

SOPHIA XVI



SOPHIA:
Journal of Philosophy
Volume XVI
2020-2022

Sophia is a non-profit journal, first published in 1998, intended to provide a forum for undergraduate students to exhibit the toils of their undergraduate years. Published by the University of Victoria Philosophy Student Union, *Sophia* provides the opportunity for students from UVic, as well as universities and colleges across Canada and the world, to present philosophical thought, aiming at fostering an environment encouraging philosophical discourse, debate, and contemplation. Although content is principally oriented toward philosophy students, *Sophia* endeavours to be accessible to all disciplines; philosophy is, after all, not merely and activity for philosophy students alone.

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Sophia is supported by the fundraising efforts of the Philosophy Student Union, with financial support from the University of Victoria Students' Society and the University of Victoria Philosophy Faculty.

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Acknowledgements:

We acknowledge and respect the ɫəkwəŋən peoples on whose traditional territory the university stands and the Songhees, Esquimalt and W̱SÁNEĆ peoples whose historical relationships with the land continue to this day.

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Printed in Victoria, BC, Canada

Introduction

Mateo Serrano (he/him), University of Victoria

Society often takes political and social realities for granted or sees them as mere products of the material world. However, philosophy recognizes the role that ideology plays in shaping these realities and asks us to interrogate the larger questions behind them. It also asks us to challenge the faulty premises that make the world we inhabit such a complicated and difficult place for many. Philosophy exposes us to doubt and to the unknown, the shadows that lurk behind our certainties and our more practical concerns. Many find this unsettling, while others find it far-fetched and would have us neglect the study of philosophy in favour of the measurable and quantifiable. But philosophy can be liberating, enabling us to free ourselves of the tyrannies and superstitious constraints of the past. It is with this goal in mind that our writers and editors have come together to create this journal for you, our readers. Covering several different areas of philosophy, including epistemology and philosophy of mind, as well as practical fields like law, science, and medicine, these essays by some of the brightest philosophy students at UVic skillfully explore the chosen topics with great nuance and depth. We hope they demonstrate philosophy's value not only as an enriching academic pursuit, but as a tool for making sense of our world.

Note on the Cover Design

Eliza Flick-Belus (she/her), University of Victoria

Hello. I'm Eliza. I illustrated the cover for *Sophia XVI*. Part of me wants to wax philosophical about the meaning of this piece, my journey with philosophy, the poetry of staring into the void (and having it stare back), yadda yadda... But I won't.

When Bethel Sileshi asked me to do the cover art for this, I said yes but told her the drawing she saw me doing in class was basic pixel art (I was paying attention, Cliff, I swear!). I did not consider myself an artist with the caliber to create something befitting a philosophy publication, even a student one. Beth said "I'm sure you'll do great!" And that was that. So I did it.

Moral of the story: take a chill pill and bite off more than you can chew. You just might make fifty bucks doing something neat for a community you care about.

TABLE OF CONTENTS

Liam Marshall (University of Victoria) Meta-Philosophy and Definition by Example in the Philosophical Investigations.....	5
Keiran Ellis (University of Victoria) Health in the Eye of the Beholder: Exploring Normative and Empirical Conceptions of Health and Illness.....	21
Elyse Kim (University of Victoria) Mills and Rawls on Race and Justice.....	35
Nelson Guedes (University of Victoria) Restructuring Society as a Partnership of Citizens.....	43
Owen Crocker (University of Victoria) The Separability Thesis: A Comparison Between Natural Law and Legal Positivism.....	60
Finn Tobin (University of Victoria) Advocating for the Replacement of Folk Psychology.....	72
Laura G. Stephenson (University of Victoria) I Am Woman Embodied and I Know: A Look at Longino and Feminist Epistemology.....	81
Alec Sault (University of Victoria) Generalizing Epistemic Internalism and Externalism.....	96

Meta-Philosophy and Definition by Example in the Philosophical Investigations

Liam Marshall (he/him), University of Victoria

Many of the issues Wittgenstein discusses in the *Philosophical Investigations* are traditional, established topics within the philosophy of language. With regard to many of these we can give satisfactory answers to the question: “Where does Wittgenstein stand on this issue?” For instance, Wittgenstein claims that names need not have fixed meanings, and proposes family-resemblance concepts as alternatives to classical necessary and sufficient condition analyses. These positions and claims are generally well charted in the literature,^[1] and when Wittgenstein’s impact and influence becomes visible in contemporary philosophy it is typically these aspects of his thought that surface. However, the positions he takes on specific issues within philosophy of language, while interesting, are only first-order—the deepest-reaching and most radical claims he makes are at the second-order, meta-philosophical level. These positions are also well-known and frequently responded to, but typically not taken as seriously. Contemporary philosophers are willing to give serious consideration to the possibility that, for example, “game” may be a family-resemblance concept not analysable in terms of necessary and sufficient conditions (and this does seem quite plausible). However, claims such as “If one tried to advance theses in philosophy, it would never be possible to debate them, because everyone would agree to them”^[2] or “Philosophy simply puts everything before us, and neither explains nor deduces

anything.—Since everything lies open to view there is nothing to explain” (§126) are not often thought to be plausible.

