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### Acknowledging The Moral Law

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Richard Eldridge

## Acknowledging the Moral Law

Knowledge is in the end based on acknowledgment.

Ludwig Wittgenstein, *On Certainty*, §378

I

Once upon a time, almost forty years ago, when it was still common for graduate students to take qualifying examinations in various subfields of philosophy, there was—so the lore among the graduate students had it—a standard, expected reply to the question “Why be moral?” One was supposed to divide one’s answer into two cases. If the question were understood as asking “What self-interested, prudential reasons are there to be moral?”, then the answer is “obviously none; often enough one will be either inconvenienced or otherwise disadvantaged by doing what one has, for example, promised to do.” Alternatively, if the question were understood as asking “What *moral* reasons are there to be moral?”, then the answer is “obviously whatever moral reasons one has; it is essential to the distinctive force of moral reasons that they cannot be reduced to other sorts of reasons.”<sup>1</sup>

In retrospect, both these lines of response to the question “why be moral?” are, at best, evasive, and we have, happily, to some extent learned to think more deeply about how moral reasons make claims on us. In large part, this new thinking has been spurred by Bernard Williams’s questioning of the absolute authority of distinctively moral reasons (to do one’s duty, to keep one’s promises, etc.) and his urging of the importance in contrast of the *ethical*: a set of open-ended, plural, nonsystematizable considerations about values—moral, prudential, political, intellectual, aesthetic, and otherwise—that one might articulate and to which one might appeal more or less reasonably and improvisatorially in order to make sense of one’s life.<sup>2</sup> As Derek Parfit puts it in endorsing Wil-

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<sup>1</sup> Notably, Bernard Williams characterizes Kantian morality in general as making use of this dilemma and as then, vacuously as he sees it, embracing its second horn. See Williams 1985, pp. 54–55.

<sup>2</sup> Alasdair MacIntyre’s questioning in *After Virtue* of the authority of modern liberal morality and his urging of a modified form of virtue ethics have also been influential (MacIntyre 1981).

liam's recommendation that we take up the Socratic question, "how should one live?"<sup>3</sup>

We should ask what we have reasons to care about, and to try to achieve. [...] Reasons are, I believe, fundamental. Something matters only if we have reason to care about this thing. It would have great importance if morality did not in this sense matter, because we had no reason to care whether our acts were right or wrong. To defend and explain morality's importance, we can claim and try to show that we do have such reasons. Morality might have supreme importance in the reason-implying sense, since we might always have decisive reasons to do our duty, and to avoid acting wrongly. But if we defend morality's importance in this way, we must admit that the deepest question is not what we ought morally to do, but what we have sufficient or decisive reasons to do.<sup>4</sup>

While Parfit here displays an admirable forthrightness in taking seriously Williams's question about the authority of morality—in asking for *reasons* for being moral—his own response to this question arguably suffers from both insensitivity to available possibilities of practical reasoning and incoherence.<sup>5</sup> Worse yet, Parfit, in his relentless hunt for binding reasons to be moral, skates over the most important insights of Williams's philosophical anthropology that make the question about the authority of morality significant for us, especially Williams's sense that we are fragile beings for whom achievements of the good, even sometimes life itself, are hostage to fortune and dependent on our relations with specific others. As Williams observes, we are now in some respect closer to the Greeks—and perhaps even closer to them now than we have been for the last forty years or two millennia—than has often been supposed, particularly in feeling the legitimate force of the claims of personal relations and in feeling bound up in processes we can neither escape nor master, all while lacking the comforts of belief in literal bodily resurrection after death.<sup>6</sup>

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<sup>3</sup> Williams 1985, p. 4. Williams goes on to remark "I shall not try to define what counts exactly as an ethical consideration; ... it does no harm that the notion is vague" (p. 7). Roughly, ethical considerations turn out to be for Williams *any* considerations—moral, economic, political, aesthetic, prudential, sexual, familial, and so on—that bear seriously on how one should live *as* the person who one most deeply is.

<sup>4</sup> Parfit 2011, II, p. 444, I. p. 148.

<sup>5</sup> In reviewing Parfit's book, Samuel Freeman notes i) that Parfit regards the only options in metaethics as either extreme rationalism or extreme subjectivism, thus missing a range of available intermediate stances, and ii) that Parfit combines a Kantian concern for absolute human rights with utilitarian concern for human welfare in a way that is never made fully clear in relation to hard cases where these concerns might clash. (Freeman, 2012, pp. 52–54.)

<sup>6</sup> See Williams 1993, p. 166.

