980).

14 L. Blum, 'Gilligan and Kohlberg: Implications for Moral Theory', *Ethics* 99 (1988).

15 H. Kuhse, 'Caring Is Not Enough: Reflections on a Nursing Ethics of Care', *Australian Journal of Advanced Nursing* 11 (1993).

16 P. Singer, *How Are We to Live?* (Melbourne: Text Publishing Co., 1993).

17 A. Price, *Love and Friendship in Plato and Aristotle* (Oxford: Oxford University Press, 1989).

18 *Gr.* BA69 = 430.

19 R.M. Hare, 'Could Kant Have Been a Utilitarian?', *Utilitas* 5 (1993); also in *Kant and Critique*, ed. R.M. Dancy (Dordrecht: Kluwer, 1993).

20 R.M. Hare, *Essays on Political Morality* (Oxford: Oxford University Press, 1989), pp. 79–120.

21 L.W. Sumner, *The Moral Foundation of Rights* (Oxford: Oxford University Press, 1987).

22 For example, Hare, *Moral Thinking*, p. 10.

23 *EN* 1105b 11.

24 Ibid., 1105b 9.

25 Ibid., 1105a 30.

26 Hare, 'Could Kant Have Been a Utilitarian?'

27 Hare, *Moral Thinking*.
28 R.M. Hare, 'Utilitarianism and the Vicarious Affects', in *The Philosophy of Nicholas Rescher*, ed. E. Sosa (Dordrecht: Reidel, 1979); reprinted in *Essays in Ethical Theory*. See also Hare, *Moral Thinking*.
29 Blum, *Friendship*, p. 46.
30 Ibid., p. 59.
31 For example, R.M. Hare, 'Ethical Theory and Utilitarianism', in *Contemporary British Philosophy 4*, ed. H.D. Lewis; reprinted in *Essays in Ethical Theory*.
32 See Hare, *Moral Thinking*.
33 Cited in Mill, *Utilitarianism* (1861), ch. 5.
34 *Gr.* BA69 = 430.
35 R.M. Hare, 'Is Medical Ethics Lost?' and letters, *Journal of Medical Ethics* 19 (1993), pp. 69–70, 237–9.
36 Hare, *Essays on Political Morality*, pp. 79–120.