Only those philosophers who have devoted themselves to the task of Wittgenstein exegesis have grappled with a deeply important question for anyone who wishes to understand what of merit there is in Wittgenstein’s writings: what is the relationship between the grand-strategic- and tactical-level arguments and claims that Wittgenstein makes? This is the question I wish to address in this paper, but it is by no means a simple one. At first glance, he seems to fall into the same paradox of the *Tractatus*: his meta-philosophical claims seem to contradict the worth, or even undermine the meaningfulness, of the first-order philosophical claims he makes. In the *Investigations*, Wittgenstein once again seems in some sense to deny the possibility of giving a traditional answer to many philosophical questions, but nonetheless seemingly proceeds to respond to some of these questions in a way that he has declared impossible. What are we to make of this?

Baker and Hacker, in their classic *Analytical Commentaries*, argue that no contradiction exists: properly construed, Wittgenstein’s meta-philosophical doctrines and his first-order claims never in fact run afoul of each other.^[3] His analyses of traditional philosophical topics might seem to produce theses and claims that do more than merely describe and explain, but with closer reading we can see that all of his conclusions really are something like mere reminders of how language works. They give thorough arguments to this end, but ultimately a feeling of dissatisfaction remains. For Wittgenstein most certainly intended there to be a tension between his first- and second-order philosophical claims (more on this below). Furthermore, if Wittgenstein’s first-order arguments somehow can be made to fall within the bounds of proper philosophizing as prescribed by his meta-philosophical claims (taken at face value) then his meta-

philosophy loses much of its bite and its radical, destructive nature – a nature of which Wittgenstein was very much conscious (see e.g. §118). For if Wittgenstein's first-order arguments are compatible with his radical second-order claims, then too much of traditional philosophy is also compatible, and his meta-philosophy is thus far less radical than almost every interpreter agrees that it is.

Stern provides a subtler approach. On the one hand, he sketches a simple method of reconciliation: taking seriously the meta-philosophical claims, we label any first-order argument which runs afoul of them as a mere object of comparison, not to be taken as the considered views of the author.^[4] As part of this method, he stresses the multiplicity of voices within the *Investigations*, particularly distinguishing between the actual authorial voice, which is heard only rarely, and the “voice of correctness,” which propounds better, more Wittgensteinian ways of looking at the problems the interlocutor poses, but ultimately falls into the same traps as the interlocutor himself. On the other hand, he also points out that Wittgenstein is deeply interested not only in philosophical questions and their answers, but also in the process of philosophizing and the (perhaps merely psychological) urges and impulses that guide the philosopher's thought processes.^[5] Part of the aim of the *Investigations* is to chart the unnoticed tendencies and inclinations that push us down certain trails of thought again and again, and to suggest alternative ways to approach and view the subject, without necessarily siding with either approach unconditionally. Stern's approach to the *Investigations* is insightful, but unsatisfying for opposite reasons to Baker and Hacker. Stern does not give appropriate weight to the first-order claims and arguments. Wittgenstein seems to give far too much weight and time to his first-order claims about language for them to be mere objects of comparison or examples of

psychological impulses. The impression is inescapable that Wittgenstein did actually think that his answers and ways of approaching traditional philosophical questions were better than his opponents', and that he was still doing philosophy.

Thus the interpretive terrain surrounding the *Investigations* is similar to that surrounding the *Tractatus*. On the one hand, Baker, Hacker, and their allies defend the view that the first-order philosophical arguments that make up the vast majority of each work should be taken as seriously intended claims to which Wittgenstein was committed. On the other hand, another camp (originally inspired by Cora Diamond's influential *Throwing Away the Ladder*) feels dissatisfaction with this insufficiently radical reading, and thus defends the primacy of his meta-philosophical theses and dismisses the first-order claims as objects of comparison or straw men. Stern takes himself to chart a middle path between these camps, but his actual position is often difficult to make out, and I believe he tends more to the second side than he realizes. In what follows, I will look closely at specific passages in which tensions and paradoxes appear to arise between meta-philosophical and first-order claims, in particular in §121, §133, and the surrounding section on meta-philosophy. In doing so I will begin to describe a way of approaching Wittgenstein's meta-philosophy that charts a middle path between the pitfalls faced by the two camps mentioned above.