This philosophical anthropology has important consequences for how we should think about philosophy as a discipline or activity. We should abandon what Williams called the bogus “aspiration to a total critique,”<sup>7</sup> give up the attempt to arrive at a view from nowhere, as if we might, by doing so, make ourselves immune to fortune and certain of our own moral worth and purity. Instead, we should accept our embeddedness in natural processes and personal and social relations. Philosophy is, or should be if it is honest, as Williams puts it, a matter of trying to “make the best sense of our life, and so of our intellectual activities, *in the situation in which we find ourselves.*”<sup>8</sup> Normative relations, including for example semantic relations, are instituted by us in the course of our complex practical lives, and they are subject to historical variation. (Williams cites with approval R. G. Collingwood’s remark that certain practitioners of putatively ahistorical and absolute analysis of concepts proceed by, as it were, “translating the Greek word for a trireme as a ‘steamship’ and then complain[ing] that the Greeks had a defective conception of a steamship.”<sup>9</sup>) Philosophy should not be disjoined from history; making sense of semantic and other normative phenomena must involve paying reflective attention to concept-words in actual use and subject to change. We should not suppose that our own stocks of concepts could or should be perfectly in order.

Pointedly, we should not suppose that we are morally superior to the Greeks. Among them, “slavery, in most people’s eyes, was not just, but necessary.”<sup>10</sup> Most Greeks could not imagine a world without it. Rightly, we take this to be a failing on their part. But our own attitudes toward economic immiseration and degradation are not so dramatically different, insofar as many of us unreflectively accept radical inequalities that we regard as in principle unjust as the necessary price of significantly rising GDP. Worse yet, under the banner of unrestricted property rights, freedom of contract, and economic efficiencies, some of us celebrate radically immiserating and degrading property arrangements as just, even though all property holdings are matters of institutional arrangement, not of natural right and clean historical descent. In some ways, the Greeks confronted the difficult facts of their historical situation more forthrightly than we sometimes confront ours.

Nor is our moral psychology obviously in much better shape than that of the Greeks, since there is no possibility of pure guilt or the verdict of conscience simply as such, arising from an inner confrontation with the bare moral law. Rather,

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7 Williams 1993, p. 159.

8 Williams 2008, p. 182; emphasis added.

9 Williams 2008, p. 181.

10 Williams 1993, p. 117.

as Williams argues, drawing on Nietzsche, guilt before a sense of what is morally required of one is itself a refined and abstracted form of shame. As Williams puts it, “shame can understand guilt, but guilt cannot understand itself. ...Only shame [not guilt] can ... help one to understand one’s relations to [wrongs one has done or might do], because it [unlike guilt] embodies conceptions of what one is and of how one is related to others.”<sup>11</sup> And this is because, as Nietzsche together with Freud (on the formation of the superego) have taught us, the voice of conscience that proclaims guilt before the moral law is itself the voice of an internalized other that has been modeled on and abstracted from some actually existing other, with authoritative standing, within social-ethical life.<sup>12</sup> Any other picture of how we come to have senses of duty and obligation—any picture that posits a pure practical reason within, or responsiveness to the voice of God, capable of operating quite independently of the internalization of admiration, respect, fear, and so on toward actually existing others—is simply horribly unrealistic. True, we can abstract and generalize away from the evaluative stances of the particular others we have encountered, partly because we encounter many others with many distinct evaluative stances. But however far it goes, such abstraction and generalization continue to bear some traces of some actually existing encountered and internalized others. In Williams’s summary formulation,

By giving through the emotions a sense of who one is and of what one hopes to be, [shame, along with its later abstracted and derivative form, guilt] mediates between act, character, and consequence, and also between ethical demands and the rest of life. Whatever it is working on, it requires an internalized other, who is not designated merely as a representative of an independently identified social group, and whose reactions the agent can respect. After some time, this figure does not merely shrink into a hanger for those same values but embodies intimations of a genuine social reality—in particular of how it will be for one’s life with others if one acts in one way rather than another.<sup>13</sup>

Finally, Williams is right that consequences of actions, even unintended ones, sometimes matter. It is at least sometimes appropriate to feel regret for what one has done, even if one did not intend to do it or even intended specifically not to do it. As Hegel trenchantly puts it, “‘The stone belongs to the devil when it leaves the hand that threw it.’ When I act, I allow for bad luck, so it has a right over me and is an existence of my own willing.”<sup>14</sup> We would do better to learn to live with this fact rather than denying it. Or as Williams puts it, “we

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<sup>11</sup> Williams 1993, pp. 93–94.

<sup>12</sup> Williams 1993, p. 84.

<sup>13</sup> Williams 1993, p. 102.

