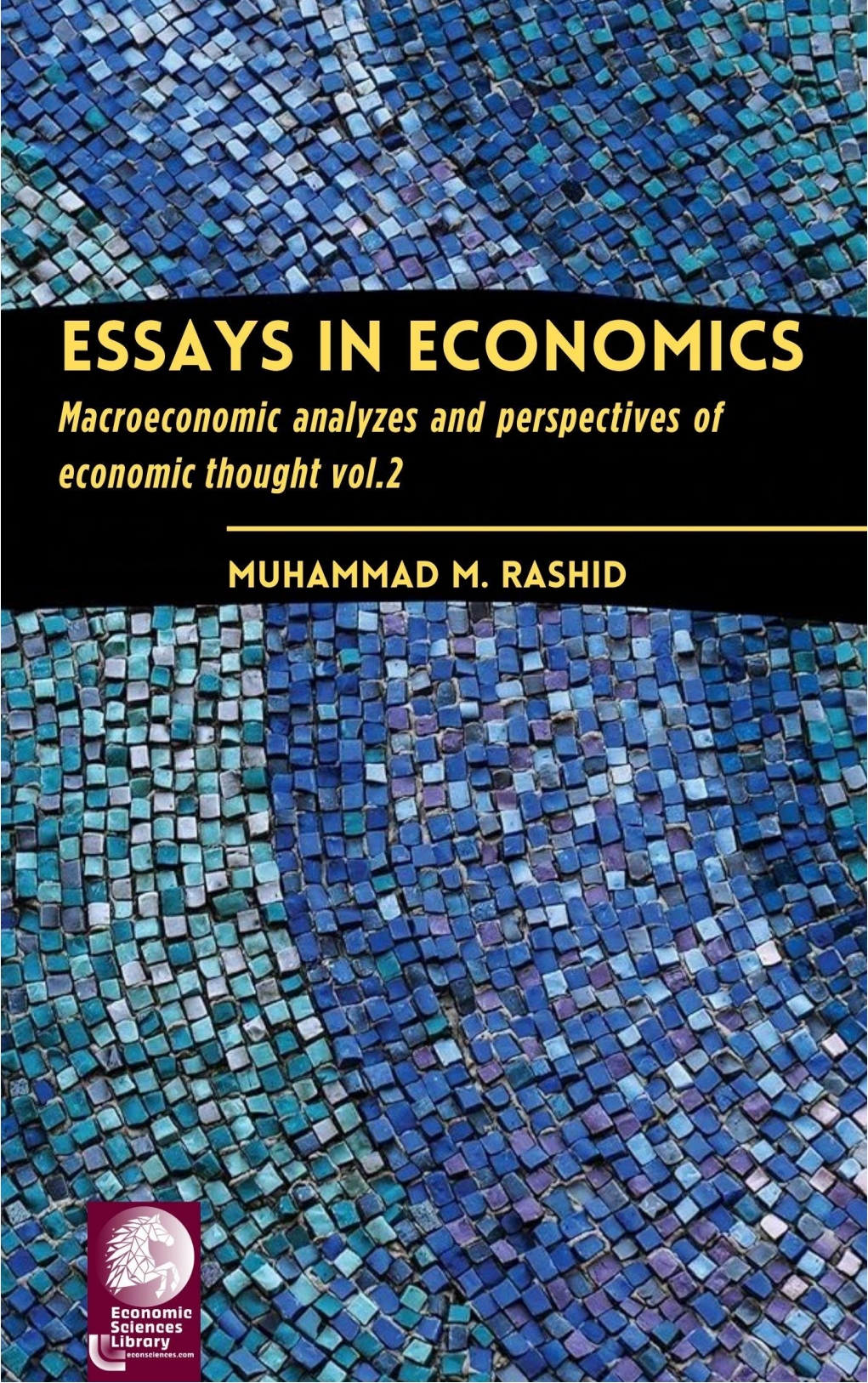


The background of the entire cover is a dense, textured mosaic of small, irregular tiles in various shades of blue, teal, and purple. The tiles are arranged in a way that creates a sense of depth and movement, with some tiles appearing more prominent than others.

ESSAYS IN ECONOMICS

*Macroeconomic analyzes and perspectives of
economic thought vol.2*

MUHAMMAD M. RASHID

Essays in Economics

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and perspectives of economic thought
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Muhammad M. Rashid

University of Detroit Mercy, USA

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Essays in Economics. Macroeconomic analyzes and perspectives of economic thought vol.2

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1

Unity of the Quran – The Surah Star

As the Quran is arranged in a non-linear fashion and was revealed as a counter example to the famous tradition of Arabic poetry; many a Western scholar have criticized the Quran as being a frustrating and non-coherent read. Therefore, there are two sides that argue on the layout of the Quran. One side argues that there is a sense and purpose to the arrangement of the surah's and the other side denies this sense and purpose. In this paper I will analyze the text of the surah, The Star (53:1-18). Through textual analysis I will prove that the surah's of the Quran do indeed have a structural and stylistic unity and purpose.

The verses of the surah, The Star (53:18), are one of the earliest of the revelations and therefore the Surah is categorized as an early Meccan surah. According to Islamic tradition the verses of the Quran were revealed to the Prophet in situation when they were needed. The early Meccan surah's have the characteristic of focusing on existential themes of individuality, consciousness, freedom of choice, responsibility and therefore the personal issues of the prophet and his early

life. Furthermore, the surah's also focus on how these existential themes affect individual lives and fundamental values. The surah The Star (53:1-18) focuses on the revelations being received by Muhammad and the validity of his visions.

From the first passage of the surah we can see lyricism present; the surah, The Star (53:1-12) introduces the divine voice utilizing a sign (ayas): a mystery of the universe. The falling star is introduced as a sign and the divine voice swears by this sign that the prophet does not speak out of madness or desire as was common in the culture of Arabic poetry. Elemental transformation, which is making present the event in action through the evocation of awe and intimacy, is observed. Awe is evoked when we are told that the divine voice is one of great power and strength comparable to that of the highest horizons. Intimacy is evoked when we are told that prophet's visions are none other than the teachings of the divine voice and that the prophet has been instructed by the divine voice itself. The prophet's humble nature as a messenger of the divine voice is explained to us when we are told that the prophet is a servant of the divine voice imparting His words. Here again the intimate relationship between the prophet and the divine voice comes into affect, as the revelations come directly from the divine voice through the heart of the prophet with his affirmation of them. The passage ends with the question by the divine voice asking the reader that even after all these affirmations will the prophet's visions be disputed and questioned.

Throughout the passage the tone of sadness (huzu) is observed, as the depth of the world mysteries such as the falling star have been evoked. This tone is said to be consistent through out the Quran. The second passage of the surah The Star (53:15-18) continues to serve the purpose of establishing the validity of the prophet's visions. In the second passage the divine voice describes a vision revealed to the prophet. This vision is of a tree and a garden sanctuary, which is than enveloped by something unknown. This garden and tree serves to be a metaphor hinting at the wonders of an afterlife. Here again we see the divine voice utilizing a sign (ayas). In this passage the importance is given to the "gaze" of the prophet.

We are told that the prophet's gaze did not go far even though there was mysterious element enveloping the garden sanctuary and the tree. This fact that one's gaze should not stray while in the state of meditation is now an important part of the Islamic tradition. While in prayer Muslims keep their gaze fixed on the ground in respect of the state of contemplation.

From the above textual we can surmise that there are many a literary themes evident in the Surah and the Quran. Sound vision is apparent and so is lyricism, which is the use of oaths involving the mysteries of reality. There is present through out the Quran and the Surah in question, a sense of intimacy and awe, which repeatedly makes one think about the value of human life and the day of reckoning. There is also present the affirmation of the singularity of God and a sad tone (huzu) prevails throughout making us ponder about the mysteries of the universe while at the same time affirming the validity of the prophet visions. A powerful gender dynamic is ever present and so are the literary cannons of implicit and explicit metaphors and personification. There is voice shift present both in the Quran and the surah The Star. Even though the divine voice is heard in a variety of manners the image of the speaker is never defined and leads to the affirmation that the God is beyond a fixed image. Since the surah The Star is an early Meccan surah it serves the purpose of reaffirming the validity of the Prophet's vision. During this time the religion was in its infancy the revelation of the surah serves the purpose of reaching out the followers and has a soothing affect both on the prophet and the followers. Further revelation keeps true to this purpose of helping the prophet in a time of need and contain the various linguistic and stylistic themes discussed in the paper.

2

A Response to Cohen and Nagel Fixing Belief

The method of science or reflective inquiry is a method devoid of personal aspirations and commitments; the method nurtures doubt and uncertainty and relies on the best of evidence to test, accept, modify, or reject the probable validity of a hypothesis and thus forming beliefs. Cohen and Nagel in their book assert that the scientific method proves to be the best method, as it addresses the faults existing in the method of tenacity, authority, and intuition, while providing for further advantages. In my response I will argue to defend the conclusion that indeed the method of scientific or reflective inquiry is the best method.

Since the method engages us to question and doubt, we are continuously involved in the process of finding and applying to evidence to strengthen the validity of our hypothesis. It follows then this process of continuous improvement makes sure that our hypothesis does not become stagnant and reduces the margin of error. Furthermore, since the method does not involve personal aspirations, commitments and relies on the

best evidence; hence, the method is entirely result based and unbiased.

Constant nurturing of doubt and reflection to strengthen our hypothesis requires that we do not invest a position of infallibility in our sources of authority. Therefore, the result is entirely based on evidence and the differing position and bias of authoritative figures and written material is not considered while measuring the validity of the hypothesis and there arises stable belief. Science provides holders of different beliefs and position a common ground to decide a validity of a hypothesis through the availability of evidence alone. This common ground of validating the hypothesis through evidence alone, enables us to overcome the problem of difference in the method of authority. Tenacity imposes on us a conservative position where we are reluctant to change our beliefs in face of new evidence. Science enables us to overcome this problem by nurturing doubt and repeatedly questioning our beliefs through evidence. Intuition imposes on us the problem that a statement seems self-evident to one because of their disposition, trends and training. Science tells us that only the best of evidence is required to establish the validity of a hypothesis and that personal dispositions, trends and do not matter.

A few problems have been raised regarding the method of science, firstly the method is deemed incompatible with religion. This view is held by those who believe that the method is infallible. The basics of the method are to nurture doubt and uncertainty and to rely on the best of evidence. Thus, this does not mean that we stop inquiring into the validity of the hypothesis that the scientific method is the best method. There is evidence of the fact that many scholars have adhered to their faith while engaging in science, proceeding towards valuable discoveries. The other criticism is if science is applicable to our moral beliefs and here my answer is yes, it is as we have seen, for example the evidence generated from countless charities is that this moral act results in our moral growth.

From the arguments stated we see that indeed the method of science seems to resolve the problems that arise out of, tenacity, intuition, and authority. Furthermore, it provides

advantages such as continuous progress, reduction in the margin of error and a common ground. The arguments against the method can be refuted as the method is unbiased and heavily relies on evidence. Hence it follows that the method of science and reflective inquiry is the best method for forming beliefs through evidence confirming the probable validity of hypothesis.

3

Gettier Case Chrysler in a Car Show Modified to Look Like a Bentley

A, B and S are in a car show. S sees a Bentley on the stage and it in every way looks like a Bentley and there is a banner saying that it is a Bentley. The car has a Bentley logo on it and is surrounded by Bentley salespeople and it also has a price tag which is high enough to be the price tag of a Bentley. A and S both know these facts, and this is enough for A to attribute knowledge to the epistemic subject S in circumstance c that p: the car in front of S is a Bentley. We will take this to be the first context of attribution (C₁). In (C₁) A will make the assertion that the car in front of S is indeed a Bentley because it looks like a Bentley, there are Bentley salespeople there, it has a high price tag of a Bentley, it has a Bentley logo. In the second context of attribution (C₂), we take into consideration that B knows in 2011 Chrysler released a look alike of Bentley and tells A that there has been a case of 2011

Chryslers being sold as Bentley's. So, in (C₂) we consider q: that the Bentley in-front of S is a Chrysler, modified by the trade show staff to look like a Bentley. A would attribute ignorance of p to S saying that S does not 'know' that p, since S is not able to detect the fraudulent modifications and cannot rule out the possibility that the Chrysler has been modified to look like a Bentley. Therefore, A in (C₂) would attribute ignorance to S in circumstance c that p: the car in front of S is a Bentley. In our case than A is the knowledge attributor in (C₁) and A is the ignorance attributor in (C₂).

We are further asked that what it is about the context that brings about the change in the knowledge attribution. Here the truth values shift as different propositions are expressed in different contexts. The disagreement about attribution from A in (C₁) and (C₂), seems to be in S's strength in the epistemic position with respect to p. In (C₂) S's position is not strong enough to determine whether knowledge or ignorance should be attributed to S. It might also be the case that S is not sufficiently warranted in believing that p. The strength of S's position depends on what "standard" must be met for S to know that p. In our case the standard in proposition (C₂) is that S is not able to detect the modifications to the Chrysler that make it look like a Bentley. Therefore, in our case A in (C₁) is judging with a lower standard, that S does not need to have an ability to detect fraudulent modifications. A in (C₂) is attributing ignorance as the standard has been raised and S does need to know that he must have the ability to detect the fraudulent modification or relevant alternative otherwise he is attributed ignorance. Furthermore, it may be said that A in (C₁) is risk tolerant and in (C₂) A is risk averse and is only willing to attribute knowledge with stronger standards. The variation in the strength of the epistemic knowledge attribution can also be understood in terms of which alternatives to the truth of the issue are relevant. In our case A in (C₁) is attributing knowledge to S as the alternatives are not relevant even though they cannot be ruled out. A in (C₂) is attributing ignorance because of the nature of proposition at issue and that some alternatives have become relevant. Therefore, in (C₂) A attributes ignorance to S as seeing a modified Chrysler is an alternative to

seeing a Bentley. S cannot rule out the alternative that he is not seeing a modified Bentley. Therefore, he does not know that he is seeing a modified Bentley.

We are further asked what the consequence of the phenomenon of the variability in attribution is and what is the diagnoses that we choose and why it is the best. Here I will be arguing for the contextualist approaches to epistemological concepts and problems and that the variability occurs as standards change in different contexts. Due to this variability, we must adopt a different approach. The term contextualist serves to be the umbrella for a wide variety of theories with the same starting point, that the context of attribution determines the strength of the epistemic norms that must be satisfied for knowledge. I will be taking the stand that indexical contextualism is the best approach and will contrast it with the other approaches. In contextualism different epistemic standards are applied depending on the context of attribution. This application of multiple standards is what differentiates contextualism from invariantism where only a single standard is applied. Application and acceptance of the single standard in invariantism is dependent on the circumstances of the attributee and this is called subject-sensitive invariantism. Subject sensitive invariantism runs into the problem that one person might correctly attribute knowledge to someone in the same epistemic position as himself while, denying knowledge to himself and this is an unacceptable consequence to many.

According to the contextualist the shift from higher standards to lowers standards is determined by the context in which the attribution of knowledge or ignorance or the semantic evaluation is made. Therefore, a single attributor in our case A can attribute knowledge to S in circumstance c that p: the car in front of S is a Bentley, in one context of attribution (C₁) and ignorance in another context of attribution (C₂). This distinction helps to distinguish between accounts according to which it is the context of the use of 'knows' in epistemic attribution which accounts for the shifts in standards and accounts according to which the relevant factors account for the shifts in standards in the context of the assessment of knowledge attribution. This distinction is not available in the

invariantist approach and therefore a contextualist can distinguish between “use-contextualism” and “assessment contextualism” respectively. There is a further division in the “use-contextualism” and this is whether the users model the pragmatics of ‘knows’ after the pragmatics of the indexical terms, indexical contextualism, and further varieties of non-Indexical contextualism which include vagueness and situational contextualism. I will be taking the indexical approach to be the best diagnoses of our case.

A well-known approach to contextualism has been relevant alternatives, which states that one of way of calibrating the level of standard is in terms of which skeptical alternatives can be ruled out or eliminated by the subject S, given S’s epistemic position. So, in our case S is attributed ignorance of p: that the car in front of S is a Bentley and this because S does not know that $\sim$ q: the Bentley in-front of S is a Chrysler, modified by the trade show staff to look like a Bentley. Since S is not able to detect the fraudulent modifications to the Chrysler, he does not know that p. According to Dreske the knowledge attribution that we make will vary depending on which proposition is a candidate for knowledge. The proposition that the car is a Bentley is associated with one range of alternatives and the proposition that the car is a modified Chrysler is associated with another.

Here it is important to mention what DeRose calls an abominable conjunction, and this is one of the main faults of the relevant alternatives position. S knows that car is a Bentley, but he does not know that it’s a not a car that cannot be a Bentley. This is an epistemic attribution according to which you know something but do not know what is implied by what you know. The abominable conjunction shows that the relevant alternative position violates a closure condition. A closure condition is that if S knows that P and S knows that if p then q, then S knows that q. Another way of expressing closure is that if S does not know that $\sim$ q, and S knows that p if $\sim$ q, then S does not know that p. Thus, in our case if S does not know that the car is a modified Chrysler, and S knows that if car is a Bentley, then it is not a modified Chrysler, then S does not know that the car is a Bentley.