§121—Second-order philosophy

§121 presents a serious interpretive challenge for anyone wishing to make coherent sense of Wittgenstein's meta-philosophy as in it he seems at first glance to deny that there is any such thing as meta-philosophy:

One might think: if philosophy speaks of the use of the word “philosophy”, there must be a second-order philosophy. But that’s not the way it is; it is, rather like the case of orthography, which deals with the word “orthography” among others without then being second-order.

There is at very least a superficial tension here, though of course it can be resolved. For he outright denies the existence of second-order (meta-) philosophy, right in the center of what is commonly referred to as “the section on meta-philosophy,” preceded and followed by many (in)famous statements about the nature of philosophy which we would intuitively call meta-philosophical or second-order. It is not plausible that Wittgenstein was unaware of the obvious tension produced when he states first that there is no such thing as second-order philosophy, then two paragraphs later gives us the general form of a philosophical problem, followed by declarations that philosophy must not interfere with or justify language, and that philosophy’s business is not to resolve contradictions or explain or deduce anything.

So how might this tension be merely superficial? The orthographic analogy clears up the confusion. For in this example, it is clear that what is meant is not that orthography cannot deal with “orthography” as a subject, but rather that the methods by which orthography proceeds do not differ in this case. A superficial circularity is in fact not circular at all, because orthography is concerned with “orthography” merely *qua* word. Similarly, historians may investigate the history of their own discipline, and etymologists may concern themselves with the etymology of “etymology” and neither is circular or a *special case*. Rather, in each case the researchers proceed using the same standards and methods that they apply to every other subject they investigate, and in doing so no circularity, self-reference, or bootstrapping is required.

If it is just the same way with philosophy, then philosophy can in fact deal with meta-philosophical statements, but it does so exactly as it treats any other statements. What Wittgenstein means by §121 is simply that an analysis of the word “philosophy” should proceed using precisely the same methods which we use to analyze words like “sentence,” “mind,” “meaning,” etc. Nothing more is meant by the term “meta-philosophy” than a standardly philosophical analysis of the concept of philosophy.

There is much more that can be said about this conception of meta-philosophy, and whether or not it manages to truly avoid circularity and boot-strapping, and more will be said later on.^[6] However, this reading of §121 (and I don’t think there are any other plausible readings of it) circumvents the specific tension I identified above. The various meta-philosophical claims of the *Investigations* do not contradict §121 if they are reached by the same methods that are used to reach first-order claims.

Unfortunately, that is not the end of the story, because Wittgenstein’s meta-philosophical claims do not seem to be reached by the same methods as his first-order philosophical claims. When he investigates concepts such as “sentence,” “propositions,” “language,” “sensation,” etc., his methods typically include: inventing simple language games as objects of comparison, drawing connections between similar and dissimilar concepts, showing how the pronouncements of prior philosophers (including his younger self) are true with respect to certain limited regions of language only, and inviting us into casual exchanges which bring to the forefront assumptions and requirements we didn’t realize we had been making. When he discusses meta-philosophy, none of this careful, dialogical, example-based analysis of our concepts and their ordinary usage is present. Rather, he makes bold, broad claims and generally offers no argumentative support (e.g. §128).

Furthermore, his conclusions do not seem like they could possibly come from the methods he endorses. This is another tension within the meta-philosophy section: he claims that philosophy “leaves everything as it is,” (§124) and does not interfere with our existing usage. But in the sections immediately preceding and following, he seems to give an unprecedented, radical account of the nature of philosophy which is anything but intuitive (e.g. §119, §123, §126, §128, §133).

Finally, I am sure I am not the only reader left with the impression that his meta-philosophy is in some way the real heart or foundation of the book. Speaking from personal experience, I was first drawn in by his first-order claims about the nature of language, the relationship between mental and physical, the incoherency of metaphysics, etc.. But I quickly found that any attempts to understand how these claims were reached, or how the various sections of the book hang together, must be structured by an understanding of his meta-philosophical project. I think this is a problem faced by anyone who attempts to understand the *Investigations*, and I think this is intentional. Wittgenstein’s meta-philosophy is the core around which the rest of the book revolves. In fact, the circularity mentioned above (footnote 7) begins to present a real problem when we ask why he has chosen such unusual methods of approaching traditional philosophical problems. For it seems the answer must involve his meta-philosophy, which, if we are to avoid contradicting §121, must be produced and justified by the same methods as justify his answers to the traditional first-order problems.