<sup>14</sup> Hegel 1991, p. 148.

know that in the story of one's life there is an authority exercised by what one has done, and not merely by what one has intentionally done."<sup>15</sup>

Given all this—the fragility of goodness, the properly historical character of philosophical thinking about normativity, the developmental priority of shame over guilt, and the fact of moral luck—why should we not, as Williams urges, content ourselves with a looser “conception of the ethical that understandably relates to us and our actions the demands, needs, claims, desires, and, generally, the lives of other people”<sup>16</sup> in various ways? Why, if at all, should we embrace what Williams calls “the purity of morality” with its “‘must’ that is unconditional and goes all the way down”?<sup>17</sup>

## II

Throughout both *Ethics and the Limits of Philosophy* and *Shame and Necessity*, Kantianism, with its sterile and impotent conception (as Williams sees it) of distinctively moral reasons that absolutely bind us from nowhere—in contrast with broader ethical reasons that arise within the course of life—is the official target.<sup>18</sup> At first blush, moreover, Kant's account of the authority of morality can indeed seem both inhuman in being insensitive to the conduct of practical life on the ground and distressingly dogmatic. Not only does he simply claim that “the moral law is given, as it were, as a fact of pure reason of which we are a priori conscious and which is apodictically certain,”<sup>19</sup> he also describes awareness of this fact as a matter of “conscientiousness ... as accountability to a holy being (morally lawgiving reason) distinct from us yet present in our inmost being.”<sup>20</sup> Hence he is at least committed to a doctrine of a split in the human subject between an empirical part and a pure rational part. At best, this split can seem obscure. Hence to make Kantian distinctively moral reasons *count* for us would seem to have to mean something like training our defective, empirical, desiring,

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15 Williams 1993, p. 69.

16 Williams 1985, p. 12.

17 Williams 1985, pp. 195, 188.

18 See the pages from (Williams 1985) cited in note 1 and also p. 104: “Hegel admirably criticized the ‘abstract’ Kantian morality and contrasted it with the notion of *Sittlichkeit*, a concretely determined ethical existence that was expressed in the local folkways, a form of life that made particular sense to the people living in it.” As Williams immediately adds, his own position is a Hegelian defense of *Sittlichkeit* stripped, however, of any reference to teleology.

19 Kant 1996b, p. 177.

20 Kant 1996c, p. 561.

relationship-embedded, and project-having nature *to be more at home with reasons that are indifferent to that nature*.<sup>21</sup> Rightly, that can seem a very tall order, perhaps too tall.<sup>22</sup>

It is, after all, true that human beings in the course of their individual developmental lives from infancy onwards find themselves having projects and desires and are situated within relationships that have force for them. Why then, if at all, should distinctively moral reasons, involving universal and impersonal respect for persons, function as a kind of standing counterforce that checks and corrects the commitments we already have?

If there is an answer to this question, it must involve seeing the emergence of distinctively moral commitments out of an enormous variety of developmental backgrounds, both individual and social-historical, as displaying a kind of path independence. That is, just as pebbles dropped from various positions above the top of a well may follow a variety of distinct paths, including bouncing off the sides of the well in various ways, they will nonetheless each end up at the bottom of the well.<sup>23</sup> This is, of course, due to gravity. Could—and should—the moral law have for us anything like the dispositive force of gravity, in bringing each of us to acknowledge its authority, despite our strikingly distinct individual and social paths? And here it is obvious that, while in some possible world, perhaps, this *could* happen, it scarcely seems likely as a matter of empirical fact that it has happened or is about to happen.

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**21** I owe this formulation to Robert Guay, who provided a series of well-considered, close, critical comments on an earlier draft of this essay and whose own defense of a Nietzschean ethical contextualism, along lines similar to those of Williams, was much on my mind in revising my argument.

**22** Terry Pinkard, for example, describes “the notion of the ‘fact of reason’” as “a restatement of the quasi-paradoxical formulation of the authority of the moral law itself, which seems to require a ‘lawless’ agent to give laws to himself on the basis of laws that from one point of view seem to be prior to the legislation and from another point of view seem to be derivative from the legislation itself,” and he argues that this paradox can be overcome *only* by replacing Kant’s appeal to pure practical reason in the individual with an account of the logic of doubling (*Verdopplung*) of agency among multiple subjects, each of whom is struggling to impose demands on others and to secure their recognition as reasonable (Pinkard 2002, pp. 59, 227). Karl Ameriks observes similarly that “if the source [of the moral law] is elevated into something even partly outside the world, then even when it is not personified as a literally separate and self-subsisting entity, it can still seem too odd and remote to explain why human agents should feel bound by it.” (Ameriks 2012, pp. 150–51); see also p. 54, where Ameriks observes that “this can all sound too remarkable to be true.”