For Dreske closure threatens skepticism and he responds by rejecting closure. Cohen's indexical contextualism provides a way for saving closure which is denied by Dreske. Cohen's approach states that the closure principle can be preserved. The preservation of the closure is another reason for my argument that indexical contextualism is indeed the best diagnosis. Here Cohen argues that the reason closure can be upheld is that the word "knows" in cases such as ours is used ambiguously. This ambiguity can be represented by using Cohen's superscript method. 'H' is used to indicate high standards by which it is not known that the car is not a Chrysler and L to indicate low standards by which it is known that the animal is a Bentley. It is presumed that technical knowledge of cars is present to rule out that Bentley's are not Chryslers

and to meet the higher standards. According to Cohen then what determines the sense of 'know' is the context of attribution. When A attributes knowledge to S that the car is a Bentley, A only expects S position to be strong enough that deception is not an issue. But when A says that S does not know that the car is not a modified Chrysler, A expects S's epistemic position to be strong enough if deception is an issue. Cohen also says that considering the proposition q in (C₂) creates what is called a "skeptical context" and in this context the standard is raised. In this context what counts as a relevant alternative differs from what counts as a relevant alternative in a "everyday context". The main point of Cohens argument is that the meaning of "knows" changes from context to context and Dreske says that there is a single meaning of "knows" and closure must be denied. I tend to agree with Cohen on preserving the closure and logic as this approach avoids the abominable conjunction. Furthermore, using the superscript avoids ambiguity when using the word 'knows'. Using Cohens index, one also avoids the problems of attributing knowledge to another while attributing ignorance to oneself as is the case with the invariantist approach. Cohens approach considers the context instead of relying on the circumstances of the attributee in the invariantist approach. Cohen's approach is also able to consider relevant alternatives, where ruling out

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exotic alternatives becomes paramount when adopting a
higher standard in a different context.

4

Gettier Case. X & Y are in a race

Suppose that the epistemic subject X and Y have are competing for a race. Suppose that X has the strong evidence of the following proposition (1) that Y is the one who will win the race and Y has Z practice hours on his training schedule. X's evidence for (1) is that the trainer has told him that Y will win the race and that X himself has seen that Y has Z hours on the training schedule. Therefore, proposition (1) entails (2) that the man who will win the race has Z practice hours on the training schedule. We suppose that X surmises that (2) follows from (1) and accepts (2) on the grounds of (1) for which he has sufficient evidence. Taking the case further we find out that it is X who wins the race and unbeknownst to X he has accumulated Z practice hours on his schedule, but they still have not been posted.

Here I will be using the particularism approach to the investigation which states we should take it as a datum that people have knowledge and then go on to discover what its characteristics are. In this case X has knowledge of the

Gettier Case. X & Y are in a race

proposition (1) that Y will win the race and Y has Z point on the training schedule. As there is an agreement amongst epistemologist that something cannot be false if it is known. Therefore, the proposition (1) is true because it is known. Here we will take it to be a fact that proposition (1) is how things are and that Y will win the race as Y has Z number of practice hours. Therefore, we will rely on the standard view, that the truth of the proposition (1) corresponds to the situation that the proposition (1) represents reality. It is a consensus that the same proposition cannot be both true and false as the truth value is constrained by the world and the world exists only in one way. Since the proposition (1) corresponds to the way the world it is true.

The belief condition is a bit more controversial than if the proposition is true or not. There are two views concerning the belief value. Belief can be described as follows: If S

knows in c that p, then S in c believes that p. The first view is the Bayesian view that that belief comes in degrees. One can believe p to a greater or lesser degree. The Bayesian approach assigns a probability condition to the belief in p. The other approach which I will be using in our case is the binary approach which states that either the epistemic subject believes in p or does not believe in p. Here I will be using Austin's account that giving one's word accounts to belief and in this case the trainer has given his word that Y is the person who will win the race as he has Z practice hours on the training schedule and therefore, X has a belief in p(2) on account of the trainer's word. Furthermore, the belief that Y is the person who will win the race as and he has Z hours on the practice schedule is a settled belief in X's mind. Therefore, in X's mind it is a certainty that the person who wins the race has Z training hours on his schedule. Being certain is another requirement for belief. Here it is important to mention the position of fallibilism which states that certainty does not imply truth, but only a high degree of assurance in the truth of p. So far, we have seen that belief seems to be a necessary condition for knowledge.

The internalist analysis imposes a further condition on belief. The internalist imposes an evidence requirement which

states that: If X knows in *c* that *p*, then X's belief in *c* fits X's evidence for *p*. In our case we have sufficient evidence that provides backing for the belief. This includes the fact that the trainer has given X his word that whoever has Z points on the training schedule will win the race. Furthermore, we have an eye witness and that X himself has seen that Y has Z hours on the practice schedule. A further requirement to belief is the requirement of stability. This requirement states that if X knows in *c* that *p*, then X's belief in *c* that *p* cannot be given up on epistemic grounds in the face of any further information that X might receive. In our case this would mean that X's belief in proposition (1) that the man who wins the race has Z practice hours on the training schedule cannot be dislodged by any new information. No counter arguments can dislodge my belief in proposition (2). An example of a counter argument might be that the person who wins the race has a certain weight. This counter argument cannot dislodge my belief in the proposition (2) that Y will win the race as Y ever wins the race has Z hours on the training schedule. Therefore, in this case my belief is stable. The requirement for pragmatic stability states that: if X knows in *c* that *p*, then *p* is so settled as to be available as the source of future inquiry. In our case the proposition (2) that Y will win the race and Y has Z hours on the training schedule has to be available and valid for future inquiries. A further condition imposed by Keith Lehrer is that knowledge requires that belief *p* be rational in character. Lehrer termed this concept of rational belief as "acceptance". If X knows in *c* that *p*, then S accepts in *c* that *p* is true. Therefore, in our case X must accept the proposition (1) that the man who wins the race is Y and Y has Z practice hours on the training schedule.

Belief is a necessity for knowledge but not the only necessity and that knowledge is more than true belief. In recent times the thesis that knowing is a state of believing has come to be challenged by Timothy Williams who argues that knowing is a "state of mind". Williamson roughly classifies knowledge as species of belief. Belief is either false or true. If it is true it is either not sufficiently warranted, if it is sufficiently warranted it is equal to knowledge. Williamson further classifies mental states as non factive and believing or factive (knowing)

Gettier Case. X & Y are in a race

perceiving and remembering. In our case X has a factive mental state and he is able to perceive and remember the proposition (1). According to Williamson knowledge is the most general factive state. Williamson also states that knowledge cannot be analyzed in the traditional manner and that there is no analysis capable of ruling out a

Gettier case except through a circular argument. As stated earlier truth and belief are a necessity of knowledge and but not the only conditions. This brings us to the following third condition of belief related conditions on knowledge. Here I will be using Alvin Plantinga who uses the term warrant instead of justified. There is a requirement that warrant comes in degrees and this leads us to the term of sufficient warrant. If S knows in c that p, then S in c has sufficient warrant with respect to p. Truth belief and knowledge and are meant to be sufficient for knowledge when all three are present this brings us to the Tripartite Analysis of Knowledge. The term warrant accommodates both internalism and externalism while the term justification is mostly associated with internalism. The stronger the evidence the stronger the justification in belief and therefore the stronger the epistemic position. There are quite a few conditions that build a strong a justified belief position. In our case there is strength in the position as X has witnessed himself that the Y has Z training hours on the training schedule. Therefore, he has eye witnessed the fact that Y has Z points on the scoreboard. The other evidence is that the trainer has confirmed that Y will win the race and he is not lying or creating a false position. The support relation is another way that strength is created and there are two kinds of support, material support and formal support. Here we have formal support as proposition (2) is implied from proposition (1) and material support as we have evidence and reason. Going deeper into the formal support we find that there are deductive validity and inductive validity. In our case we have deductive validity as the conclusion (2) follows from (1) and there is deductively validity as X is warranted in believing proposition (1). Abductive argument refers to explanatory norm and is therefore the objective of paper.

Gettier Case. X & Y are in a race

Arriving at the Gettier case we find out that it occurs because of a luck or accident the subject lacks knowledge that p. In our case this is represented by the fact that that it is an accident that both the trainer and X are not aware that he has caught up with Y in the number of practice hours. This is one reason why X lacks knowledge in in proposition (2). This results into a weak epistemic position and that the evidence for your believing what warranted your belief is not sufficient in the circumstance. A proposition that blocks the Gettier case would be that the proposal should not be based on a false premise. This proposal seems to work quite well since this eliminates a possibility that our truth condition is false.

5

Exploitation and Care Ethics in Global Surrogacy

In this paper I will argue that there are moral problems that exist with the practice of global surrogacy transaction and therefore global surrogacy is not perfectly permissible. The main problems that I will focus on are exploitation, failure of liberal arguments and a lack of care ethics. In my paper I will move towards stating the nature of these problems and arguing for their significance and suggesting solutions. Furthermore, I will also provide some arguments to counter the stance held by some that global surrogacy is morally permissible under the current circumstances.

In her paper *Vida Panitch, Surrogate Tourism and Reproductive Rights*, the author, Vida Panitch, explores the problem of mutually exclusive exploitation that exists in the global surrogacy practice. According to the author mutually advantageous exploitation is wrong but what one needs to access in such a situation is that how much each party benefits relative to the other. Therefore, in the case of global surrogacy if the contracting couple stands to gain a lot more than the

surrogate mother who only gains marginally, then the surrogate mother has been wrongfully exploited by the contracting couple. Furthermore, in the case of contractual surrogacy, consent is an important factor. The surrogate mother should have voluntarily consented to the transaction, without being vulnerable. Hence the author provides for two premises to assess global commercial surrogacy. “(1) Justice Condition: that the distribution of benefits and harms between party A and B is not unfair in A’s favor. (2) Consent Condition: that B’s consent is valid.” (281).

The author of the article seems to find problems with the consent of the surrogate couple and is concerned with the ‘quality’ of the consent. The significance of this problem is paramount because, if there do exist problems with consent, then the act of surrogacy amounts to the very worst of exploitative forced labor. Since the surrogate mothers in India have low literacy rates, they are not able to read the fine print of the contracts provided to them and the construction of the contracts is often times very crude, leaving out important details such as their rights. Furthermore, since many of these clinics are running on a tight budget and often not under the rule of law, being a cottage industry, there is no legal representation provided to the surrogate mothers and at times no incentive for the owner of the clinic to provide the surrogate mothers with any additional details. Therefore, there exists neglect by a third party in their duty towards the surrogates. The author explains as to why the tourists can get away with paying less, “And they can get away with this because her circumstances are such that she has no other equally well-remunerated options and so cannot simply walk away from the offer.” (283). This argument highlights the fact that it is the underlying poverty conditions of the women in certain parts of India that make them attractive to the clinics.

There are some solutions that do come to mind regarding the above problems with consent and as to how the practice ought to continue. If global surrogacy ought to continue then the problems regarding, duty abandonment by third parties should be addressed. There should be more formal legal contracts, legal representation and perhaps even incentive for

the clinics and third-parties to care for both the physical and mental well-being of their surrogates after the procedure. Consent under coercion should not be allowed, especially in the case where the women's family seeks to gain from the procedure and not only her-self. Since the problem of consent also arises from certain background condition, such as poverty, the selection of surrogate mothers should not be limited to only certain populations of India. If surrogate selection is to proceed from a certain population, then the factors that lead to weakening of the quality of consent should be addressed. The government if they allow the practice, should address the poverty of the surrogate mother and not rely on the monies

Jennifer Parks, in her essay *Care Ethics and Global Surrogacy*, finds problems with the liberal arguments that are offered in support of global surrogacy and she proposes to look at the issue from care ethics perspective. This is in contrast to Vida Pantich essay which focuses on contractual problems. The authors main contention here is that, liberal arguments that are in favor of global surrogacy, do not address the harm experienced by the children. She illustrates these harms using the case of Baby Manji, a case where, "conditions of inequality, alienation and risk of abandonment" (335) are apparent. According to the author the crux of the liberal argument for both the surrogate and contracting parent is, "liberal emphasis is on rational individuals coming together for mutual benefit." (334).

This problem holds significance because, as we see from the authorship of Vida Pantich, the mutual exploitative nature of global surrogacy is exploitative. Furthermore, the liberal argument does not take into account, the risk to the child faces of losing the right to citizenship, abandonment in a different country, lack of parental care. The effect of the procedure on the surrogate mother is also ignored including both the mental and physical trauma, that the surrogate mother has go through, both during the time of pregnancy and after. A lack of care ethics puts the commissioning couple, into a position, where the mutually beneficial agreement turns into a display of social power. According to the author describes "the fact is that by practicing reproductive tourism people of means from more

developed parts of the world do exhibit social power in their ability to hire others to carry out their reproductive labor” (336). This problem is of significance because not only does the contractual agreement create undesirable long term socioeconomic conditions, but furthermore relinquishes mutual respect and long-terms relationships, in favor of short term monetary gains, or “individual freedom, fair contract, specific performance and other political and legal consideration” (336).

If there is a position which considers global surrogacy to be permissible, then proponents of the view should provide a reason why domestic surrogacy is not an option. Is it because of the high costs associated with the procedure, and the fact that even when surrogacy is lawful in certain states, it is a private enterprise one that relies on incentive of profit making rather than altruism? Furthermore, before relying on global surrogacy which involves moral problems perhaps the proponents of surrogacy should focus on making the domestic industry more accessible. It seems counter intuitive to ignore the problems of domestic surrogacy and utilize the services of global surrogacy industry which initially exists to profit from the exploitation of the problems of domestic surrogacy.

6

Arguing Against the Permissibility of After Birth Abortion

In this paper, I will argue against Giubilini and Minerva's argument for the moral permissibility of after-birth abortion. The arguments I will employ are that, firstly the conclusion reached by Giubilini and Minerva is the outcome of certain pro-choice arguments, which when taken to their extreme result in the "rejection of the sanctity of human life". (1). Secondly, the two main premises that Giubilini and Minerva use to support their argument are logically confusing and hence undermine the strength of the conclusion. The first argument relies on the identical moral status of a fetus and newborn. The second argument gives reasons which argue for the denial of moral personhood to infants.

In summary, Giubilini and Minerva, argue that after-birth abortion should be permissible in all cases where abortion is. This position also includes cases where the newborn is perfectly healthy. The authors further move to distinguish

between the term 'after-birth abortion' and 'infanticide'. The argument provided for this distinction is that the moral status of the individual killed is comparable with that of a fetus rather than that of a child. Furthermore, 'after-birth abortion' cannot be termed as 'infanticide' as the interest of the one who dies, is not the concern of choice, as is the case in euthanasia. Rather it is the interest of the family which serves as the criterion for abortion.

A further argument given is that the comparison between the failure to bring a new person to life and the wrong caused by death of an existing person is a faulty one at best. This is because the failure to bring a new person to life does not prevent that person from accomplishing any of their future aims. Therefore, Giubilini and Minerva argue that, since abortion is not wrong, given the argument that she cannot form any aims that she is prevented from achieving, hence it should be permissible to practice after-birth abortion on a healthy newborn, as she has not formed any aims of yet.

The authors provide two premises to their claim and then justify these premises in the rest of their argument. "(1) The moral status of an infant is equivalent to that of a fetus, that is, neither can be considered a person in a morally relevant sense. (2) It is not possible to damage a newborn by preventing her from developing the potentiality to come a person in a morally relevant sense." (2).

I will start my criticism of the Giubilini and Minerva's argument, by using the arguments employed by Charles Camosy. In his paper Camosy argues for the position that, "all members of the species *Homo sapiens* are persons with an equal right to life." (1). Therefore, when Giubilini and Minerva claim that, a person who is born with severe disabilities does not have the same potential as the person who is healthy, they are ignoring the fact that all people have an equal right to life and are the member of the same species. The fact that they were born with a severe disability does not mean that they do not have an equal right to life or that they have a different moral status.

Furthermore, Camosy explains that in accordance with the Juedo-Christian traditions and the Second Vatican Council, the

sanctity of life is such that, “from the moment of its conception life must be guarded with the greatest care” (1). Therefore, Camosy presents a completely different argument as to how we should treat children who are in a vulnerable position. For Giubilini and Minerva, the obvious solution is that since newborn children lack the capacity to deliberate, and if they are in a vulnerable position, such as severely handicapped, they are a burden on the society and the family who raises them. Hence in many such instances abortion has been seen to be permissible before birth and therefore after-birth abortion should be permissible as well.

Here Camosy can provide a counterargument, that those who display a certain vulnerability are not a burden to the society. Furthermore, we do not owe them less but more and that they “deserve our special moral attention that they are so vulnerable.” (2). Some objections might arise to Camosy’s argument for special consideration. One that comes to mind and is quite popular is to the availability of resources. Many might argue that the resources required to maintain a happy life for those who are severely disabled may pose to be a burden to society. Here I will argue that in present day times there are a variety of areas where resources are concentrated, even though the concentration of resources in these areas diminishes our moral growth. Focusing resources towards preserving the sanctity of life, not only allows us to preserve life but also results in our very own moral growth.

Regina Rini’s, attack on Giubilini and Minerva’s argument follows from a logical analysis of the two main arguments employed by the authors. Here Rini says what follows is that the first argument that the moral status of a fetus and newborn are the same, which she terms as (N₁), is a double-edged premise. The premise can be used to either support infanticide, ‘Natal Equivalence Argument’, or prohibit abortion, ‘Parental Equivalence Argument’. The problem with Giubilini and Minerva’s argument is that, they only consider one side of the double edged premise, which insists that abortion is sometimes morally permissible and do not consider the ‘Parental Equivalence Argument’. Furthermore, they take the approach of, “introducing another argument, including a positive

account of properties necessary for a right to life". (354). What positive theory entails is that an account of properties necessary for a right to life is put forward, and then an argument ensues whether the fetus and newborn have these properties or not. The problem that Rini points out is that when Giubilini and Minerva use positive theory, they do not rely on their original premise (N₁), as there is no assertion of moral equivalence between a fetus and a newborn. This leads to the conclusion that they are perhaps relying on a different argument which Rini terms as, 'The Value Personhood Argument'. Since Giubilini and Minerva stray from their original premise, their argument lacks the strength to form a conclusion.

Furthermore, the author moves towards a rejection of the first premise of the Value Personhood Argument. The first premise has two parts and entails that," (VP_{1a}) A moral person (with a right to life) is an individual capable of conceiving of herself as the subject of a life that she values. (VP_{1b}) A moral person (with a right to life) is an individual capable of valuing certain aims, for which the continuation of her life is instrumentally valuable." (354). The problem that occurs with (VP_{1a}) is that it is too demanding, and that the argument extends its scope beyond newborns, infants and perhaps to even non-humans who we have ascertained have some rights. Therefore, even if Giubilini and Minerva focus on the frustration of one's aim when being killed, they are at fault since earlier I have pointed that the sanctity of human life entails that even a child not able to form aims or value life has equal moral rights.

In conclusion even (VP_{1b}) has grounds for rejection, since as Rini points out that a newborn child is a sentient being who can feel pleasure or pain. The newborn child does exhibit needs, "preferences for warmth, for food, for physical contact" (355). Here an objection to this argument does come to mind, one that is like the objection employed when considering non-humans. This objection is that there is no verbal component to the expression of pain or pleasure. Here I will argue that a baby's crying is in all cases a sure sign that it needs some preference satisfied. Thus, once we can show that baby's do has

aims, and they do value life by exhibiting certain signs such as crying, we can prove that the Natal Equivalence Argument is false since a fetus does not exhibit aims and value for life. Hence by critiquing Giubilini and Minerva, using the argument for the sanctity of life and by proving false both the Natal Equivalence argument and the Value Person Hood argument I reject after-birth abortion.

7

Gary Varner A Hierarchy of Values

In this paper I will argue that the Gary Varner's practicable form of biocentrism relies on his two premises of the priority of desire principle and priority of ground project principle. His priority of desire principle is open to critique as it subjects animals such as fish who lack a desire to unnecessary harm and prone to overconsumption. His ground projects principle is open to critique as it places paramount importance on the ability of humans to satisfy their ground projects allowing them too much freedom and, in the event, where the safeguarding of biodiversity and the environment are required, it is highly dependent and reliant on a vigilant and committed ethical and scientific community.

Gary Varner, in his article Biocentric Individualism argues for a position of a practicable form of bio centric individualism. He holds the position that plants have moral standing as they have biological interests and because they provide intrinsic value to the world. However, when assigning value to these interests, Varner can create a hierarchy of value, which are,

ground projects, categorical interest, non-categorical interests and biological interests respectively. The reason why the author moves towards creating a hierarchy of value is that because, his views differ from the views of Paul Taylor who advocates for an egalitarian view regarding interests. Furthermore, it is the authors attempt to free himself of Schweitzer's perpetual guilt, which is the thought that we are guilty when our interests take precedence over the interests of other organisms including plants and animals. Thus, his reasoning is to create a practicable form of biocentrism by maintaining that some interests are morally more significant than others.

The author uses Bernard Williams articulation of ground projects and categorical desires and then puts forward two additional premises to justify his hierarchy of value. A ground project is a collection of projects which give meaning to one's life and a categorical desire is a desire that answers the questions "why is worth life living". Hence, the author, provides two premises; the priority of desires principle states that the loss of the death of an entity that has desires is a worse thing than the loss of the death of an entity that does not have any desires. The priority ground projects principle states that, the satisfaction of ground projects takes precedence over of non-categorical desires. Hence, killing a human who has a desire and ground projects, is worse than killing of some animals who are conscious organisms, only with biological and non-categorical interests, and killing an animal is worse than killing a plant that only has biological interests.

My objection here is that Varner's premise of 'the priority of desire principle',

by safeguarding us from the guilt faced by the killing of animals with no desire, exposes these animals to unnecessary danger. For example, the whale hunting in Japanese waters and throughout the world is exempt from guilt because of the priority of desire principle. If one follows the reasoning behind this principle that one ought not to feel any guilt in hunting whales who have now become an endangered species. Guilt is an important emotion that deters us humans from taking unnecessary advantage of those who are in a more vulnerable

position than their own. Guilt also deters us from hunting animals to extinction as is the case with whales. Hence by safeguarding us from guilt regarding the killing of certain animals lacking desires, the author exposes these animals to further harm. I do not argue here that these lives should take precedence over human lives, and I do not make a value claim. What I do argue here is that by freeing us from the guilt associated with the killing of animals with not desires, the author makes us prone to consuming more of these animals, and hence the fear of extinction.

According to the author the ground projects principle, “attaches preeminent importance to safeguarding humans’ ability to satisfy their ground projects.” Although this preeminent importance may work in the favor of creating biological diversity and hence safeguarding our long-term interests, it can also work in the other direction, where in the absence of an environmentalist, a plant or an animal may be used to extinction to satisfy ground projects. From the starting we can see that the principle is ‘dependent’ on a thriving community of ethicist and environmentalist, committed and dedicated to the proper application of the principle. Using the earlier example of whales, a fishing magnates ground project may be to become extremely wealthy, and the accomplishment of this goal might require the unnecessary over hunting of whales as has happened. The whale hunting still occurs in Japan, even though Japan is now an ‘advanced utopian economy’, where alternate types of foods are now available. There are also various instances where even though whale hunting is limited or there is a quota, these quotas are not enforced and there exists illegal hunting.

In the ivory trade example, many hunters have for generations hunted elephants and thus believe the trade to be important for themselves. They use traditional weaponry and not highly sophisticated weaponry and only hunt as a livelihood. The ivory from the hunt is used in ceremonial occasions and is not considered a luxurious commodity but one that holds spiritual significance. The problem here is that in the recent years the product has ended up in the luxury market, where the ground project may simply be the collection of fancy

jewelry or furniture and leads to mass killings because of the industrial nature of the market and high demand. It may be argued here that the principle only applies to moral interests, however the collection of ivory jewelry may only be immoral for a person who does not find them aesthetically pleasing because the elephant has been hunted for a non-basic interest or they do-not share the affinity for bleached bones.

Therefore, my objection is that Verner's 'priority ground project principle' allows too much freedom to humans to satisfy their ground projects and puts too much trust in the inherent goodness or sensibility of humans. It relies and is dependent on the committed ethical and scientific community to safeguard background biological diversity and our environment. Hence, perhaps it is but an ideal to hope that in satisfying their ground projects humans will not override the non—categorical interests of animals to extinction and that there will always exist an ethical and scientific community to safeguard the general biodiversity and our environment.

The case study *The Smog Lurks High*, highlights these concerns regarding the ground projects principle. Even though Sequoia is a national park, the smog that lurks in the air at certain times of the day is quite dangerous to the visitors and the trees themselves. The ever-vigilant scientific community has to take into account the effects of the smog on the trees as well as research into countering the effects of the smog. The ethical community on the other hand advocates for the reduction in the smog through policy measure and ethical decision making and advocates for research funding and development funding. The political tensions that arise out of this advocacy are quite thick and the case study also highlight previous and current decisions that override the importance of the national part and hence the doubt to the sensibility and of humans when their own ground projects are in concern. Not only is the park a complex ecosystem, perhaps the only one of its kind, it also an important source of comfort for the local residence providing for a brief respite from their busy lives, a source of tourism and source of pride.

An objection to my position that the 'priority ground project principle' allows too much freedom to humans to satisfy their

ground projects, maybe that the interests in the above examples of whale hunting and ivory trade are not moral and the authors principles only apply to moral interests. Perhaps there are enough laws and both international and national agreements in place to not to allow the extinction of animals and plants to occur. Furthermore, there exists an ethical community that is vigilant in the application of the principle to not allow its perversion. Environmental science is an advanced discipline in the academia and that the importance of preservation of both animals and plants is paramount to both biodiversity and further research. One might also go as far as to say that in recent years our moral growth has been such that we are moving away from using animals and plants for but the most basic of our needs.

The reason why these arguments are not serious contenders to my objections is that, firstly it is not immoral to want to accumulate wealth, the problem only arises when at a political level certain quotas are not enforced, or even if they are there is a lack of funding to provide the proper amount of ethical vigilance. Furthermore, the laws both international and national agreements are very much subject to the ever-changing influence of the political landscape. Even when such laws and agreements have been in place, we have seen many a countries not-uphold their agreements, either because their political base remains unconvinced of the advantages to being environmentally conscious or perhaps because adopting a bio centric view has certain costs associated with it, it is hard to implement the approach in certain third world countries or that certain countries view it is a western policy created to increase their influence abroad.

Therefore, in conclusion I remain convinced that Varner's premise of the 'priority of ground project principles' allows too much freedom to humans, putting too much trust in their inherent goodness and is ideal at best. I do not suggest here that we should do away with the principle, what I do is show that it is highly dependent and reliant on a vigilant ethical and scientific community. My suggestion here is that there is need to counter the recent political criticism thrown at the ethical and scientific community. There should be an effort to educate

the local populace on the importance of biodiversity with proofs from the data collected. Furthermore, we should also nurture basic ethical principles into the community so that overtime we develop a mentality that leads the understanding that we have a responsibility to leave a better world for future generations and that a smog filled national park is not a source of pride. When applying this approach to countries outside the western world, individual countries cultures and political systems should be considered to reduce any malevolence created and the idea should not be one that appears to be merely advancing the western world's influence. The reliance on ethical and scientific community can be reduced by a general education effort and fostering ethical and scientific dialogue, although I believe that this reliance on vigilance will always remain so that we do not succumb to our very own guilt.

8

Harmans Relativism

To ascertain the implication of Gilbert Harman's view on the desires of Bertrand Russell that, bull fighting is wrong, as his desires correspond to the fact that there ought not be bullfighting in England. We will first have to outline Harman's position of non-idealized constructivism, and moral relativity, and then proceed with an analysis of the implications of his position. We will then proceed with an outline of Russell's position and consider the implications of the rightness of Russell's theory, and its implication on relativism.

Constructivism then is a counter position to the expressivist position that agrees with error theorists. The error theorist answers in the no to the question, that are there any moral facts. So, the implication of the error theorists view on Russell's position is that since there are no moral facts, and there is no validity to Russell's position. The expressivist theorist then agrees with the error theorist that moral features are not part of this world but thinks that there is some other point to moral judgements. Therefore, the other point to moral judgement is

that when Russell says that there ought not be bull fighting because it is a fact that it is wrong, he is merely expressing an emotion, trying to prescribe a course of action, or invoking a feeling of guilt to derive a commitment to some norm. This brings us to constructivism, “constructivist think that there are true moral standards that are in some way the product of an actual or hypothetical constructive process.” (2). The constructivist position is further divided into the position of non-idealized constructivism which, “tells us that moral properties are conferred on things not by ideal agents, but by ordinary actual agents.” (80).

Harman moves on to provide us a more sophisticated position of moral relativism and constructivism. He tells us that “my thesis is that morality arises when a group of people reach an implicit agreement or come to a tacit understanding about their relationship with one another.” From the very start we can surmise that the constructivist position conflicts with Russell’s position that, his desires are right since it is a fact that there ought not be bullfighting. For the constructivist ultimately, the fact that something ought to be or not ought to be is matter of agreement between a group of people. For the constructivist then, in Russell’s case if there is an agreement between a group of people that bull fighting ought not to happen in England then it is a fact that bull fighting ought not to happen. If such an agreement does not exist, then neither does the fact that bull fighting ought not to happen. Therefore, from the very beginning we can see that Harman’s constructivist position implies that Russell’s position holds no validity. Harman argues that “the judgement that it is wrong of someone to do something makes sense only in relation to an agreement or understanding.” (84). For Russell there need be no agreement since it is a fact there ought not to be bull fighting.

Harman further distinguishes his position by taking the stance that although certain moral judgements are made in relation to some agreement, not all moral judgements are made in relation to agreement. He argues for a position which states that his theory of moral relativism only applies to what are called “inner judgements”. For Harman inner judgements are

moral judgements about a person, which are only made when we suppose that the person in question is capable of being motivated by the relevant moral considerations. Harman further argues that this motivation occurs through an agreement and this he calls moral bargaining.

Harman formalizes his argument through a logical function. He treats the moral 'ought' as used by Russell as a four-place predicate; Ought (A, D, C, M). Here, A is an agent, D is a type of action, C are relevant considerations, and M are motivating attitudes. The output of the function is then an 'ought' statement. Here what Harman is implying in the context of Russell's ought statement is that, Russell-(S) the speaker says that, (A)-England, morally ought to do (D)-that there ought not be bull fighting, then (S)-Russell, is implying that (A)-England, has reasons to do (D)-that there ought not be bullfighting, and (S)-Russell endorses those reasons. Hence, if (S)-Russell says that morally (A)-England ought to do (D) that there ought not be bull fighting, then there are certain motivational attitudes M, which (S)-Russell assumes are shared by S-(Russell), (A)-England, and (S's)-Russell's audience. Harman ultimately argues that the shared motivational attitudes are intentions to keep an agreement, and this is what he calls moral bargaining. According to this argument it follows then that, Harman is implying that if most of the (S's)-Russell's audience agree that there ought to be bull fighting then (S's)-Russell's view that there ought not be bull fighting holds no validity. Here he is also restricting Russell's judgement that bull fighting is wrong, as it corresponds to the fact that there ought not be bull fighting, to his argument of inner judgements.

The inner judgement argument and moral bargaining is a problem for Russell since Russell's judgement that bull fighting is wrong is motivated by the 'fact' that there ought not be bullfighting. For Harman where there is motivation there is an agreement, and where there is an agreement then the outcome whether there ought to be bullfighting or there ought not be bull fighting depends on the agreements reached together by a group of people, and not because Russell's judgement that bull fighting is wrong corresponds to the 'fact' that there ought not be bull fighting. It follows then that Harman can provide a

strong challenge to Russell's argument. He does this by maintaining constructivist position, arguing a for relativist position, and through the introduction of a logical inner judgement argument, and a moral bargaining argument.

If we suppose that the Russell's position is the right position and that, bull fighting is indeed wrong as it corresponds to the fact that there ought not be bull fighting in England, then we are arguing for a view known as moral realism. "According to moral realist, things are morally right or wrong, good or bad, regardless of how they are viewed by actual or even idealized human beings." (3). This poses a problem for the constructivists, and moral relativist as for the constructivist, and moral relativist, endorsements by an actual agent is what determines if moral facts exist or not. For the moral realist then, the principles that ascertain our moral duties are objective. These principles cannot be changed through agreements, and contracts, just because of the attitude of the people to which they apply to. This is not to say that intentionality does not matter to moral realist. Russell's position is one of a moral realist, since he believes that bullfighting is wrong and that it is a 'fact' that there ought not be bullfighting in England. It follows then that moral realist believes that there a correct set of moral standards, and as said earlier these moral standards are not dependent on the endorsements of actual or ideal agents. Therefore, moral realism is a definite objection to moral relativity, and constructivism. For a moral realist some moral truths are independent of our moral opinions. For Bertrand Russell then, the fact that there ought not be bullfighting in England is a moral truth. It is not subjective, it is not an emotion that he is imposing on us, and neither is he trying to prescribe to us a course of action or invoke a feeling of guilt. For a moral realist or everyday norms are then not constructs of desires and beliefs. Rather than our norms come to us through a matter of discovery and patient understanding.

9

Hercules, Fuller and Dworkin Revisited

For Ronald Dworkin law is an interpretative process in which the rights of an individual are to be taken seriously. Furthermore, according to Dworkin in addition to rules, law also includes principles and moral evaluations. Dworkin also creates an ideal, Hercules, who is best suited to deal with hard cases such as *Riggs vs Palmer*. According to Dworkin then there are two ways in which a judge may change an existing rule of law using principles. Firstly, then the necessity and not the sufficiency is that the change would “advance” a principle that “justifies.” the change. Secondly, a judge who seeks to propose a change in an existing doctrine, “must” take into account the important standards that argue against a change from an established doctrine and these standards are mostly principles. Hence, in the same way some rules may not be changed as principles unlike rules carry weight, where some principles count more than others and the “preference” of the judge cannot be a deciding factor as to which principles “justify” change.

Riggs vs Palmer is a hard-case and Dworkin would use his ideal Hercules to answer the question as to how the judges “should” reach a decision. In Riggs vs Palmer, a new interpretation regarding the interpretation of wills was “justified” by a principle that no man should profit from his own wrong. Hence, Hercules accepts that statutes have the power to create and destroy legal rights and judges have a duty to adhere to “rationality” of the earlier decision and the decisions of the higher courts. Furthermore, it is supposed by Hercules that it is accepted that the “justification” of judicial decisions rests on principles and not on policies. Therefore, the judges much like Hercules must now develop their “scheme” of principles which provides a “coherent justification” for common law precedents while at the same time considering the moral evaluations, constitutional and statutory provision. It follows then a justification of principles would be required of the vertical ordering for example the constitutional structure and horizontal ordering requiring the consistency of principles at all levels of decision making. From the example of the change in a hard case such as Riggs vs Palmer, we can infer that there are times when judicial reasoning sometimes leads to judges to reject established rules and change the law. Therefore, we see that the judge uses the change to “advance” the principals, such as “no man should profit from their own wrong and hence the use of principles. In this way a principle provides reason or justification in deciding the case in a certain way.

Furthermore, then according to Dworkin the “moral evaluations” is a central tenant of his theory of interpretative law and there is always a right answer. So, for example in the case where smiling during chess is distracting, the judge should find the answer that best fits with the rules of the game and in the same way during any other case a “change” should only occur if it fits a general theory according to an interpretation of the law that includes precedents, statutes and legal doctrines.

Thus, it may also be the case where some established rules cannot be changed. Dworkin sets out a methodology using the example of Hercules to solve cases how best. Individual rights are paramount and established rules that protect this right for example may not be changed. The best interpretation of the

precedents, statutes and doctrines may further establish that a rule cannot be changed. Principles unlike rules are not absolute and they are weighted so that a certain principle may have more precedence and not allow for a rule to be changed. Furthermore, a judge may not prefer certain principle over the other. Much like the ideal, the judge will look to see if the defendant or the plaintiff has a certain right, the judge will then identify the right against the defendant, but the existence of such a right falls on to the correct interpretation of precedents, statutes, and doctrines and the best fit regarding the general structure may not allow for a change in the rules.