**23** I owe this useful analogy to Sam Baron, who suggested it during discussion of a version of this paper, subsequent to presenting it to the philosophy department of the University of Western Australia.

It is noteworthy that Kant himself held that consciousness of the moral law is not explicitly present in the consciousness of any human being from the moment of conception or birth. As he remarks in the *Foundations*, “innocence is indeed a glorious thing [though] it is sad that it cannot well maintain itself, being easily led astray.”<sup>24</sup> Here innocence must consist in a time of life *before* one has become conscious of the moral law as binding normatively against the force of inclination. Likewise, in “Conjectural Beginning of Human History,” Kant remarks, drawing on both *Genesis* and Milton,<sup>25</sup> that in the history of mankind “instinct ... must alone have guided the novice” well before “reason began to stir.”<sup>26</sup> What, then, might the process of *coming to awareness* of the moral law *look like*? And what, if anything, might move us to think that this process is something that *should* take place within any individual’s course of development?

We should not suppose, however, that a description of any such process will provide an empirical *explanation* of the origin, content, and authority of the moral law. It must, at least within a Kantian framework, be the case that the human subject autonomously exercises rational powers in coming to acknowledge the moral law. Nor will such a description provide an independent *justification* of the content and authority of the moral law, apart from a free act of rational acknowledgment that must be carried out by each agent. In this sense, the content and authority of the moral law cannot be proven to a moral skeptic.<sup>27</sup> The best one can do is to supply neither an empirical explanation nor an independent justification but rather, as Ameriks puts it, “just many layers of illuminating description” that capture *how* sometimes one may find oneself “in the situation of being able to maintain one’s rationality only by [actively] acknowledging the pure practical law as compelling.”<sup>28</sup>

In his “History” essay, Kant himself develops in some detail the idea of the moral law coming to have authoritative normative force for us in a path-independent way. At the end of the first paragraph of that essay, Kant observes that

While [among individual human beings and even whole nations] each pursues its own aim in its own way and one often contrary to another, they are proceeding unnoticed, as by a

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<sup>24</sup> Kant 1959, p. 21.

<sup>25</sup> For an extended account of Kant’s adaptation of Milton’s account of a procedure of succession (*Nachfolgung*, *Nachmachung*) as essential for coming to self-conscious maturity, see (Budick 2010).

<sup>26</sup> Kant 2007, p. 165.

<sup>27</sup> Hence there is something right about embracing the second horn of the dilemma with which this essay began.

<sup>28</sup> Ameriks 2012, p. 181; compare the account of the acknowledgment of the moral law in El-dridge 1989, pp. 185–88.

guiding thread [an einem Leitfaden], according to an aim of nature [Naturabsicht], which is unknown to them, and are laboring at its promotion.<sup>29</sup>

Here the guiding thread is explicitly the normative force with which human beings in various circumstances are drawn toward life on the ground according to the requirements of the moral law, no matter what diverse paths they may take toward this end and what other commitments they may also have. We are, as Kant puts it repeatedly in the *Religion*, each to live up to the “idea of a human being morally well-pleasing to God” [“Idee eines Gott moralisch wohlgefälligen Menschen”],<sup>30</sup> and we are to do so by creating first a lawful civic order in which each possesses the maximum degree of liberty compatible with the like liberty of all and second a kingdom of ends, that is, a moral culture of mutual respect and achieved concrete life according to reason.

Following this guiding thread—that is, moving toward life according to the moral law whose normative authority one accepts—is said, further, to take place “according to an aim of nature.” In this context, “nature” *cannot* mean “the realm of empirical objects” or “nature as the object of study of the natural sciences,” for nature in those senses has no aims or purposes [Absichten].<sup>31</sup> Instead Kant must mean something more like Spinozist *natura naturans* or “nature as God has made it to be purposive” (even where such purposes are not empirically discernible), in contrast with *natura naturata*. Nonetheless, one may still wonder: why *should* we be drawn normatively by the thought that we are participants in *natura naturans* or members of an intelligible world? The empirical world of ordinary objects is real enough and unavoidable, and we lack, both by Kantian lights and in fact, theoretical *knowledge* of any such higher order or world undergirding the ordinary world. Hence talk of a normatively dispositive noumenal nature of which we are members may seem to be little advance over sheer dogmatism, and such talk is, again, at best redescriptive of what we are implicitly and immanently committed to in virtue of our deliberative powers; it is neither an empirical explanation of morality nor an independent justification of it.