The Ryan Holle case as presented in New York Times, revolves around an English Law doctrine abolished by the Parliament in 1957, followed by abolishment in Common Law countries such as India and recently the Canadian Supreme Court have abolished the doctrine.

The felony murder rule broadens the murder liability for participants. An unintended killing during a felony is murder under the rule and the same applies to an accomplice.

From the article what I can surmise that there seems to be a “consensus” amongst the prosecutor, victims’ rights group, and the Criminal Justice Legal Foundation that even an accomplice should be held accountable for the crime committed by their group. Mr Scheidegger from the Criminal Justice Legal Foundation, seems to apply the “principle of harm” when “justifying” that a person who has choses commit a serious crime with a possibility of causing “death” of an innocent, leaves himself open to conviction.

Furthermore, the “principle of deterrence” seems to assert itself in justifying in upholding the felony murder rule and is one that the prosecutors cite. Even though the statistics show a relatively small effect of deterrence; the prosecutors can assert that even if a few lives are saved through the rule; the worth of the lives is such that the rule ought not to change. The “principle of retributive justice” is all too evident in this case and from the evidence present it is possible to infer that Ryan Holle serves to be an “example” for future deterrence. Even though Ryan Holle was offered a plea bargain he rejected it. The plea bargains does seem to hint at a “principle of fairness”

in terms of the prosecutor's decision making as the prosecutor notes that Ryan was not as culpable as others. Although the prosecutor does employ rather sharp opening remarks; "no car, no crime" and Ryan Holle does make it difficult for himself by testifying that it might be necessary to "knock out" Jessica Snyder.

When it comes to ascertaining which principles "ought" to have been employed, I think it makes sense to look at the fact that there are certain courts that have limited the "harshest applications" of the rule. Furthermore, there are states that have abolished the rule altogether including Hawaii, Kentucky, and Michigan. Here I think that it is important to consider the moral evaluations of the rule and furthermore, the effect that it has on the personality of the populace. Does it seem to offer guidance to the society? It could very possibly be that, instead of clinging on to the retributive principal asserted by the rule, striking down the rule, may bring about a much more positive change. Hence, it is important to look at the purpose of the decision against Ryan Holle, and if the rule is as St. Augustine says unjust in making an example of him, referring to the principle in Henningsen that courts refuse to lend themselves to a bargain in which one party is unjustly taking advantage of the necessities of the other.

There are other principles that ought to have been applied in this case, such as upholding the principal of legal validity, referencing Hart, that criminal offences be precisely defined and as the Canadian Supreme Court says that the punishment must be in proportion to the moral blameworthiness of the offender. The principle of suffering and if the ruling in regards to Ryan Holle causes him, others like him and the society undue suffering and finally, the principle that originally led to the abolishment of the rule in Europe that people should be held responsible for their own acts and not the acts of other. Therefore, I think the present circumstances of the case are missing some crucial principles in consideration such as suffering, validity, and unjustness to name a few.

10

Moral Realism, Ethical Naturalism and Non-Naturalism

When presented with a choice between the philosophical position on Moral Realism, I find Russ Shafer Landau's position of Ethical Non-Naturalism to be a position that is most plausible. According to Landau, Ethical Naturalism is a brand of moral realism. Landau defines Ethical Non-Naturalism as, "It claims that there are instantiated moral properties that are not natural properties." (210). Naturalism holds that it is within the natural sciences itself that reality can be found, and this is contrasted in Ethical Non-Naturalism where moral properties are not natural properties. Therefore, moral truths are discoverable a priori much like in mathematics, rather than a posteriori as is the case for natural science. Landau's account of Ethical Non-naturalism does not offer a defense of a priori knowledge but seeks to offer arguments as to how ethical inquiry is dissimilar to naturalistic scientific investigation.

I find Ethical Non-Naturalism to be plausible since it asserts the existence of moral properties, and this differentiates it from the moral nihilism which is the view that there exist no moral properties. There is evidence of there being actions that are morally good or bad in our present-day times and therefore this evidence makes Landau's position much more plausible. Landau's argument that ethics is a branch of philosophy also lends credibility to his non-naturalism. This is because since ethics is now a branch of philosophy and species inherits the essential traits of its genus therefore much like philosophical truths, ethical truths are discoverable through a priori methods. I find this to be a plausible argument because Landau tells us that there are many truths ordinarily discoverable, such as free will, universals, and modalities. Landau gives further credibility to his argument by telling us that moral disagreements about a non-naturalism does not mean that the argument should be rejected as there do exist disagreements regarding ethical naturalism. This is not to say that scientific evidence should be ignored, scientific investigation is important although many simple moral truths should be and can be deduced through a priori methods.

Philippa Foot's argument rests on the assumption of instrumentalism denying the existence of categorical imperatives and this contrasts with the rationalist position which defends them. Philippa argues to the ambiguity of the two types of categorical imperative, one in which a moral duty applies to persons independently of their ends and second in which a moral duty supplies a reason. Philippa uses the example of etiquette and argues that those who do not conform to etiquette and are comfortable in living with the consequences can disregard etiquette and will have no reason to comply by them. Therefore, when it comes to reason to be moral, most people either care about morality directly, or care about the rewards that a certain moral behavior may bring. I do not find Philippa's argument to be plausible since she ignores that there are somethings that have intrinsic value and that we may perform a duty out of respect of law rather than care or because of an end. Philippa considers rejects the categorical imperative and says all imperatives are hypothetical

and that we do not perform any action because of its morality rather we just perform it because of it end.

Bernard Williams seems to defend a view that is like the one defended by Philippa, as his paper seeks to, “defend internalism about reasons, or reason internalism for short” (283). This view seems to depend on a motivating factor and that a reason exists only if it can motivate the person act after sound deliberation. This position can be distinguished from motivational internalism which states that, “something qualifies as a sincere moral judgement only if it motivates the one who holds the judgement. Reason internalism focuses on the capability of the reason and whether it motivates the agent or not. I do not find this to be plausible since I think it to be unfair to say that a moral judgment is sincere only if it motivates a person. This position seems to bring about problems such as even after sound deliberation some people may have no reason to for morality as they are not motivated by reason.

Christine Krosgard although endorsing internalism about reasons, takes to a philosophical position that is opposed to William’s conclusion of reason internalism. Krosgard takes to a position of skepticism about practical reason, “I mean doubts about the extent to which human action is or could be directed by reason.” (299). She further breaks down her position into two forms of skepticism, content skepticism and motivational skepticism. Her paper is concerned with motivational skepticism and with the question if it is justified. Her position seeks to show that, “motivational considerations do not provide any reason, in advance of specific proposals, for skepticism about practical reasons.” (310). I do not find this position to be plausible because as Landau tells us that there, “there is no satisfying explanation for the (alleged) fact that moral duties supply reasons for action.” (284). Furthermore, I do find the position of moral rationalism quite attractive.

Michael Smith on the other hands seeks to defend a position that I find to be much more plausible given my attraction to moral rationalism. His position is that of an internalist and he seeks to defend both the practicality requirement and rationalism. His practicality requirement states that, “If an agent judges it right for her to do x in circumstance C, then

either she is motivated to x in C or she is practically irrational.” (138). This view seems more plausible to me since he strengthens the internalist position, that judging something to be right gives rise to motivation. This strengthened position seems to have the effect of binding us to morality through rationality.

Moral realism is the claim that, “every moral fact is either conceiving independent moral fact or is explained by such fact”. (158). Therefore, it can be said that the attitudes or endorsements of humans do not influence whether something is morally right or wrong and that a moral fact is based on properties not defined by human opinion and judgement. The difference between scientific and moral disagreement is while science even though it does not agree to everything, “seems to have reached a far broader consensus on about which methods to are adequate for confirming hypotheses and making scientific progress.” (368). While on the other hand when it comes to ethics, “there is little agreement about how to confirm moral judgements, and just as little agreement about how to register progress in our moral outlooks.” (368).

Therefore, since there is not a set method to confirm moral judgements in ethics, when it comes to disagreements many philosophers do not have a fallback method to verify their judgements. Whereas in science when a disagreement occurs the scientists fall back to their method of verifying the validity of their hypothesis. Since there is moral disagreement present and this can be a problem for the realist position, philosophers have made moves to counter this precarious position and thereby reducing the criticism against moral realism. Mirroring the scientists who create methods to determine the validity of a hypothesis, philosophers have created a benchmark against which to measure moral truths. This is done so by drawing from the “great amount of ethical agreement that exists both within any given society and more importantly across societies” (368). Although this position is more of a general position than a strictly scientific one, it is greatly beneficial to the moral realist position. Furthermore, it provides for great advantages for philosophers as they look across historical and social divides to find agreements. This further helps in creating a,

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empathetic philosophers who is keen to understand different viewpoints, cultures and greatly reduces ignorance.

11

Commonalities and differences in a morally defensible good life as provided for by, Aristotle, Plato, and Thomas Hobbes

The works of the three philosopher Aristotle, Plato, and Hobbes regarding having a good, morally defensible life have similar themes present. This is not to say that their works are completely similar, and there do exist monumental differences. Aristotle who was Plato's student provided his own views regarding the good-life and was quite critical of his teacher. Hobbes was a 16th century English philosopher who grew up in a time of strife, and his views seem to reflect the nature of humans in a time of strife and war. The purpose of this paper then is to provide an out-line of the good-life as presented by these three philosophers, and to provide findings of commonality, differences, and reasons to support a certain view.

Here I shall start with the Socratic dialogues as the dialogues provide themes which are carried forward in both Aristotle and Hobbes. In the Republic, Plato argues that every man has a function, and the proper use of the function of the man is to live justly and achieve a state of unity, and harmony with himself, and with his community. Plato values the community

Commonalities and differences in a morally defensible good life as provided for... over the individual and argues that any action which disrupts the community is unlawful. Plato argues that the city has certain parts, so does a man have certain parts. The city has three parts; “the producing part, the auxiliary, and the deliberative.” (92). What makes the city just is the ability of these parts to do their own work, “that what makes the city just, is the fact of each of the three parts therein doing its own work.” (93). Plato’s three parts of the city, the producing part, the auxiliary part, and the deliberative part, correspond to, temperate, brave, and wise, respectively. Plato then argues that if an individual has the same three forms in his soul, and if they are in harmony with each other then he can be judged to be as just as the city. Plato is not yet satisfied with his definition of the good life and seeks to add more. He then argues that a man should use his wisdom, which is but a small part in him to reign in his temperance, and spirit to ascertain what is the true knowledge of what is advantageous to the community and members in it. Therefore, Plato concludes that the good life is not only composed of the three parts of a man’s soul working in harmony with each other, but also the fact that good life is achieved using reason working in a capacity to ascertain the true knowledge which is advantageous to the whole community. “And we call him wise, in virtue of that small which reigns within him, and issues these instructions, and which also in its turn contains within itself a true knowledge of what is advantageous for the whole community compose of these three principles, and for each member of it”. (93).

Aristotle then resumes his inquiry into what good is and does this by looking towards the lives that men lead. He does this, since to live a good life, we must determine what good is. He identifies the three prominent types of lives as observed: the life of pleasure and enjoyment, “the political and thirdly the contemplative life” (127). Proceeding further Aristotle speaks of good in two ways; “and some must be good in themselves, the others by reason of these.” (127). From here on we can surmise that happiness is the ultimate good because; “for this we choose always for itself and never for the sake of something else” (128). He further provides a clearer account, starting with the functions argument that everything has function, and purpose.

Commonalities and differences in a morally defensible good life as provided for... Just as a flute player has a function and playing the flute well resides in this function then so does every human have a function. If man is to have a function besides these then, it would be a life of nutrition and growth, which is akin to the lives of plants, the life of perception which is available to animals. The life of reason then is what separates us from plant and animals. The life of reason can be divided into the obedient and exercising thought and then we can state the function of the life, “an activity of the soul implying a rational principle and the function of the good man to be good and noble performance of these, and if any action is well performed when it is performed in accordance with the appropriate excellence.” (129). From this excerpt we can conclude then that, the morally defensible good life is one which is lived in accordance with reason, and through contemplation allowing one to choose well those functions which bring about happiness. Virtue is then defined as excellence and the good performance of functions.

Aristotle adds further that to know the functions which will bring about the greatest happiness, we need to explore virtue further. He divides virtue into moral virtue and intellectual virtue. Moral virtue can be acquired through training, while intellectual virtue is further divided into theoretical wisdom, and practical wisdom. Theoretical wisdom is defined as the exploration of sciences and to ascertain their truth and this is the contemplative part. Practical wisdom then is to ascertain what is good for the community and this is termed as legislative reason and is the calculating part. Plato further adds that the good life should be lived in moderation and that both excess and deficiency are a vice. This analogy corresponds with Plato’s balance of the tripartite soul and so does Aristotle’s conclusion that the good life should be lived in accordance with the state and to follow the rules to find a balance with the good of the community.

In contrast to Aristotle, Hobbes account for the greatest good is non-existent. “For there is no such *finis ultimus*, utmost aim, nor *summum bonum*, greatest good, as is spoken of in the books of the old moral philosopher.” (238). Even though he does not adhere to the Platonic discourse, he does admit that

Commonalities and differences in a morally defensible good life as provided for... humans do indeed have an appetite, and this appetite is what drives them towards power. He does admit to powers of reasoning and even though while disagreeing with much of Aristotle's work, he is able to use his practical wisdom, to provide us with a descriptive analysis of human nature, while at the same time providing us with a normative set of laws through which a common power can be established. "I put for a general inclination of all mankind, a perpetual desire for power after power, that ceaseth only in death." (238). His reasoning for obeying a common power is a "desire of knowledge, and arts of peace, inclineth men to obey a common power: for such desire, containeth a desire of leisure; and consequently, protection from some other power than their own." (238). From the above excerpts it follows then that, it is in human nature to be selfish, and this leads us to the Right of Nature; "the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature." (241). Since men is but selfish in nature then our reasoning provides, he should seek peace, since the continuous state of war will lead to nothing but the utter destruction of oneself. Much like Plato and Aristotle, Hobbes does indeed adhere to the idea of a state, and much like Plato and Aristotle he proposes an idea of justice. His idea of justice is to establish covenants, and so that a transfer of right may occur, and injustice occurs when men do not adhere to covenants. His idea of the state is the establishment of an absolute monarchy.

From the outlines above we can surmise that there are, indeed, common themes present in the views of all three philosophers. Plato introduces to us the balance between the three elements of the tripartite soul present in the city and man. Aristotle builds on this idea by introducing the doctrine of mean, which corresponds to the Plato's idea of the balance between the three parts of the soul. Plato, Aristotle, and Hobbes all agree on the importance of our reasoning capabilities. Plato introduces the functions argument, and this is further developed in the works of Aristotle. The difference in Aristotle arises with his division of virtue into moral and intellectual virtue. This division gives his theories a very sophisticated and comprehensive appeal, and this is one reason

Commonalities and differences in a morally defensible good life as provided for... why I support Aristotle's account of a good life. The other reason to support Aristotle would be that he provides for a solid ground from which to gauge both Plato and Hobbes. Hobbes provides us with an account of Justice and this one theme that is consistent between all three philosophers. Hobbes account of justice is completely different than that of Plato and he focuses more on contract theory while Plato focuses on a balance. All three philosophers seem to agree on the existence of the state. The difference arises in Hobbes who seems to think the state is necessary because of our selfish nature, while Plato and Aristotle seem to think that existence of the state is important to achieve a point of flourishing. Aristotle goes as far as to say that politics is that one science whose aim is to study the good and provide for legislation that promotes the flourishing of the community and the people within.

12

Exposition and analysis of destiny, free agency, freedom of choice and action in J.K Rowling's Harry Potter

The Harry Potter books contain strong considerations to the philosophical arguments of destiny, freedom of choice and action. J.K Rowling's writing seems to suggest that she agrees on our possession of free-will. Her writings seem to exemplify the ability to make choices to determine the rightness and wrongness of our actions. The ability to make choices is represented in the characters of both Harry Potter and Tom Riddle. The purpose of this paper is to present an explanation of the philosophical terms such as destiny, freedom of choice and then proceed with a critical analysis on how J.K Rowling takes on a compatibilist view regarding free-will and at times leaning towards libertarianism.

According to Jeremy Pierce, "A compatibilist about freedom and predetermination thinks we can be free even if our choices are determined by things outside our control. Some compatibilist says there's just one possible outcome, the actual future. Other compatibilists speak of possible choices meaning we can consider various options and pick one, even if our deliberation is determined by things outside our control." (43).

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In the Harry Potter books the choice between right and wrong is apparent. To challenge our very own conception of free-will, J.K Rowling introduces Professor Trelawny, a seer who had foretold of a prophecy that, a certain boy would be born and would rise to challenge Tom Riddle. In the books J.K Rowling shows an affinity for an open future, which is the denial of destiny. She does this by introducing a fork in the prophecy, as there are two boys who are born with familiar traits. Both Harry Potter and Neville Longbottom represent traits which may prove dangerous to Tom Riddle and here is when Tom Riddle makes a choice and attacks Harry Potter, considering him to be more of a threat or merely out of hate as Harry Potter is a half-blood like Tom Riddle.

Here it is important to consider the libertarian view regarding free-will. According to Jeremy Pierce, "A libertarian about freedom holds that we have options because there's nothing that guarantees our choices ahead of time". (43). Therefore, in contrast to compatibilism, libertarianism considers predetermined choices not free. For a person who holds a strict libertarian view, free will is incompatible with determinism and therefore determinism is false. According to Gregory Bassham, casual determinism can be defined as "the view that all events including all human actions and choices, are the inevitable outcome of prior causes." (215). In her interview in 2007, J.K Rowling tells us that her introduction of Professor Trelawney reflects her view that there is no such thing as destiny. This statement suggests a position that rejects fatality that the future is completely fixed although it still leaves open the argument of determinism.

The fact that in her writings J.K Rowling introduces choice, suggests that she takes up a position of compatibilism. The earlier given definition of casual determinism is further broken into two further positions. These are the positions of soft determinism and hard determinism. One of the major problems with casual determinism in terms of the Harry Potter books and our very own reality is of moral responsibility. If all our actions are determined by prior causes and if we are not in control of our actions, then we ought not to be prosecuted for our wrong doings. This is one of the major reasons why many

Exposition and analysis of destiny, free agency, freedom of choice and action in... philosophers look towards a view where we are responsible for our choices and actions.

The position of Hard Determinism disagrees with free-will being possible in a completely determined world. Soft determinism is the position that free-will give us the ability to choose. Gregory Bassham further elaborates that, "If you can do so as you wish, if no person, force, or thing is forcing you to do something against your will, then your act is free". (216). Therefore, soft determinism is compatible with free-will while hard- determinism is incompatible with free-will. Our example of the prophecy driven choice of Tom Riddle, to attack Harry Potter can be considered an example of Soft Determinism. The prophecy caused Tom Riddle to attack Harry, although the choice between Harry and Neville was a conscious choice undertaken by Tom Riddle without being forced into it.

As mentioned earlier, in her writings, J.K Rowling does lean towards a libertarianism view. Gregory Bassham further distinguishes free action in libertarianism, "By "free act", libertarianism generally means acts that are (a) caused exclusively by the agent and (b) genuinely could have been otherwise than they are." (216). Our example of Tom Riddle deciding to attack Harry does not adhere to the libertarian argument. This is because the example conflicts with the first premise. In our example the prophecy that there will be a child born who will revolt against Tom Riddle, compels Tom Riddle to attack Harry. In the example Tom Riddle is driven by forces beyond his control. The first premise states that the act should exclusively be caused by the agent. This is not so in our example as there are predetermined factors which will cause a child to grow up to go against Tom Riddle. These factors might include the fact that both Harry's and Neville's families have opposed Tom Riddles rise to power. An example that does adhere to the premises of libertarianism is Harry's decision to give the winnings of his tournament to the Weasley brothers. This act was completely free and was not caused by any internal or external forces. Harry was not compelled by any past events and therefore we can say the act was exclusively caused by the agent as required by the first premise of libertarianism. This example also stays true to the second premise which states that,

Exposition and analysis of destiny, free agency, freedom of choice and action in... if time was to be rolled back and Harry found himself in the same exact position, he could choose to take the winnings for himself or give them to somebody else.

To further analyze J.K Rowling's position as either one of compatibilism or libertarianism, we need to look at the concept of time in Harry Potter. From the time travel examples in the book, we can surmise that J.K Rowling seems to hold a position of a fixed future and in the fixed future view the past cannot be changed. Jeremy Pierce notes that, "You can't change the past according to the fixed-time theory, and that means you won't kill yourself. You already survived, so it won't happen because it didn't happen." (45). Jeremy Pierce uses two examples of time travel as present in the Harry Potter books. The first example of time travel is the saving of Buckbeak and Sirius Black. In this account of time travel, the duo only travels back three hours and there is no mention of a change. The second account of time travel occurs when, Harry cast a Patronus that saved the earlier Harry from dementors. Here Jeremy Pierce notes that, "Yet future events because those presents actions, which means the future must happen in a certain way for Harry and Hermione to have been able to travel back in time to do these things". This example is important as it enforces the deterministic view that outcomes occur due to prior causes.

Another important reason that suggests that J.K Rowling has a compatibilist view is that the fixed view of time, is an acceptable view according to our current theories of physics. A fixed view of time is acceptable because it is compatible with special relativity, and this is because an open future requires an absolute present. Jeremy Pierce notes that, "An open future requires an absolute present. What we call an absolute present is relative to a frame of reference. There can't be an absolute present if special relativity is correct." (46). According to our theoretical physics future is a matter of chance because we have probabilities of different future or options. This is also the view that is held by quantum physics theorist. Libertarianism and Hard Compatibilists say that options undermine freedom. Since throughout the book, the characters are presented with choices we can surmise that J.K Rowling holds a view of soft

Exposition and analysis of destiny, free agency, freedom of choice and action in... determinism, a view that holds that free will is compatible with determinism.

A brief analysis of Professor Trelawney's prophecies in relation to time is also in order. If there exists a fixed future and a seer has full access to it then it is very likely the prophecy will come true. If there is an open future, then a prophecy and a view of a destiny is unacceptable. In a fixed future even if most of the events leading to the major event fail, the major event will happen. Jeremy Pierce notes that, "Harry and his friends defeat Voldemort and his followers, despite overwhelming odds, partly from sheer luck, and it fulfills a prophecy. That's hard to make sense without a stronger connection between the prophecy and the actual future". (47). This sheer success can be attributed to luck, preparations by someone as Dumbledore, a culmination of successful events, or perhaps even to divine intervention. Although success of these many events towards a culmination of major event points to a position of soft determinism adopted by the author. From the above analysis of some of the events in the books of Harry Potter we may begin to draw the conclusion that J.K Rowling's writings inhibit traits of soft compatibilism. Even though in her 2007 interview she denies the existence of destiny, her concepts of a fixed time and a not so open future seem to suggest a determinist view inhibiting traits of compatibilism with free-will and hence soft determinism. Some of her writings do indeed inhibit traits of libertarianism, but for the most part we can be confident that she writes from a compatibilist point of view.

13

How Politics has Influenced the US Criminal Justice System

So Like all institutions the criminal justice system is “political” where choices are made among competing values such as the rights of defendants, protection of persons and property, justice, and freedom. Therefore, judicial personnel in the justice system are engaged in “authoritative allocation of values” in the same sense as are other government decision makers whose positions are generally perceived as political. The criminal justice system in the United States has traditionally operated under two fundamentally different theories. One theory is the Crime Control Model characterized by idea that criminal should be aggressively pursued, and crime aggressively punished. The other theory is the Due Process Model characterized by the idea that the rights of the accused need to be carefully protected in any criminal justice system. Our criminal justice system is based on a conservative theology, which assumes that

the root of crime is moral and not material and that swift and severe punishment is a necessary deterrence to crime.

The Deterrence Theory assumes that human beings are rational characters who consider the consequences of their behavior before deciding to commit a crime. However, this is often not the case. For example, half of all the state prisoners were under the influence of drugs or alcohol at the time of their offense. Therefore, it is highly unlikely that such people are deterred by either the severity of punishment or the certainty of punishment because of their inability to judge the outcomes of their actions. Another flaw of the deterrence theory is exposed when the subtleties of the criminal justice system are concerned. If there were a 100% certainty that people of being apprehended for committing a crime, few people would do so. As most crimes even the serious ones do not result in an arrest and conviction the overall deterrent effect of the punishment is reduced. Enhancing the severity of the severity of punishment will have little impact on people who do not believe they will be apprehended for their actions. It is because of the deterrence theory that over the past several decades state and federal incarceration rates have increased dramatically.

Rational choice theory assumes that the criminal is acting because his choices are constrained. Crime is the only avenue available. If there were other options that could be just as lucrative and interesting those would be done instead. It assumes that criminals are inherently rational, just like all people. Therefore, the only way to effectively deter crime is to make the cost of crime so high that no rational person would commit it. The 1970's Comprehensive Drug Abuse Prevention and Controlled Act was perhaps the biggest bill passed creating the war on drugs and is a classic example of making the cost of crime so high that no rational person would commit them. The act increased the people incarcerated in prisons because of drug related crimes and at the same time increased the risk of the crime. According to the economic theory the higher the risk the higher is the reward of a certain act. Therefore, the act not only put many people into prison it increased the cost of drugs making it more lucrative for the cartels that could get away with smuggling. The recent decriminalization of drugs

such as marijuana reduced the cost of the drug making it more accessible and therefore not as lucrative for cartels. Therefore, decriminalization appears to a better way of controlling the use of drugs.

Over time it has been seen that what works best is evidence-based policy rather than theology. It is argued that because theology deals with personal morals the criminal sanctions end up being misused. Over criminalization the misuse of the criminal sanction can contribute to disrespect for law and can damage the ends to which law is supposed to serve, by criminalizing conduct regarded as legitimate by the majority of a society.

14

Federalist 51

The writing of the Federalist papers towards the end of the Revolutionary Era of the United States (1773-1789), represents one of the most important critical junctures in the History of the United States. The tone used to address the issues in the Federalist papers is a classic example of the literary talent inherent in that era. James Madison and Alexander Hamilton, were experienced writers and used loose sentence structures throughout the Federalist papers with great efficiency. A loose sentence structure consists of a main clause followed by a subordinate sentence structure. The number of ideas inherent in a loose language structure is easily increased by adding phrases and clauses related either to the main constructions or to a preceding subordinate one. The Federalist 51 represents the culmination of the treatment of separation of powers begun in the Federalist 47. It is a central point for the argument of The Federalist since it recapitulates crucial thesis from Federalist 10 and points ahead to the account (in Federalist 52-83) of each of the branches of government especially the judiciary (Federalist 78-83).

Madison begins with the question that has defined the inquiry of separation of power and congress since Federalist 48: “To what expedient, then shall we finally resort, for maintaining in practice the necessary partition of power among the several departments as laid down in the constitution?” From the previous Federalist Papers especially Federalist 48-50 we have learned that neither “parchment barriers” nor popular conventions and referenda are the solution to this problem. The solution consists rather in “so contriving the interior structure of the government as that it’s several constituent parts may, by their mutual relations, relations be the means of keeping each other in their proper places.” It seems that Madison will only give us partial satisfaction” “without presuming to undertake the full development of this important idea, I will hazard a few general observations which may perhaps place it in a clearer light.”

During the article Madison provides us with solid justifications towards his argument for a congress and more so towards the principle of separation of power. Each branch of the government for the most part in Madison’s opinion should be independent. To assure such independence no one branch should have too much power in selecting the members of the other two branches. This ensures that the practice of liberty by each department is not hampered by the activities of another department and henceforth no one department has the capacity to influence the practice of liberty of another department. Madison then moves on to the issue of the concentration of power in one department and how this may become a liability for the general populace and devises a check for it. He argues that those who administer these departments must be given the necessary personal motivation and constitutional means to counteract the encroachment of others. “Ambition must be made to counteract ambition”. Further Madison argues that to create a government which is administered by men over men, the greatest difficulty lies in enabling the government to control the governed, and then oblige it to control itself. In the judiciary department the principle of independence should be strictly enforced since there are required qualifications necessary for appointment of

such individual. Also, since permanent life tenures are held in this department, they destroy all sense of dependance on the authority that confers it on them. Were the executive magistrate, or judges, not independent of the legislature, their independence would be nominal.

Also, it is not possible to give every department an equal power of self-defense. In the republican government the legislative authority dominates and therefore the remedy to this inconvenience and concentration of power lies in dividing the legislature into different branches and have them be as little connected to each other as possible. Here Madison explains a further precaution and explains that since the weight of responsibility on the legislature demands it to be broken down into different branches, the same way the weakness of the executive may require on the other hand, that it should be fortified. Madison in his paper explains the two considerations that are extremely important to the federal system of the United States. He says that in a single republic all the power surrendered by the people is submitted to the administration of a single government and any mischief is guarded against by a division of government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the right of the people. The different governments will control each other and will be controlled by itself. Not only is the society than guarded against the oppression of rulers but is also guarded against the injustices of the different segments of the society on each other. Different interests necessarily exist in the different classes of citizens. If a majority was united for a common purpose the right of the minority might be in danger. There are but two methods of preventing such an occasion. One is to create in the society a will independent of the majority and other method which is exemplified in the Federal government is the breakdown of the society into many parts so that the will of the majority has no effect on the minority.

The Federalist 51 remains one of the most important federalist papers to date since it addresses means by which appropriate checks and balances can be created in the government and advocates a separation of power within the national government. Based on the arguments and justifications presented in the Federalist 51 and having read the prevalent situation at the that time, especially the weakness of the Articles of Confederation it is safe say that the paper contains valid argument in favor of citizen security and the fair running of the state. It represents a federal model of government that is still effective to this very date and henceforth shows the foresight of the Publius.

15

Plato's Allegory of the Cave

In Plato's ascent out of the cave he accepts that the general human can think accept and speak without any knowledge of the realms of reality. He portrays an allegory where prisoners are kept facing a wall and are made to see shadows in-front of the wall using puppet. The prisoners are not aware of the reality that exists, such prisoners would mistake appearance for reality. They would think the things they see on the wall (the shadows) were real and they would know nothing of the cause of the shadows. Therefore, using the allegory Plato is able to show the absence of rationality by saying that the prisoners might be talking about a book that he see on the wall but it is but a shadow. Plato's point is that the prisoners would be mistaken. For they would be taking the terms in their own language to refer to the shadow as the things that they see rather than the real things that cast the shadow. Therefore, this explains Plato's thought that the general terms of our language are not names of the physical objects that we can see but rather the names of things we cannot see or rather just grasp with our minds. Turning our heads and seeing the

causes is analogous to coming to grasp the forms with their minds. Plato's aim in the Republic is to describe what is necessary for us to achieve this reflective understanding. But even without it he stresses that our ability to think and to speak depends on the Forms. We may acquire concepts by our perceptual experience of physical objects although we would be mistaken if we thought that the concepts that we grasp were on the same level as the things we perceive or feel and can reason with.

The Greeks before Heraclitus's time focused on the essence of things, it's nature being, which they deemed unchangeable. In contrast, On those stepping into rivers staying the same other and other waters flow. (DK22B12). This simple sentence expresses the gist of his philosophy meaning that the river is not the same river in two different points in time. It is a radical position that Heraclitus takes, and Plato and Socrates have remarked that this extreme view in their opinion leads to logical incoherence as it denies the law of non-contradiction which does not hold for changing things in the world. He looked at everything being in the state of a permanent flux and hence reality being merely a succession of transitory states. He told people that nothing is the now as it was before, and thus nothing what is now will be the same tomorrow. He can use the river as a metaphor to depict the nature of all things; superficially a river may appear to be permanent and stable entity, but on closer inspection it is revealed that it continually changes not being the same river from one moment to the next. Plato and Socrates were known to say that Heraclitus contradicts the Law of non-contradiction which does not take into account the motion and change. Aristotle comments that Heraclitus' assertion that all things are in motion exceeds the limits of sense perception. Aristotle also provides further clarification of Heraclitus' philosophy explaining that a result of the Heraclitean doctrine that all sensible things are ever in a state of flux is that there is no knowledge about them. Beginning with the assumption that knowing must have for its object the permanent and unchanging, Heraclitus probably draws the conclusion that there can be no knowledge of sensible objects since they lack permanence.

Plato's three parts of soul and city are signified much more with the establishment of the Academy. It is considered his response from individual to political justice. The three parts of the soul; appetite, spirit, and reason and the three parts of the city workers, police and philosophers. The reason part of the soul knows the Form; knows therefore reality. This part also contains the dynamic element. The second part of the soul, the spirited, is chiefly exemplified in the military man and is expressed in the qualities of courage, ferocity, fortitude, loyalty, and patriotism which are traditionally associated with him for both good and for evil. The third of the soul is which that craves desires. This is conceived to be the ragbag in which all impulses and desires originate, rise into consciousness and clamor for satisfaction and hence a man that is ruled by the third part of the soul can get lost in the impulses and desires which it belongs to. As them exist this third part of the soul in all men therefore there arises the need to police not only one's soul but also that of the general populace. Plato's formula of the soul allows for reason to enlist the spirit and henceforth curb and fulfill the desires of the soul by taking control and dominance. In Plato's republic the virtue is identified with the contented performance of its proper functions by each part of the three souls and therefore which lead to his being able the bring about the existence of the Academy.

The Jain Metaphor of the Leaky boat explains their viewpoint of avoiding and shedding karma. According to the Jain school of thought karma is always negative and therefore should be avoided because it keeps them away from the goal of eternal life. The metaphor represents a leaking boat, water represents karma which has to be emptied from the vessel and the leak plugged in to insure not to let karma in. The boat is travelling towards an island and hence land represents enlightens. Water represents chaos and fire. In the same way water represents round after round of rebirth and land represents eternal life. The metaphor explains and compares water to karma and hence we can understand why according to the Jain thought an accumulation of Karma/Water can lead to the sinking of the ship or keep the followers away from eternal life. The metaphor also adheres to the thought of Multiplicity

of Reality (non-one- endedness) which is signified in the journey and the hypothetical and imperfect nature of perspective ad judgements which is signified in the round after round of re-birth and death in water. Confucius was the champion of order and ritual. His right intention over right act means that one's heart should be in the right place. He says that rituals are the strengths of the society therefore they should be done with the proper intention There is no need to have faulty intentions if you do not want to go ahead with a certain ritual. This gives significance to the rituals that are to perform and conforms to his golden principle that treat others the way you want to be treated and therefore when keeps their intentions clean, they are able to better respond not to be shallow with others.

16

The Externalist Challenge

According to Zangwill, “Motivational externalism is the view that moral judgements have no motivational efficacy in themselves, and that when they motivate us, the source of motivation lies outside the moral judgement in a separate desire.” (Landau, 243). Smith argues that “good people care non-derivatively about honesty, the weal and woe of their children...and the like, not just one thing: doing what they believe to be right.” (238). In our case when Alice saves B she does this just because it is the right thing to do and not out of a non-derivative concern such as love. Therefore, she is acting out of his belief that it is the right thing to do, where according to Smith this is read as “de dicto and not de re” (238). Such an act according to common sense is termed as a fetish or vice and therefore externalism is wrong since it commits us to the following of a de dicto rule. Zangwill starts his attack on Smith’s argument by saying that Smith is unfair in saying what determines the goodness of a person are the moral desires which motivate a person to act on belief. In this paper then I will provide a detailed explanation of the

externalist view on moral motivation, why Smith thinks that the ‘one thought too many’ undermines the externalist argument and then proceed to Zangwill’s defense of Smith’s objections.