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<sup>29</sup> Kant 2007c, p. 108.

<sup>30</sup> Kant 1996e, p. 105 and *infra*. Note, however, that to be well-pleasing to God just is to act from respect for the moral law; Kant, of course, does not put forward a divine command morality, and belief in (a thin, non-personal) God is derived from the requirements of the moral life rather than vice versa.

<sup>31</sup> See Ameriks 2012, p. 271 for a useful account of ambiguities attaching to Kant’s uses of “nature.”

Is this redescriptive sketch of our powers and possibilities of acknowledging our membership in a noumenal world and accepting the authority of Kantian morality, from within divergent local circumstances, apt and illuminating? Since this is a question about powers and possibilities that is, moreover, couched in metaphorical language, answering it is not a straightforward matter of empirical observation or measurement alone.<sup>32</sup> But while observation alone cannot settle the matter, we might nonetheless draw reflectively, normatively, and critically on developmental psychology and, roughly, on the theory of ego formation for some help. Here it is useful to turn to an account of ego formation that is both pre-Freudian and directly concerned with how awareness of the Kantian moral law as making an authoritative normative demand might arise in the course of subject development.

In his 1795 essay “On the Concept of Punishment,” Friedrich Hölderlin takes up exactly this topic. As Thomas Pfau usefully puts it, “with the concept of punishment as a *ratio cognoscendi* of a primordial order where ‘freedom and necessity’ seem to have converged, Hölderlin implicitly introduces a temporal marker into Kant’s conceptual system.”<sup>33</sup> That is, in describing the experience of punishment as *punishment*, Hölderlin seeks to trace how explicit awareness of the normative authority of the moral law arises within the life of a living human subject, *not* as a matter of derivation *from* experience alone, but rather through a dawning exercise of one’s distinctive powers as a subject. Here Hölderlin’s first move is to argue that what is evil or wrong cannot simply be defined as behavior that is punished, that is, as behavior that results in suffering. If that were the case, then, as Hölderlin puts it, “I [would] also deduce an evil will,” that is, take myself to have done something wrong, something that ought not to have been willed, “from any other resistance” or experience of suffering. In that case, “all suffering [would count as] punishment.”<sup>34</sup> That, surely, is not right. Being caught in the rain and catching a chill may be the result of imprudent action, and it may involve suffering, but it is not a case of being punished by the weather for a moral transgression, nor is stumbling over a crack in the sidewalk and bruising one’s knee. What, then, must be added to the experiences of suffering and resistance to one’s will in order to have an experience of *punishment*? Here Hölderlin writes, in a fragment that breaks off:

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<sup>32</sup> This is, of course, the truth of the claim that *ought* cannot be derived from *is*, as long as *is* claims are restricted to what is straightforwardly empirically observable or measurable.

<sup>33</sup> Pfau 1987, p. 16.

<sup>34</sup> Hölderlin 1987b, p. 36.

To this it may be answered that, insofar as one considers oneself punished, one necessarily implies the transgression of the law within oneself; that in punishment, insofar as one considers it punishment, necessarily [...].<sup>35</sup>

Thus what is crucial is that one considers oneself to be punished, that is, to have done something that merits suffering as imposed by another agent who is enforcing normative demands appropriately. (The relevant suffering can include things like being required to sit on the stairs and think about what one has done; it need not involve only physical pain.) One must grasp that one is suffering appropriately in virtue of having done something one ought not to have done, according to the standards of another agent who is authoritative for one.<sup>36</sup> This grasp has an empirical component—one must have done something and met a reversal—but its content is not entirely empirical, insofar as it includes an emerging awareness of what one ought not to have done in virtue of appropriate standards. Pointedly, this awareness of being punished according to appropriate standards arises in the course of the experience of punishment and reflection on it. Awareness of standards of appropriateness is more an aspect of this reflective experience in a context than it is something already formed and brought to that experience from outside it.

It is possible for there to be human beings, perhaps sociopaths, who do not have such experiences of having been punished appropriately. It is also important to note that having such an experience is not required for being a subject, in the sense of someone who has and is aware of having at least a spatial and subjective point of view on things, including having preferences.<sup>37</sup> Nor is it necessary for being a person, in the sense of someone who is able and entitled under law to make transactions, bring lawsuits, and so forth (perhaps doing so in a pathological spirit). *Subject* and *person* are role- or status-concepts, and it is possible, though happily not normal, to play the relevant roles or to acquire the relevant status without, as it were, developing a conscience. Someone who experienced sufferings and reversals, including corrections by others, but without developing a sense of sometimes having been appropriately punished,

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35 Hölderlin 1987b, p. 36.