As stated earlier the externalist view regarding moral motivation is that a moral judgement is not constituted by any internal motivation. Our moral motivation comes from the outside and is separate from moral motivation. Zangwill proposes a reworking of the traditional framework of moral thought to come up with a much more form of comprehensive externalism. He does not want to focus on the issue of the cognitive or non-cognitive conception of moral thought. What he does propose is to, “frame the issue in terms of “representational content” of propositional attitudes of all sorts” (244). Therefore, now the issue becomes that either we have or do not have proposition attitudes. Contents of proposition attitudes are mind-independent moral states of affairs. Zangwill further tells us that it is possible to take two positions on the content of propositional attitudes. One position is that of a “realist about moral thought” and the other “non-realist about moral thought”. Zangwill’s account of externalism appeals to someone who is a realist about moral thought. Therefore, now the externalist position of moral motivation as noted by Zangwill, “moral motivation, on this account, is to be explained by appealing to the existence of specifically moral motive.” (244). Further elaboration results into two premises that yield what Zangwill terms Moral Content Externalism. The first premise is that of moral motivation and the belief that some act of ours would have the property of being morally better than some alternative. The second that there is an independent desire to do actions with that property.

Smith’s challenge to externalism stems from the Bertrand Williams argument of the

“one thought too many”. Smith’s objection is related to the first premise of Zangwill’s, Moral Content Externalism. Smith’s objection to the first premise is that “the virtuous agent is ultimately motivated by the fact that he possesses a moral property rather than by the natural features of the situation in

which he acts.” (247). Therefore, in our case this has the implication that when Alice saves B just because it is the right thing to do and not out of a non-derivative concern such as love, she indulges in a fetish of following a rule or belief. Zangwill’s starts his defense of externalism by saying that Smith demands too much of the externalist when he asserts the claim that, “the moral desires which motivate a person to act on a moral belief would have to be what makes a person good.” (247). According to Zangwill the first premise states that moral desires are needed to be motivated to act on a moral belief. The premise does not state that our motivations give us moral virtue.

Zangwill further argues that Smith seems to ignore the fact there are natural properties that are always an important part in our moral motivation. They serve an important role because as Zangwill notes, “we take those natural properties to determine a moral property and we are motivated by the fact that the act, with its natural properties, has that moral property.” (247). Therefore, the natural features are important and cannot be ignored as Smith does.

Furthermore, it is true that the agent acts on the moral properties that he possesses as Smith argues, although he possesses them in virtue of having an intrinsic concern with the other’s needs. Therefore, in our case B’s needs do not motivationally disappear in the motive of duty for Alice, they are a part of the motive of duty.

Zangwill’s further attacks Smith’s premise that what makes a person good are the moral desires which make a person act on a moral belief. He gives us an example of a person who has the misguided moral belief that blue eyed children should be executed and furthermore he also has a desire to do his duty. Although when it comes to the act he fails to act on his moral belief and acts on his compassion. Even though he thinks that he is morally obligated to kill the children he spares them out of compassion. Zangwill then asks us our opinion about his character and that should this person be morally credited as a virtuous agent due to his compassionate actions even though he has a misguided belief.? This question is in direct conflict with Smith’s premise that what makes a good person are the

moral desires which make a person act on a moral belief. Thus, Zangwill concludes that “we can surely gain moral credit from our non-moral motivations, even if it takes a specifically moral motive to get us to act on our moral judgements.”. (248).

Zangwill addresses and argues to the importance of a moral desire. He critiques Smith's conception of a virtuous agent. As stated, before in our case for Smith, Alice would only be a virtuous agent if she acts out of a non-derivative desire such as compassion or love and not out of a rule or simply out of duty. Here Zangwill does concede to Smith that it is often a fact that what determines another's moral goodness is the concern for another's welfare. Zangwill

brings about the importance of moral desire by saying that, “what makes us good is one thing; and what motivates us to act on moral judgements about ourselves is another”. (248). Therefore, it is possible that non-moral motivations might make us good, but they cannot make us act on our moral beliefs. Thus, what motivates us to act on our moral beliefs is a moral desire.

In conclusion the paper although not exhaustive, addresses important arguments

against externalist moral motivation. The paper provides an explanation of how Smith uses the “one thought too many” argument to discredit Moral Content Externalism. The main argument here is that when Alice acts to save B, she should do so out of a non-derivative concern such as love or compassion rather than, because it is her duty or because she is following a rule. Zangwill defends Moral Content Externalism from Smith's “one too many thought” argument and the “goodness” of a person argument. He further argues for a view of non-moral motivation being termed as virtuous and then moves on to the importance of a moral desire. Through this process Zangwill can provide a comprehensive argument towards the defense of Moral Content Externalism and the fetishism or vice that is proposed for by Smith in following a rule or doing something completely out of a derivative concern or duty.

17

The Welfarist and the Egalitarian

According to Kagan, Welfarist utilitarianism is defined as, “the view that an act is right if and only if it leads to the greatest total amount of well-being.” (61). Kagan also provide a definition for the egalitarianism, “the view that equality matters too” (48). In this paper, I will argue for the position that, the Welfarist utilitarianism is the stronger view as it provides a much more comprehensive argument when compared to that of the egalitarian position; furthermore, Welfarist Utilitarianism is the better moral theory as the theory does not endorse a reduction in the total amount of well-being, while the egalitarian endorses a reduction in total well-being in favor of equality.

To compare the strengths of the positions, we will look at two scenarios and see how the two positions respond to each of them. In the first scenario, 100 units of well-being are distributed equally among 5 people. In the second scenario, the welfare is concentrated in one person, one person has 60 units of well-being and the other 4 only have 10 units of well-being.

The Welfarist initial responses to both the scenarios are that; both the scenarios are equally good since the total wellbeing is the same. For the egalitarian, the second scenario imposes a problem since his intuition tells him that there arises inequality in the second scenario. Here Kagan provides us with a further distinction regarding the Welfarist view on the second scenario, telling us that it is not a fact that Welfarist deny that the equality of distribution is a factor that determines the goodness of the outcome. It is just that “the equal importance of well-being simply does not entail the importance of equal levels of well-being.” (51). The Welfarist can alternate between equality, that people matter equally, and equal distribution. This method of alternating leaves the Welfarist open to an egalitarian criticism, as the egalitarian considers both equality of people and equal distribution to be of importance.

According to Kagan, “the Welfarist further argues that the belief in egalitarianism is due to a natural mistake” (50). This is because directly distributing well-being is not possible and what is possible is the distribution of resources which are the means to well-being. The second issue that the Welfarist points out is that equality matters as far as the distribution of resources is concerned. Therefore, equal distribution does matter to produce the maximum amount of total well-being. It makes sense to aim at equal distribution, although it only has instrumental value. It follows then that the egalitarian is wrong to say that equal distribution has intrinsic value, as it is only the equality of resources that matters and not the equality of well-being. Furthermore, equality of distribution matters only instrumentally.

The Welfarist introduces the concept of diminishing marginal utility: “the more money you have, the smaller the increase to your well-being, that will be produced by an extra dollar.” (50). This leads to the conclusion that in most circumstances the greatest amount of total well-being can be produced by distributing the resources equally. For example, if 1000 units of resources are to be distributed among A and B, initially the 1000 units are given to A, then A has a higher level of well-being than does B. If B is then given 100 units from A’s resources, we will see that B’s increase in well-being will be

higher and A's well-being will only go down by a minimal amount. Therefore, through equal distribution the total amount of well-being generated will be higher.

According to the theory of diminishing marginal utility the Welfarist endorses the fact that equal distribution of resources can be used to increase the total amount of well-being. This is because shifting the resources from the extremely well-off to the extremely poor produces a greater total amount of well-being. The Welfarist does give arguments to support equal distribution of resources in a case where there is uneven concentration. Although the Welfarist does point out that our initial scenarios are examples of distributions of well-being and not examples of the distribution of resources. Therefore, our intuition that the first scenario with equality is better off than the second scenario where the well-being is concentrated in one person is wrong. The total amount of well-being is the same in both outcomes and therefore there is no reason to choose one scenario over the other.

The Welfarist argument does not sit well with the egalitarian who is still convinced that an outcome is better if there is equality in the distribution of well-being. The egalitarian tends to ascribe intrinsic value to the distribution of well-being and claims that the Welfarist is indifferent to the moral implications of different levels of well-being. By saying that the Welfarist is indifferent to the moral implications of equal well-being the egalitarian ignores the Welfarist argument for the equal distribution of resources. The egalitarian ignores the distinction between equal distribution of resources and equal distribution of well-being and is convinced of the intrinsic value of equal distribution of well-being.

18

Rights and Normative Ethics

According to Kagan, moral factors, determine the the moral status of an act. “The moral status of a given act is jointly determined by the various normative factors that are relevant in the case in questions.” (177). Furthermore, Kagan defines rights broadly as, “To say of something that it has moral rights is only to say that it has moral standing – that it counts from the moral point of view”. (170). Since there is a possibility of an action involved, moral rights can be described in terms of other factors. In this paper I will argue that moral rights are not distinct from moral factors and that moral rights are describable in terms of other factors, furthermore, we would not be better-off without this “right rhetoric” and therefore the talk of moral rights should be included in our moral theory.

The talk of rights when introduced shifts the focus from what the agent is supposed to do to treatment of the right holder. There is then a worry about whether our actions are causing a mistreatment to the right holder. As said before since there is possibility of action involved the moral status of the act

is determined by the interplay of a variety of factors. Kagan introduces us to the concept of justice to show us that moral rights are bound by factors. Kagan forms relationship between justice and right and therefore for Kagan the main idea of justice is a matter of respecting other people's rights. Justice becomes a normative factor since the justness and unjustness is relevant in determining moral status of an action. If the act is unjust and the moral right is not respected, then the moral status of the act is not good.

Here it is also important to explain the various ways in which rights are talked about. Since when we talk about rights the focus shifts from the agent to the right holder, the right holder is said to have a claim against the agent as to how he is supposed to be treated. Kagan further elaborates on claims to introduce the definition of deontological rights, "The person has a claim against us not to be treated in a way that would violate the constraint. For obvious reasons, we might call rights of this sort of deontological rights." (172). This definition is important since it forms a relationship between constraints and claims. Therefore, Kagan notes that "if there is a constraint against doing harm then people have a right a deontological right-not to be harmed." (172). Constraints arise when harm to a person is in question and is then one of the factors that determine the moral status of an act. Since constraints have a relationship to claims therefore rights can be determined in terms of factors.

Furthermore, the language of rights can be understood in some other ways than a right holder merely having a claim. Many a theorist want to add to the definition the significance of consent and that having a claim only counts as a right when claim holder can waive the right. Further additions to the definition include significance of enforceability and that a right is a right only in the case where a claim can be enforced. Another view incorporates options into rights and that, "the existence of an option on the part of the right holder to perform various acts protected by that right" (174). Here the point is that since, options fall under the category of factors and enforceability can be restricted by constraints, thresholds, and

deontological moderation, therefore rights are describable in terms of factors.

The absence of rights is a topic which is explored in detail in, Joel Feinberg's paper, "The Nature and Value of Rights". In his paper he creates a thought experiment in which there exists, "Nowheresville – a world very much like our own except that no one or hardly anyone (the qualification is not important) has any rights." (243). Even though the world is in a state of moral flourishing and has present many a trait such as benevolence, sympathy, compassion, pity and sympathy. The first problem that arises is that, these traits of moral flourishing arise out of benevolence and even though are good, they do not carry supreme moral worth. Here Feinberg references Kant, "but no action can have supreme kind of worth - what Kant called "moral worth" – unless its whole motivating power derives from the thought that is required by duty." (244).

The complication that arises out of an introduction of the concept of duty is that, since in many instances there exists a correlation between rights, duties and claim, a simple definition of rights does not suffice, and we are led towards a complicated rhetoric with conflicting viewpoints that tend to not agree with each other. In the sense where the word, "duty" is associated with actions that are due to someone else" (2), all duties are correlated to with the rights of those to whom the duty is owed. But there are duties, both legal and non-legal that are not correlated with the rights of other persons, and this is because "of the fact that the word "duty" has come to be used for any action understood to be required, whether by the rights of others, or by the law, or by conscience or whatever." (244). Feinberg further extends his analysis through the introduction of, respect for law and authority, personal desert, and sovereign monopoly of rights.

In furthering his analysis, he makes the distinction between three different types of claims: "(i) making claim to..., (ii) claiming that, and (iii) having a claim." (251). Therefore, when we make claim to something, "to petition to or seek by virtue of supposed right; to demand as due." (251). This claiming to can have direct legal consequences, where

as, claiming that is merely a piece of commentary. Hence there also arises the concept of imperfect duty where one is unable to make a claim to a right. Feinberg then concludes that what is essential to claiming is the manner of assertion. All this right rhetoric even though quite complicated is nonetheless important. As we see that the concept of sovereign right, which is a sixteenth century concept introduced by Thomas Hobbes, is outdated in terms of labor rights in our present day and times. If this rhetoric did not exist, our concept would not be revised to reflect the current circumstances and many a times the plight of many people. Feinberg concludes that it is the ability to claim that gives right its significance. Furthermore, as Kagan tells us, that this talk of rights protects a person to be sacrificed for the greater good, or merely to become a number in some organization, or a sacrificial pawn in someone's grander scheme of things.

This rhetoric cultivates, self-respect for oneself and others, it promotes human dignity. Although Feinberg in his rhetoric does address the fact that "human dignity" may simply be the recognizable as the ability of a person to make a claim. This is not to say that all these advantages should be included in the definition of rights. There are indeed various instances in which the right rhetoric can be dangerous. These can include the excessive use of force, or undue public demonstration to claim or demand one's rights. Or perhaps these disadvantages occur merely because the populace as whole is not aware of the reasoning behind their claims and acts in an unorderedly, misinformed, or uneducated manner. Regardless to say that this right rhetoric should be completely abandoned would be a grave mistake. Feinberg's remarks on the importance of rights make for an important conclusion, "Having rights enables us to "stand up like men" to look other in the eye, and to feel in some way equal of anyone." (252).

19 Harmless Wrongs

In this paper I will argue for the position that when it comes to “harmless wrongs”, such as the moral convictions of the community should not be enforced. Hence legal moralism, which can be defined as, “the view that the enforcement of sexual morality is a proper part of law’s business” (Hart,6) is then a discredited practice. Even though Sendel argues that in practice justification of laws based on neutrality are hard to distinguish, the government should adopt a voluntarist view among different conceptions of the good life. Therefore, in this paper I will move towards discrediting the practice of legal moralism, employing the arguments of H.L.A Hart against legal moralism, countering the objections presented by Micheal Sendel and addressing the rulings in the relevant cases such as Obergefell et al v Hodges.

H.L.A Hart in *Law, Liberty, and Morality*; for the most part adheres to the harm principle as provided for by John Stuart Mill, “The only purpose for which power can rightfully be exercised over any member of a civilized community against his will is to prevent harm to others.” (Hart, 4). Even though he

thinks there might be grounds justifying legal coercion, Hart admits that when it comes to the narrower issue relevant to the enforcement of morality Mills seems to be right. The position that the legal enforcement of a society of its morality needs no justification since it is morality that is being enforced is controversial. Hence advancement of arguments to justify enforcement of morality, are all based on a groundless hypothesis. Criticizing the reestablishment of the Courts as *custos morum*, Hart points out that in addition to interfering in policy matters which is a matter best left to the Parliament, the courts pay a high price and this he points out is, “the principle of legality which requires criminal offenses to be precisely defined as a possible so that it can be known with reasonable certainty what acts are criminal and what are not”. (Hart, 12). Furthermore, according to Hart in cases such as *Shaw*, any cooperative conduct can be deemed criminal if a jury considers it *ex post facto* to have been immoral. Retroactive laws are prohibited by the constitution of the United States and in UK with a few exceptions. Furthermore, Hart compares this method of jurisprudence as being like the court systems of Nazi Germany.

It is in the Wolfenden Report that we find a reflection of Mill’s Principle of Liberty and hence a principle of privacy that, “there must remain a realm of private morality and immorality which, in brief and crude terms is not law’s business.” (Hart, 15). A reflection of this principle is seen in American Law and the recommendation in draft of the Model Penal Code, “that all consensual relations between adults is private should be excluded from the scope of the criminal law.” (Hart, 15). Therefore, another strong argument against legal moralism arises and that, “the fundamental protection to which every individual is entitled against state interference in his personal affairs when he is not hurting others.” (Hart, 15). Hence as individuals we are afforded protection from interference by the state in our personal affairs when we are not hurting others. Stephen who thought that law might justifiably enforce morality as such and that, “law should be” a persecution of the grosser forms of vice” (Hart, 16) and Lord Devlin arguing against the The two main figures that argue against John Stuart

Mill's Principle of Liberty are, James principle of privacy in Wolfenden report states that, "the suppression of vice is as much the law's business as the suppression of subversive activities" (Hart, 16). Hart responds to Devlin's position by stating that it is wrong to say that the only function of criminal law is to enforce moral principles and nothing else. Hence, Hart argues that when we prevent others from buying drugs without prescription it is very unlikely to assume that this offense is punishable because criminal law has only one explanation. Therefore, in this case the law was concerned with protecting the purchaser against themselves which can be termed as paternalism and not only with the punishment of the seller for his immorality.

Hart further moves to discredit Stephen's argument that law should prosecute grosser form of vice such as homosexuality, even when harmless. According to Stephen when the question arises as to how severely an offender should be punished, the degree of the moral wickedness of the crime is relevant. Therefore, then criminal law is concerned with not only acts dangerous to society but also the persecution of vice and actions that are deemed immoral even when harmless. Here Hart interjects that Stephen commits a fallacy in reasoning and hence a non sequitur. Stephen fails to see that there is a difference between the two questions, "what sort of conduct justified be punished". (Hart, 36) and "how severely should we punish different offenses." (Hart, 36). Hart says that these are two different questions and there are many reasons as to why we may not want a conflict to arise between the legal spectrum of the seriousness of crimes, expressed in its scale of punishments and the common estimates of contrasting wickedness.

The first reason that Hart gives against this conflict is that on utilitarian grounds a conflict may bring about a confusion between moral judgements and bring law into disrepute. Furthermore, ascribing principles of justice and fairness then require morally different offences to be treated as same. Also those who hold the position that the severity of punishment should vary in accordance with the moral gravity of an offense, are not committed to the view that punishment for immorality

is justified. If we punish harmful activities and think it proper to distinguish between moral differences of the offenders, this does not mean that we must also think it proper to punish activities which are not harmful. Hence, Hart says that “we cannot usually pursue a single value or a single moral aim, untroubled by the need to compromise with others.” (Hart, 38).

Hart offers us strong argument against legal moralism, here it is also important to consider his distinction regarding private immorality and public indecency. Hart draws a parallel between bigamy and homosexuality and if law interferes to protect certain religious moral principles from the outrage caused by a public act. Here the important distinction is that the bigamist is punished not because of his irreligiousness or his immorality but rather as a nuisance. Going further Hart distinguishes that the case of bigamy is different from a case of sexual morality because, enforcing sexual morality, “demands the repression of powerful instincts with which personal happiness is intimately connected.” (Hart, 43). Therefore, this example shows that there is a distinction between punishment of indecency and a punishment of immorality.

Micheal J Sendel, in *Moral Argument and Liberal Toleration*, argues that “the justice (or injustice) of laws against abortion and homosexual sodomy depends at least in part on the morality or immorality of those practices.” (Sendel, 521). and thus, he is a proponent of what he calls the naïve view. This is a consistent argument as according to Hart, those who conclude that the severity of punishment should be adjusted for the moral gravity of offences are not committed to the view that punishment for immorality should be justified. If someone holds this position, then they can insist that the only justification for having the system of punishment is to prevent harm and only harmful conduct should be punished. But when it comes question of the “quantum of punishment” they can defer to principles which makes the wickedness of the offenders a Further analysis of Sendel’s argument reveals that he insists that in practice it is very hard to distinguish between the principal of neutrality and when naïve arguments are advanced under the cover of the more sophisticated arguments. What follows is then a discussion of privacy

“partial” determinant of the severity of the punishment. rights, intimacy and autonomy and the voluntarist case for the toleration of homosexuality. Here the difficulty that arises in defending a position for homosexuality is that if one relies on the principle of neutrality and avoids ascribing social value to homosexual unions by limiting one’s argument to that of autonomy and neutrality as is portrayed in the case of Stanley and not Griswold; then the quality of respect that the position secures comes into question. This problem is evident in Bowers where the majority exploits this position by ridiculing the “fundamental right to engage in homosexual sodomy”. (Sendel, 537).

An argument based on social value, or the value of marriage is quite evident in the case. of Obergefell. Hence, “it is the enduring importance of marriage that underlies petitioners. contention” (Obergefell, 4). Although in the courts opinion there is significant importance given to the, advantages a married life both as existing for heterosexual couples and homosexuals, the court repeatedly states that the right of the same sex couple is derived from the 14th amendment and the Due Process and the Equal Protection Clause are interconnected. The court further provides four additional principles, individual autonomy, the fundamental right to marry, the benefits of marriage, and marriage being a keystone of our social order. Hence, in Obergefell the court upholds a voluntarist tradition and by staying neutral to different conceptions of a good life, ascribes the fundamental right to marry homosexuals and ensures equality in the eyes of law. In conclusion, Hart presents to us strong arguments against the practice of legal moralism, doing so by employing the harm principle championed by John Stuart Mill and addressing the arguments of Lord Devlin and James Stephen the two masters of common law. Hence, using Hart’s arguments I can take the position that moral convictions should not be enforced on harmless activities such as homosexuality. Even though Micheal J Sendel argues that granting the fundamental right to marry homosexual invites ridicule, in Obergefell we see evidence that for the court, the constitutional validity of their arguments overrides the importance of any ridicule the

position may face from an opposition. Therefore, among others, the harm principle, the principle of state neutrality, the principle of equal protection, principle of privacy upholding the principle of legality, the 14th amendment, Due Process, Equal Protection, and the principles of marriage outlined in the Obergefell case all prove to strengthen my argument in defense of not enforcing moral convictions pertaining to homosexuality which is a harmless wrong.

20

Love as a Moral Emotion

The argument presented to us by Velleman is that when love is a way of valuing a person, the problem that seems to arise is that then love seems to demand partiality. It seems to be the case that we want to be loved and be valued in preference to others. On the other hand, the spirit of morality requires a position of impartiality and that we consider all people to be equally valuable. Velleman proposes the solution that he calls Kant's rational nature and suggests that it is not the case that when we love we form a partial position and therefore we are not in conflict the spirit of morality.

Velleman suggests looking at the difficulty arising from the perspective of the beloved. We as human beings show our selectivity in love when love matters to us more in our capacity as object to love rather than in our capacity as subjects. Therefore, we desire to be loved and valued as special and this seems to be discriminatory desire. We desire not be the desire of someone's sexual appetite but rather desire to the relationship to be one that originates from the heart and values

us for who we are. Therefore, the relationship does not then depend upon merely some physical or character trait that the person possesses.

Velleman then suggests that it is Kant's theory of value that seems to provide the explanation of this desire to be loved as who we are. Kant provides a distinction between the value of a person and the value of thing. For Kant the value of a person is his dignity, and the value of a thing is price. This for Kant corresponds to ends that are self-existent and ends that consist of possible results of action. If something has a price and is instrumental to something else, then it can be replaced by another something. Although if something has dignity and that end is not to be produced by action, therefore there is no alternative to that person.

Kant's view that a person has incomparable value just by being a person known as a rational nature. Velleman then asks the question if this awareness a requirement for love? For Velleman all that is essential to love, "is that it disarms our emotional defenses towards an object in response to its incomparable value as a self-existent end." (365). The rational nature become important in the context of love when we love a person not just because how nature created him or perhaps because of his aesthetic nature, but just because he possesses a virtue of being a person. I believe this to be a satisfactory response as it establishes an intrinsic value to the existence of a person and removes the reliance on aesthetic appeals and or the person merely being the product of nature. Kant's reasoning also provides an answer as to why we do not need to compare ourselves with other people. Since you are valued for your dignity and your self-existence you are not replaceable and therefore comparison does not yield any results.

Furthermore, the importance of reason is apparent here because it is through reason that we appreciate the value of ends inherent in a person. Therefore, love and respect arises out of one's ability to reason and respect, love and value the other as self- existent end. We appreciate, respect and love someone because they have the capacity to reason and value us for our self-exiting ends. I find this view to be satisfactory because it places an importance on the role of reason and how

through reason it self we are able to appreciate and value others and in turn be appreciated and loved. Velleman further moves on to explain the fallibility of the human character as reason to explain why we are selective when it comes to love. Since there exists fallibility in our character to express and understand, therefore we are only susceptible to loving those people whose persona speaks to our values. Furthermore, since loving someone exhaust our emotional defenses, we do not have the further capacity to give attention to the values of others or to devote our attention to them. Therefore, loving someone does not mean that others are incapable of love, it is just that we are incapable of attributing value to them. I find Velleman's reason that loving someone exhausts our capacities quite plausible since we as humans are fallible and do possess only a limited capacity. Furthermore, his argument seems to suggest that we do not discriminate when it comes to love it is just that we are unable in capacity to love more than a select few. Therefore, loving someone heightens your sensitivity to the one you love, and this does not entail that it reduces the sensitivity you feel for other, on the other hand it makes you realize that love is universal.

In conclusion, Velleman provides strong arguments which seems to solve the problem that love entails us to be partial and therefore in conflict with the spirit of morality. He relies on Kant's philosophical position of the rational nature and explains to us that love entails valuing someone for their self-existing ends. This philosophical position then entails that comparing yourself to others is not required since you are valued for your dignity and self-existence. Kant's position also places importance on the role of reason as your capacity to love, appreciate and value others in turn leads to other respecting and appreciating you. Velleman provides a strong defense against the argument that love leads to a position of partiality and therefore in conflict with the spirit of morality. He tells us that in essence the fallibility of the human character and its capacities do not allow us to be able to ascribe value to more than a select few. We are exhausted when our emotional defenses are bypassed and are not able repeat this process for everyone else. Velleman's arguments are plausible as he uses a

Kantian philosophical position that ascribes intrinsic value to the existence of humans and addresses the fallibility of humans to argue against partiality.

21

Skepticism; Academics and Pyrrhonist on the Criteria of Truth

Carneades argued against the Stoic position that ‘grasping’ is a criterion midway between knowledge and opinion. He himself was asked to give an account for a criterion and his position is that, “introducing the plausible presentation, and [the presentation] which is at the same time plausible, uncontroverted, and thoroughly tested.” (HP, III-18: 166). The Pyrrhonist school of thought provides two definitions of the criterion focusing on appearance, “[1] that which is accepted as a reliable indication of the existence or non-existence of something... [2] that which is accepted [as a criterion] for action, by attending to which we will do some thing and not do others in life”. (HP, III-26:21).

The criterion set forth by Carneades, uses the presentation as a starting point and where a presentation arises from an “external sensible object”. The presentation then has two relations, a relationship with the object and a relation to the subject having the presentation. Therefore, the presentations relationship to the object is either true or false. “True whenever it is in harmony with the object presented, false whenever it is in disagreement with it.” (HP, III-18: 168). The presentation’s

relation to the subject is also of the true or false nature. The true presentation is then termed “representational” and plausible, the false presentation termed “non-representational” and implausible and hence the false presentation is not a criterion.

The true presentations are further sub-divided into two types of presentation. One presentation which is apparently true, but due to circumstances, such as distance, weakness of sight and not having a clear outline is received confusedly and is unclear. This type of presentation is then not a criterion. The other type of presentation is true and “appears intensely so”, and its intensity can be varied and hence this type of presentation serves to be the criterion and is plausible. The Academics, further sub-divide the term plausible into three senses. “In the first sense, it is true, and apparently true; in the second, it is [in fact] false, but it appears true; and in the third, it is common to the two [i.e., appears to be true could be either true or false]. (HP, III-18: 174). Therefore, it is only the apparently true presentation that serve as the criteria of truth.

Regarding the existence and non-existence of things, the Pyrrhonist interject an opposing argument of equal force, through which the suspension of judgement is achieved and hence freedom from disturbance. The Pyrrhonist sceptic, focuses on the “appearance” and provides the argument that since the “presentation” is located in a feeling and is an involuntary state it is not open to investigation. Therefore, the Pyrrhonist attends only to the appearance and in this way lives undogmatically, while at the same time following the rules that govern everyday life. The goal of the Pyrrhonist is the same as the goal of the other schools of thought and that they all strive after a life free from disturbance.

For the Pyrrhonist, skepticism is an ability, to interject “opposing appearances and ideas” and hence suspension of judgement and freedom of disturbance. The Pyrrhonist further elaborates on what an “appearance” is and therefore, “we now understand these things which appear to the senses, for which reason we contrast them with ideas” (HP, III-26: 9). The Pyrrhonist then seeks to encompass all objections so that appearances and ideas are said to be unqualified. Therefore,

“opposing arguments” do not deny or provide confirmation but are indications of conflicting arguments. Hence, “equal force” means that the conflicting arguments have equal weight and are not more plausible than the other. “Suspension of Judgement” is described as neither the denial or affirmation of a thing. Leading to “freedom from disturbance” which is the calmness of the soul.

In conclusion, then the contrast of in the positions of the Academic Sceptic and the Pyrrhonian Sceptic, occurs in the Academic using presentations, and the Pyrrhonist using appearances. The Academic terms the presentation as “representational” and plausible and hence declares it the criterion. The Pyrrhonian sceptic argues against this dogmatic position and replaces the “presentation” with an “appearance” and interjects “opposing appearances and ideas” of “equal force” and hence “suspension of judgement” leading to the “calmness of the soul”

22

Epicurus and the Significance of the Study of Nature

According to Smith, “Epicurus, defined philosophy as an activity, attempting by means of discussion and reasoning to make life happy. he believed that happiness is gained through the achievement of moral self-sufficiency (autarkeia) and freedom from disturbance (ataraxia).” (L, xxii). It is this freedom from disturbance that signifies the study of nature. Therefore, in the Letter to Herodotus, Epicurus recommends the study of nature to bring calm in one’s life and hence freedom from disturbance which is the ultimate goal in one’s life. Thus, “I recommend constant activity in the study of nature and with this sort of activity more than any other I bring calm to my life” (HP, I-2: 37).

According to Epicurus there is a disturbance in the human soul and this disturbance arises because of things such as the “heavenly phenomenon” and that they have wishes and exert causality, suspicion that something dreadful might happen such as a catastrophe, and the fear of lack of sense perception in death. Therefore, attending to the facts that are revealed by the criteria of sense perception and properties, we can understand the sources of our fear and rid ourselves of this

disturbance. Hence, “by accounting for the causes of meteorological and other phenomena which are constantly exposed to and which terrify other men most severely.” (HP, I-2: 82).

Further, evidence of the significance of the study of nature can be found in the, Principal Doctrines of Diogenes Laertius. Here the importance of the study of natural science is signified, and the goal of human life is said to be security and quite life. Another source of disturbance is signified as not knowing the limits of pains and desires. Hence, “If our suspicions about heavenly phenomenon and about death did not trouble us at all and were never anything to us, and moreover, if not knowing the limits of pains and desires did not trouble us, then we would have no need for natural science. (HP, I-5: XI). From this passage then we can surmise that the significance of the study of the natural science is undertaken to rid us of that which troubles us and hence leading to a tranquil life.

The Roman Epicurean Lucretius, in his poem *On the Nature of Things*, describes the human mind as being under the weight of the superstition. It is the confrontation of this superstition through study which is the central tenant of the Epicurean philosophy. Hence, Lucretius describes Epicurus as a person of knowledge who had the courage to rise against the weight of superstition and to go on a journey of discovery and thus learning the facts that govern nature. Therefore, the significance of the study of nature, provides freedom from the fear of the superstition and brings about tranquility through the understanding of the principles that give rise to superstition. Thus, Lucretius in Book Two of his poem writes that, “This terrifying darkness that enshrouds the mind must be dispelled not by the sun’s rays and the dazzling darts of the day, but by the study of the superficial aspect and underlying principle of nature” (LII-61)

The highest goal then in human life, is one of calm, tranquility and freedom from disturbance. The disturbance in the soul arises from not being able to understand the cause of superstition. For Epicurus, the study of natural science is not important for the knowledge that it brings about, but is only important because the knowledge gained calms the soul and

provides certainty. Another example of this claim can be arrived from the Letter of Pythocles, where Epicurus speaks to Pythocles on the “goal” of learning about the meteorological phenomena. Hence, “First of all, do not believe that there is any other goal to be achieved by the knowledge of meteorological phenomena, ..., then freedom from disturbance and secure conviction, just as with the rest [of physics].” (H-P, I-3: 85). In conclusion then the significance of the study of nature is that it brings calm to one’s life, and frees us from the disturbance in our soul. The study of nature accomplishes this by providing us with an understanding of the source of our disturbance and through the understanding of the non-evident.

23

Epicurus on the Nature of Gods

In this paper I will provide an explanation of the Epicurean position on the nature of Gods and how this position of “indestructibility” and “eternal” nature fits into the Epicurean position of materialistic atomism, which argues that atoms and the void are eternal. Furthermore, I will argue for the position that, when compared to the strict definition of atheism, which is that “The majority of the dogmatists and the basic grasps of ordinary life hold that [gods] exist, whereas those dubbed ‘atheist’ hold that god does not exist. (HP III-42:51), the Epicurean position on Gods ought not to be described as a form of atheism and I will reference philosophical works that hold the same position.

An important starting point on the Epicurean position on the nature of Gods can be found in the Letter to Menoeceus. Epicurus starts with the position that Gods have the nature of indestructibility and further ascribes to the gods the blessedness of an animal and hence a living being. For Epicureans this description is in accordance with the most common of general conceptions held by men. Epicurus further

advises against ascribing anything that is alien to the indestructible and blessed conception of Gods and insists that Gods do exist and that we have knowledge of them. (HP, I-4: 123-4).

In the Principal Doctrines, we see a further development of the Epicurean position on the nature of Gods and that the Gods do not succumb to weaknesses such as anger or gratitude and since they are indestructible and blessed, neither are they the cause of the trouble and neither are they troubled. Here it is also important to note a scholiast comment which further elaborates on the position that the knowledge of gods is arrived through “contemplation”, that the Gods exist “numerically”, are a continuous flow of “images” and are “anthropomorphic”. (HP I-5: I).

In the Letter to Herodotus, Epicurean speaks on how and if the Gods exert causality when it come to the matters relating to the meteorological phenomenon. Here the Epicurean position is that the movements of the planets, and the stars occur without the Gods exerting causality and the indestructibility of the Gods and their blessedness does not require that they ordain or exert causality on the meteorological phenomena. This is because troubles, concerns, anger, and gratitude are not consistent with the characteristic of blessedness. Hence, not only does theorizing that the Gods exert causality on the meteorological phenomenon is inconsistent with the blessed nature of the Gods, but this inconsistency can also prove to be a source of the greatest disturbance in the soul. (HP I-2: 76-78).