36 This is the truth (consider: ‘meaning’) of Williams’s claim that shame is prior to guilt, since the explicit articulation of what the standard of appropriateness is will come *after* the experience of simply having transgressed an authoritative other’s standard.

37 Hence Christine Korsgaard, in taking commitment to the normative authority of the categorical imperative to be part of constituting oneself as a subject, builds too much into a kind of individual faculty psychology and too little into what emerges in interaction with other subjects. See Korsgaard 2009. But then Korsgaard is right that powers inherent to the subject must also be brought into play in this interaction in order to yield this commitment.

would be, as it were, aspect-blind to the existence of an authoritative normative order, blind to the sense that there are things that simply ought not and ought to be done. Though pathologies of development that issue in forms of moral aspect-blindness are possible, they too are happily not normal.

There is, moreover, room for radically significant variation both in behaviors that are punished and in senses of standards of appropriate punishment that may emerge from them. What gets punished and in what ways is in fact significantly different in different cultures. At least in the first instance, then, the experience of punishment *as suffering in virtue of* having violated appropriate normative standards need not, and sometimes does not, involve any sense of having violated any single distinctively moral law, let alone a Kantian one.<sup>38</sup> Children and others are in fact punished for all sorts of things, including varieties of rudeness, uncleanliness, acting out, clumsiness, lack of self-control, and so forth, sometimes inappropriately and unjustly so. As a result they sometimes develop standards of appropriate punishment, standards that they may then enforce and transmit, that are in fact themselves unjust and inappropriate. Across cultures and differences in socio-cultural circumstances, what gets punished, what is experienced as punishment, and what is taken to be appropriate punishment may vary widely.

Is there then any reason to think that reference to a single moral law along Kantian lines, such as the formula of respect for persons, could figure and should figure nonetheless in any experiences of punishment as punishment and any developments of conscience? Perhaps the most obvious and straightforward answer to this question is “No; morality in its distinctively Kantian form does have its distinctive socio-cultural circumstances and settings.” But while it is true that there are primitive conditions of life, say, where the development of Kantian conscience may not be a reasonable part of the development of conscience as such, this is much less likely to be the case in complex societies, where one is subject to correction and reversal throughout the course of one’s life, from infancy onwards, from a variety of authoritative others who themselves have distinct subjective points of view and commitments. Suppose, then, that within a setting of significant interaction with a wide range of diverse others, one simply stood imaginatively, as it were, on the normative authority of only a few, readily identifiable distinct others (perhaps one’s parents, perhaps members of a dominant social caste). That is, one experiences punishment as punishment and one develops a sense of appropriate normative standards for it and for

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<sup>38</sup> This, too, is an insight that Williams has registered, in noting the existence and force for us of highly pluralized ‘ethical’ demands.

action in general, *only* insofar as these standards are instituted and maintained by members of group G whom one respects and whom feels one must respect. If members of groups H, I, J and so on that one encounters turn out to have different normative standards for appropriate behavior and punishment, then they are simply not to be taken seriously. Perhaps they are members of a dominated and dependent group that one cannot respect or members of a dominant group whom one fears but with whom one does not identify, or perhaps they are simply other, tribally, racially, sexually, economically, or whatever. What if one simply stopped there, in attachment to only the normative standards of distinct group G? This, too, is surely possible and, sadly, often enough actual. Is there any reason to think that this stance is also pathological or a form of normative aspect-blindness?

This question has no ready answer. Attempting to answer it is complicated by the fact that different individuals with different socio-cultural backgrounds may use the same abstract, more or less Kantian language of rights, duties, and respect for persons, but differ dramatically in how they assess individual cases on the ground. What you call telling someone a hard truth out of respect, I call inconsiderate cruelty; or what you call encouragement to develop one's talents and specific forms of self-respect I call indulgence and pampering. Mistakes and errors on all sides are possible, including, and perhaps especially, in describing and judging one's own conduct. What counts as respect for persons is itself a subject for open, imaginative, explorative inquiry and moral conversation in an ongoing way, even where the value of respect for persons is abstractly shared.<sup>39</sup>

But should respect for persons, however contested and evolving its criteria be, figure centrally in the development of any form of conscience arising out of the experience of punishment as punishment? This is a normative, not a factual question. Again, in fact not everyone develops a conscience of this kind, whether out of significant rudeness of circumstances, radical tribalism, or social pathology (as a Kantian view would see it). But it is a normative question that admits of some argument, even if not a priori proof—argument that points toward answering “Yes.” For what would it be like simply to live, without further normative reflection, according to the normative standards of (let us say) one's own group G, thence ignoring, dismissing, or violently repudiating the claims

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**39** This is one way of taking the point of Stanley Cavell's continuing emphasis on the importance of mutually explorative moral conversation rather than 'standing on' one's accomplished theory of right and duty. Leading a moral life is not simply and straightforwardly a matter of applying theory to practice deductively. For Cavell's thought, see part three of Cavell 1979, and also Bates 2003, who traces the theme of moral conversation throughout Cavell's career.

to respect of members of groups, H, I, J... with their local practices? It would be, arguably, to stop short in reflection, to do a kind of violence to oneself in restricting one's concept of conscience to the standards of only a distinct and recognizable few whose authority one had internalized, thereby cutting oneself off from significant practical interaction with members of other groups. It would amount, as it were, to freezing oneself as a G, acknowledging only the local normative standards of G-ness. (And of course this goes, conversely, for freezing oneself in H-ness, I-ness, J-ness and so on too.)

This may sound all too open, tolerant, and pluralist, as though we were to embrace the normative standards of any group whatsoever. But that is not right. Rather, from within the development of conscience in initial settings of authoritative others whose standards one internalizes, it is both possible and worthwhile to develop a generalized conception of the value of respect for human beings as ends in themselves, that is, as both beings who can set their own ends and who are capable themselves of normative reflection and the development of a generalized conception of conscience. Such a conception requires a kind of tolerance and pluralism, but a kind that is compatible with mutual criticism and sharp disagreement.<sup>40</sup>

It is therefore both possible and normatively apt that, as Kant puts it, we will “*with time* transform the rude natural predisposition [Anlage] to make moral distinctions into determinate practical principles” on which we may act more effectively, so as to “transform a *pathologically* compelled agreement to form society into a *moral* whole.”<sup>41</sup> “Steps from crudity toward culture”<sup>42</sup> are possible, and moral perfection is to be sought and hoped for “from nowhere else but education.”<sup>43</sup> There are, however, no guarantees. We *may* make “the transition from the go-cart of instinct to the guidance of reason—in a word, from the guardianship of nature into the condition of freedom,”<sup>44</sup> but that depends on us, specifically, on how we exercise our powers of reflection and commitment first in situations of dependence on a few authoritative others and later in relation to more wide-ranging encounters.

Apt acknowledgments of a Kantian moral law will, moreover, not be available or fruitful at every historical moment. There are, again, circumstances both

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<sup>40</sup> For an excellent articulation and defense of the kind of toleration that we ought to practise and that involves and requires mutual engagement and criticism rather than mutual indifference, see Oberdiek 2001.

<sup>41</sup> Kant 2007c, p. 111; first emphasis added.

<sup>42</sup> Kant 2007c, p. 111.

<sup>43</sup> Kant 1997b, p. 221.

<sup>44</sup> Kant 2007b, 8:115, p. 168.

prior to morality in the Kantian sense (prelinguistic infants; rude conditions of nomadic life) and beyond morality (extreme emergencies, involving treacheries and evils to be confronted, where no option is innocent). Bernard Williams is thus right to some extent when he observes that “the drive toward a *rationalistic conception of rationality* comes ... from social features of the modern world, which impose on personal deliberation and on the idea of practical reason itself a model drawn from a particular understanding of public rationality.”<sup>45</sup> That is, it is true that commitment to the relevance of deliberation guided by universal and impersonal principles has social conditions of emergence, though those conditions, contra Williams, evidently obtained in both fifth century B.C.E. Athens and in first century C.E. Rome and Palestine, among other places. These conditions arise in various shapes more or less whenever human settlements have become large enough to require significant political and economic role differentiation and regular interactions among occupiers of different roles.

### III

It is, then, at least possible to acknowledge from within reflection the requirements of a moral law of respect for human beings, and it is perhaps more likely for such acknowledgment to be arrived at by more people the less primitive and the more cosmopolitan the circumstances of life are, where one encounters and internalizes the normative authority of a wide range of others. But if such acknowledgment does not necessarily take place even in such circumstances, then what is the *normative point* of it? Why be moral (by more or less Kantian lights)?

In Part III of *A Theory of Justice*, John Rawls undertakes to show that a just scheme of cooperation, if instituted, would be stable, even in the face of widespread possibilities of free riding. He appeals to existing “relations of friendship and mutual trust, and the public knowledge of a common ... sense of justice” that is “normally effective” in shaping the actions of most adult subjects of the scheme.<sup>46</sup> Those growing up under such a scheme initially lack such relations and such a sense of justice, but they can be expected to develop it, insofar as it is “given that family institutions are just and that the parents love the child and manifestly express their love by caring for his good” and given that the child then “develops ties of friendly feeling and trust toward others in the association

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<sup>45</sup> Williams 1985, p. 18.