A comprehensive account of the nature of gods is provided in On the Nature of Gods (HP 1-16). Here Epicurus introduces the word *prolepsis*, which he defines as the outline of the thing in question. Hence, he theorizes that we know that Gods exist because nature itself has impressed a “conception” on the souls of everyone and this basic grasp the *prolepsis* is then essential to our understanding, investigation, debate and hence, there is a consensus among men that Gods exist. Furthermore, as mentioned earlier Epicurus further repeats that there is also a basic grasp that we consider Gods to be “blessed” and “immortal”, therefore as nature has inscribed upon us the

outline of the Gods it has also inscribed on our minds that they are “external” and blessed. If this account of inscription is true, then it is also true that the Gods are not troubled and do not have any weaknesses.

In the same passage we are provided with more knowledge regarding the nature of Gods, and this is because for Epicurus it is enough for worship to know that Gods are “blessed”, “eternal” and “excellent” in nature and hence worthy of reverence. It is also enough for freedom from superstition that Gods do not exert causality and if they did it would be inconsistent with their blessed nature. But according to Epicurean our current knowledge of the Gods is not enough to confirm our opinion and the mind enquires more into the form of; the activities that the Gods indulge in, the workings of the God’s intellect and more. Therefore, it falls to reason to ascertain these details as nature has only provided us with an outline as to the form of Gods. (HP:1-16).

Therefore, the first detail that is to be ascertained by reason is if the Gods are anthropomorphic or not. The reasoning that is provided by Epicurus is that the excellent, blessed and eternal nature of Gods should also be the most beautiful. Hence, then what “configuration” is more beautiful than humans? Therefore, if the human shape is “superior” to that of all living things and if god is a living thing, then it follows that the gods have the shape that is most beautiful. Furthermore, since gods are “blessed”, blessedness requires virtue, virtue requires reason and reason exists in human’s form, therefore we concede that the Gods have a human appearance. Although Epicurus does say that even though the gods do have human form they differ as to that they have a “quasi” body and blood. (HP: 1-16).

The remaining of the passage provides us with details on how we perceive the Gods, their activities and comparison with the Stoics gods. Therefore, according to Epicurus our perception of Gods comes through our intellect and not through our senses. Furthermore, the life of Gods is such that they spend their time in a manner that nothing can be conceived that is better and they are supplied with all kinds of good things. The Gods are idle, and they are not “entangled” in

any serious occupations and neither do they partake in any labor. The Gods then are merry, rejoicing in their own wisdom and virtue and are then always among pleasure, a pleasure which will always be “eternal” and “supreme”. (HP: 1-16)

Here we also find a stark comparison with the Stoic Gods who are assigned to hard labor. The Stoic conception of God is then one in which Gods are revolving around the heaven’s axis with speed and not a moment of rest. Thus, according to Epicurus nothing is blessed if it is not at rest and if a God is in some way “entangled” with the burden of laborious obligations, such as ruling and guiding to maintain the heavenly orbits, ensuring an advantageous life for men, then most certainly that God is not of a blessed nature. This claim arises from the Epicurus notion that happiness is a matter of freedom from disturbance of the mind and leisure from duties. Hence then the world was produced by nature and then there was no need for someone to make it and the task is so easy that nature has produced it and will keep on producing. (HP 1-16)

Epicurus further contrast his own theological notions with that of the Stoics by criticizing their position of heimarmene which states that then the happenings of the world flows from continuous chain of causes and an eternal set of truths. He criticizes the notion of fate and the notion of “mantike” which is translated to be divination. Hence, the criticism of divination is in the fact that leads to worship of soothsayers, priests, and prophets, where the Epicureans are liberated from this kind of worship, they do not fear the Gods as they do not exert causality and neither create trouble either for humankind or for themselves. It follows then that Epicureans worship the gods for their nature which is then “holy”, “excellent” and “supreme”. (HP 1-16)

The Epicurus notion of materialistic atomism is found in the Letter of Herodotus. Hence, according to Epicurus, the totality is made of bodies and the void and “consequently the principle of bodies is atomic in nature” and the atoms and the void are eternal. (HP 1-2: 40-43). The problem that arises here is that then if Gods are constructs of atoms, then how are they “eternal” as according to materialistic atomism only the void and atoms are “indestructible” and “eternal”. R.D Hicks in his

Epicurean Theology describes this problem as, “If all be atoms, how then should the Gods, being atomic, not be dissoluble, not follow the great law?” (184). One justification of this view which can be provided is that; even though there is a conflict with the position of materialistic atomism, the nature of Gods as indestructible and eternal can be reasoned from the fact that all are men are in consensus through preconceptions that the Gods are indestructible and eternal, and this consensus has remained unchanged.

Furthermore, both in Lucretius and the Epicurean text we are told that it is through the intellect and not through the senses that we arrive at the conception of the Gods as these conceptions are too fine for our senses. Hence the Gods have a fine substance and that even when we assign them a body that is analogous to humans, they only have a quasi-body and blood. Furthermore, the Epicurean response is that they are in between worlds, where their bodies are not suspect to wear and tear and thus neither do they take part in governance. Through this line of thought the conflict with materialistic atomism is solved. (L V: 156-234).

In Long and Sedley we are provided with further explanations as to how the Gods are imperishable. The author makes an indirect inference from passages that suggest that idea of the God is an innate sense and offers two ways in which God is imperishable. The first suggestion is that as concepts then Gods are everlasting since we have an “inexhaustible” supply of similar images. Secondly, we endow on Gods the nature of being eternal and indestructible so as to “preserve” them, by the way in which we conceive them. Furthermore, this preconception of Gods comes to men in three ways, through an analogy with the Epicurean sage to become an eternal ethical model for future generations, an innate tendency to preconceive God in this way and that the state of happiness (Eudaimonia) as being with divine nature but also having a clear understanding of one’s God.

The issue that then arises of this interpretation of gods being “thought constructs” is that it seems to hinge on atheism and this point has been used by critics the Epicurean theology. Furthermore, the Epicurean theology may also be criticized as

being atheist because it lacks a teleological purpose and divine providence. Here although as stated earlier I will take the position that the Epicurean theology does not have atheist tendencies. Hence, as stated earlier in Letter to Menoeceus, Epicurus stresses the existence of Gods, and ascribes to them an anthropomorphic form with virtue and reason. Further comprehensive evidence to the existence of Gods is given in On the Nature of Gods where Epicurus denotes to the Gods the word *prolepsis* and hence we know that God's exist because nature has impressed into us the very conception of Gods.

Furthermore, the existence of the Gods by Epicurus is confirmed in the Principle Doctrines where a scholastic comment notes that the knowledge of Gods is acquired through the intellect and not through the senses and this is because that the Gods are composed of fine atoms and it is not possible for humans to perceive them through senses. Furthermore, they are differentiated from humans such that they have a quasi body and blood and reside in between worlds and this prevents any wear and tear and thus they are eternal and indestructible. It is this point of living in between worlds and not exerting causality one which causes many a critic to label Epicurus as an atheist. But here it is important to quote Obbink, who in his paper *The Atheism of Epicurus* makes the following point that, "if Epicurus is to be regarded as impious because his physical system does not offer logical proofs for the gods' existence, so also must virtually all man-kind, though this hardly keeps them from worshipping gods as existing beings." (212).

This excerpt from Obbink brings us to an interesting point of worship, which is one that Epicurus endorses. Hence when contrasting the Epicurean notion of the Gods with that of the Stoics we note that Epicurus endorses the worship of the Gods because of their excellent nature. Critics of Epicurean theology may indeed criticize the lack of rituals or divine providence to be a position in line with atheism. Although this is a weak argument as the theism requires a belief in the existence of Gods, a position that Epicurus fully endorses. There is no evidence of the Epicurus arguing against the claim that Gods do not exist.

Therefore, in conclusion the Epicurus position on the nature of Gods is of an indestructibility and eternal nature. The Gods exist in between our worlds and therefore are not susceptible to wear and tear and hence remain eternal and compatible with materialistic atomism. They do not exert causality because happiness entails a freedom from disturbance and their blessed nature does not allow them to exert causality or to cause trouble or make life more worthwhile for men. They are models to which men aspire to and always amidst pleasure which ever eternal for them. The Epicurus theology is not an atheist one because they provide for a theological approach to the Gods which stresses their existence. Furthermore, then a lack of logical proof or scientific evidence to the existence of God does not entail atheism because if this were to be the case then it would become possible to impose a position of atheism on all of mankind.

24

Challenges to metaphysical reality, identity, and self-understanding; in J.K Rowling's Harry Potter

The purpose of many novels is to challenge our notions of reality as we know it. The Harry Potter books stay true to this trend and raise questions that there might be realities different than ours. Gareth B Matthews notes that, "We could call such stories "metaphysical", since metaphysics is that branch of philosophy that concerns itself with the nature of reality". (175). Since the nature of reality is a metaphysical issue, the Harry Potter books challenge our commonly held metaphysical views about reality. Therefore, the purpose of this paper will be to contrast my commonly held views regarding metaphysics, time, and self-understanding, with those presented in Harry Potter, and to explore how these views presented challenge my views.

My most held view regarding reality is that there exists only one physical reality. The Harry Potter Books challenges my view of reality through the creation of a wizarding world, which although exists in the same world and time as mine, has a completely different set of physical laws. Furthermore, in the wizarding world our current physical laws of the muggle world

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can be bent or broken, through the application of magic, where magic is a hereditary, and genetic trait. This creation of a wizarding world poses a serious challenge to my view of reality. In my view of reality there exists only one world, which adheres to very best of physical theories. There is no evidence that hereditary genetic trait can enable a person to bend or violate the laws of physics. A genetically hereditary trait such as high intelligence may enable a person to make new discoveries. This discovery then, would be shared, and acknowledged by the rest of the world, having applicable uses for all of us, with no need to remain hidden. Therefore, it follows that the wizarding reality created in Harry Potter poses a serious challenge to my view of reality.

In the Harry Potter world, the wizards do face certain constraints. One of these constraints is death. The main antagonist of the novel Tom Riddle makes immortality the main pursuit of his powers. The protagonist of the novel, Harry Potter, follows in the path of his mentor, Albus Dumbledore, and believes in a life after death. My view regarding the world after death is that it is transcendent, and that it does not exist in our space and time. This view is seriously challenged in the seventh book of the Harry Potter series, when we are told there exists a certain Resurrection Stone that can bring back shades of dead people into the living world. This bringing back of shades of people suggests that there is a link between the world of living and the world after death. It maybe that the world of the dead shares a space time continuum with our world. This to me is quite a frightening prospect since if there is a way to bring shades of dead people into this world, then there may be a way to enter the world of the dead while alive. Therefore, meddling with aspects of resurrection, immortality and the world of the dead is an area, which in my view should be inviolable. This is mostly because the effects of such meddling can have dire consequences beyond the understanding of mortals. Even though time travel is theoretically possible in a block theory of time or a tense-less theory of time, the consequences of changing past events lead us to very serious ethical considerations. As Michael Silberstein notes, “Hermione continues, “Professor McGonagall told me what

awful things have happened when wizards have meddled with time” (PA, p.399)” (195).

The Harry Potter books impose an interesting challenge to the concept of identity. The books can accomplish this by questioning our concept of what constitutes identity. Gregory Bassham notes that, “There are three leading theories of personal identity – the body theory, the memory theory, and the soul theory” (28). In the Harry Potter books, the soul theory is the object of focus. Here it is also important to mention the concept of dualism. Gregory Bassham notes, “Dualism is roughly the view that the mind is distinct from, and irreducible to, the body. There are two major forms of dualism: substance dualism and property dualism.” (26). The Harry Potter books make use of the substance dualist theory which states that mind and souls are independently existing things. The concept of the substance dualism challenges me to take seriously matters of life after death. Since my soul remains healthy when my body dies, it forces me to think of a reality, where the soul can leave the body and travel to another world. Furthermore, when thinking about personal identity, I am challenged to acknowledge that, it is not my body that constitutes my personal identity, or my memories. What makes me who I am is that I have the same soul through-out my life. This soul theory of identity challenges my thinking of issues such as do souls retain memory, is the soul then a material object having substance, what acts do damage to the soul, and what acts heal the soul. Since the souls in Harry Potter can be split apart, as is the case with soul of Tom Riddle, I conclude that indeed in the Harry Potter world the soul is material. This is seriously challenging to my reality, since our present-day science has not found evidence of this ‘ethereal’ material that the soul is made of, the soul is then immaterial and spiritual. Science has proven to be infallible in the past and there is no reason to believe that a discovery maybe on the way. Gregory Bassam notes that this view that the soul is corporal and material, is in line with the views of some philosophers; “For instance, the early Church father, Tertullian, following the Greek atomists and Stoics, held that souls, though distinct from the body and capable of existing apart from it in an afterlife, are corporal.” (26).

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One of the main themes of the Harry Potter books is the fight between good and evil. This theme is portrayed in the characters of the Harry Potter and Tom Riddle and their values. For Harry, love constitutes to a great power, and for Tom Riddle, it is magical prowess, and the ability to escape death which hold great value. Even though both have share similar character traits, the Sorting Hat does choose Slytherin for Harry, he refuses instead asking to be placed in Gryffindor, and this shows that his self-understanding is completely on an opposite then that of Tom Riddle. Shawn. E Klein notes that, "Over and over again in the novels it is made clear that it is a person's choices and actions that are the defining elements of his moral character. It is not our ancestry, social rules, or wealth that makes us who we are." (33). The Harry Potter books then challenges my conception of self-understanding. If I think that it is my ancestry, social rules or wealth that makes me who I am, then I am mistaken. The books give the example of the Malfoy's, a family who has ancestry and wealth, but still through choice decides to side with Tom Riddle. This shows that their self-understanding values; traits such as cruelty and immortality. This is in direct contrast to Ron's family for example, Ron's family values our very strong and they provide a welcoming environment for both Hermione, and Harry even though they are lacking the wealth and prestige of the Malfoy family. Ron's family is not as wealthy, although they are much respected and trusted in the wizarding circles then the Malfoy's.

Garret B Matthews notes that, "We should know that what we see and hear is shaped by what we expect to see and hear. And what we count as real is heavily influenced by what we have been socialized to account to as real." (184). This excerpt tells me that my view of reality is quite subjective, and that I may tend to ignore many versions of realities as I do not think them.

to be in line with my own expectations. This excerpt tells me how important it is to keep an open mind when challenging view of realities are offered to us. The example of Sir Isaac Newton, who challenged our notion of reality by experimenting in the field of 'alchemy', is a classic example of

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a situation, which was not accepted to have real implications. In the same way Newton's idea of gravitational attraction was thought by many to be dabbling's in myth and magic. Although in present day and times it is a widely accepted idea in the field of theoretical physics. Therefore, I conclude that indeed we should adopt a position of infallibility regarding our conceptions of reality and be open to other challenging views on reality.

25

Response to Maryy

Marry Anne Warren in her article introduces us to the idea of reciprocity. The argument presented here is that a moral agent is motivated by cooperation and reciprocity, to attribute and extend full and equal moral rights to another moral agent. It is the promise of receiving something in return that allows us as moral agents to respect someone as equal to us. The argument here is one that is against attributing rights to animals and the premise provided here is that the animals lack both the moral agency and autonomy that is required to understand the moral concept of reciprocity. Furthermore, since animals lack moral agency, they do not attribute equal importance to their own interest as well as ours. Therefore, we should not attribute rights to non-humans and especially animals.

My objection here is that animals have built in natural tendencies that exhibit the reciprocity towards humans if they are allowed to exist in their natural habitats and out of them through cooperation. This natural tendency of reciprocity towards humans, does not simply occur through the natural

habit of predation, Warren states that, “natural predation is essential to the stability of the biological community”. (171). The natural tendency for reciprocity exists also through their everyday activities, such as providing carbon-dioxide to plants and fertilizing the plants. Since plants form the basis of the food chain and can be harvested by humans for many purposes there exists reciprocity. The migration of pattern of birds provides for information about weather patterns and insect populations. Bees serve an important role in the pollination of flowers and therefore make fertilization of fruits possible. Many of the flowers and fruits that are fertilized by the bees are essential to the welfare of humans when harvested. Needless to say cooperating with animals even in a man-made environment has created many opportunities for man and beast to respect each other, for example a trained service dog used by the blind. As stated by many proponents of reciprocity that it is a motivating factor for extending full and equal rights to other moral agents, therefore my objection is that the ample examples of reciprocity and cooperation between animals and humans should motivate us to respect the natural right inherent to animals and perhaps even confer additional rights on to them.

An objection to my position that animals provide us with reciprocity and that we should extend towards them rights, could follow from the process of agreement. The argument could be that since animals are not bound by any agreements, we are not able to extend them the rights that are extended to moral agents who are bound by such agreements. This argument which stems from the contractarian nature of reciprocity and can further evolve into an argument that the reciprocity that animals seem to generate, is not quantifiable and that a certain value cannot be assigned to the pollination of the fruits and flowers by the bees. Since there is no quantification, we cannot assign a monetary value to reciprocity generated by the animals and therefore there can exist no agreement and assigning rights to animals is useless. This could also entail that we as moral agents are do not know how to reciprocate to animals themselves as we cannot assign a value to their reciprocity. The reason why the above argument

Response to Maryy

is not a serious contender to my objection is that, an agreement is not necessary in the case where the animals exists in its natural habitat. All we need to do is let the animal be in it's natural habitat and it reciprocates based on it's natural tendencies. Furthermore, if animals reciprocate in a man-made environment, an agreement is not necessary to provide mutual reciprocity and humans can extend care and respect towards animals and thus reciprocate.

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