<sup>46</sup> Rawls 1999, p. 435.

as they with evident intention comply with their duties and obligations, and live up to the ideals of their station.”<sup>47</sup> One might put this point by saying that the child’s developing sense of justice *sanctifies* relations, roles, and values that are already in place and in which he is coming to participate more self-consciously, just as a declaration of commitment in a marriage ceremony may sanctify a form of mutuality in place that demands continuation and acknowledgment.

Rawls denies that the availability and even the naturalness under favorable enough conditions of acknowledgment of the moral law constitute a justification of the obligation to be moral. As he puts it, “these considerations do not determine the ... acknowledgment of principles.”<sup>48</sup> This is in part because he is thinking of justification primarily as a matter of the availability of a set of fully articulated public considerations that are sufficient to determine once and for all a choice of value schemes from among all plausible available alternatives.<sup>49</sup> But that is not the only conception of justification that is relevant to moral theory, and Rawls also observes that “these considerations ... confirm” that acknowledgment and that it may “happen that the superiority of a particular view (among those currently known) is the result, perhaps the unexpected result, of [a] newly observed consensus” that is subsequent to critical and comparative reflection.<sup>50</sup> From this point of view, the question of how we come developmentally in favorable enough circumstances to acknowledge the moral law is not in the end separable from the question of what reasons we have to acknowledge it, even if the value of such acknowledgment must also always be tested in reflection. We cannot have, but happily do not need, a justification for being moral “from nowhere,” apart from our location within a set of developing circumstances of life.

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47 Rawls 1999, p. 429.

48 Rawls 1999, p. 508.

49 “Justification is argument addressed to those who disagree with us, or to ourselves when we are of two minds. It presumes a clash of views between persons or within one person, and seeks to convince others, or ourselves, of the reasonableness of the principles upon which our claims and judgments are founded. Being designed to reconcile by reason, justification proceeds from what all parties to the discussion hold in common. Ideally, to justify a conception of justice to someone is to give him a proof of its principles from premises that we both accept, these principles having in turn consequences that match our considered judgments. Thus mere proof is not justification. A proof simply displays logical relations between propositions. But proofs become justification once the starting points are mutually recognized, or the conclusions so comprehensive and compelling as to persuade us of the soundness of the conception expressed by their premises.” (Rawls 1999, p. 508).

50 Rawls 1999, pp. 508, 510.

The formula of the moral law, in any of its Kantian versions, will not itself be fixed by a priori reason, but instead held in view as a kind of summary of a commitment that one has come to find unavoidable within one's life, initially rooted in the experience of punishment, of a being able to traffic in obligatory, non-instrumental norms.<sup>51</sup> Nor will epistemic certainty be available. Commitment to the moral law, motivated by critical discernment, will remain an actively maintained stance, not the product of any discernment-neutral theory modeled on the sciences.<sup>52</sup> (As Wittgenstein once wrote, "I must plunge into the water of doubt again and again."<sup>53</sup>) But the normative value of maintaining this stance is there to be discerned from within a wide-range of adequate circumstances, including virtually all non-emergency circumstances within modern settled life and involving significant interactions across group boundaries. To know the moral law is to acknowledge it from within what, who, and where one is.<sup>54</sup>

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51 Compare Eldridge 1989, pp. 47–50, 63–67. 181–88.

52 Here the view should be contrasted with the constitutivist view urged by Christine Korsgaard, according to which "what it is to be a person, or a rational agent, is just to be engaged in the activity of constantly making yourself into a person" where "the categorical imperative," as "constitutive of action," is unconditionally normatively binding on this process of making. (Korsgaard 2009, pp. 42, 52) Against this, Karl Ameriks is surely right to point out that "in ordinary language one would not be called irrational simply because one has not achieved or approached a so-called rationally maximal state" (Ameriks 2012, p. 154), so that it will be impossible to ground commitment to the binding authority of the categorical imperative solely in the structure of rational agency.

53 Wittgenstein 1931 p. 119.

54 Robert Loudon and Beatrix Himmelmann pressed me to develop the moral psychology presented here in less exclusively Kantian terms and to be explicit about the relevant concept of justification. Hans Oberdiek and Krista Thomason read and commented on an earlier draft of this essay. Earlier versions of this essay were presented to audiences at a joint University of Sydney-University of New South Wales conference on Nature and Culture in German Romanticism and Idealism and at the philosophy department of the University of Western Australia, in each of which settings I received useful responses. I am grateful to all these individuals and audiences.

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