This, then, is the problem I wish to answer. How can we make sense of the contradiction that §121 creates within the very heart of the *Investigations*? To solve it, we must turn to another central—and more famous—passage from the meta-philosophy section: §133.

§133: Definition by example

§133 is a fascinating series of remarks and particularly relevant to our present concerns for two central reasons. Firstly, it offers a tightly condensed overview of several of the core meta-philosophical tenets of the *Investigations*. The non-revisionary relationship between philosophical analysis of language and the existing web of grammar is commented on. The goal of philosophy is identified as complete clarity. It is stated that there is no one philosophical method, and one of the few explicit mentions of philosophy as therapy appears. Secondly, the passage also contains a mention of a famous first-order claim—what I call definition by example—but uses it within a meta-philosophical context. This is important because it involves a crossing of the line between first- and second-order philosophy.

Wittgenstein makes the claim that one can define a concept or word, or give a legitimate explanation of it,^[7] by merely giving a partial list of examples, in §71: “And this is just how one might explain what a game is. One gives examples and intends them to be taken in a particular way....giving examples is not an *indirect* way of explaining—in default of a better one. For a general explanation may be misunderstood too.” The position he takes contrasts sharply with that taken by almost every philosopher since the illegitimacy of such a definition was first argued for by Plato.^[8]

To help clarify what is at stake here, we might say initially that we want to know: “What does a legitimate answer to the question ‘What is x?’ look like, where x is some concept?” Socrates in Plato’s *Theaetetus* is after the “what knowledge itself is,”^[9] but in modern terms, we might say we want x’s meaning, semantic content, Fregean sense, or simply x’s definition. We might rephrase the question as “What form can a

full and complete analysis of a concept x take?” or “What knowledge is required for a full understanding of x ?” More loosely, we want an explanation of x . I leave open exactly which formulation of the question is at stake first because it is clear that they all are more or less after similar objects, and that they represent variations in the history of concept-analysis, and second because I think Wittgenstein would want his conclusions to apply very generally—he has no specific formulation in mind. A set of necessary and sufficient conditions is one answer which is uncontroversially acceptable to all parties.^[10] A (finite or infinite) set of all o ’s such that o is x is another answer, or a description of that set are other typically acceptable answers (especially given that the set itself may not be articulable in spoken language). However Plato makes the case that to be able to give a partial list of examples of x is not sufficient to know x .^[11] This is intuitive to say the least, and has been very rarely contested. But Wittgenstein rejects this and suggests that a partial list of examples is not only acceptable, but the only accurate explanation we can give in at least some cases. For sometimes the concept we wish to express is one that no sharp definition could accurately capture—the sum of our knowledge of it is the list of examples we can give, and nothing more (§75-§78).

I call Wittgenstein’s claim “definition by example” but this may be misleading. Really, he would most likely characterize what he is offering as an explanation, and in §71 in fact contrasts it with a “general definition,” by which I take him to mean something like a set of necessary and sufficient conditions. However, I choose to use the term ‘definition’ because I wish to emphasize that what is offered is not a weaker, less strict, or more casual alternative to a general definition. The explanation through examples meant to take the place of a rigorous general definition, and should be held to all the same standards.

What interests me about the usage of the “definition by example” thesis in §133 can be articulated as follows. In the section containing §71, Wittgenstein is conducting an investigation into the concept of language. Here, he proceeds in typical *Investigations* fashion, and leads us to the conclusion that our rejection of definition by example is not well-founded, or at least that it only is demanded by a certain, potentially misleading picture of how language works. Definition by example is a conclusion about the nature of language, and it is argued for using observations about our actual usage of concepts and language. The passage revolves around his claim that the concept of game is not one that is bounded everywhere by precise rules. Our concept simply lacks clear boundaries and rigid criteria for application. Given this type of concept, Wittgenstein suggests that definition by example may be *the only* type of definition that is possible (e.g. §75-78). Concepts like *game* would be simply misrepresented by any more rigorous definition. In §135, for example, he claims that our concept of a proposition is of a kind with game, and that it should be defined similarly.

After §71, however, definition by example is raised from the level of a conclusion about the nature of language in certain cases to the level of method. In other words, with the conclusion of §71 taken as proved, Wittgenstein considers himself free to, whenever faced with a concept lacking sharp boundaries in same way as the concept of game, offer partial lists of examples as definitions and to assume the connection between these concepts as he proceeds with his investigations into philosophical dilemmas. For example, beginning in §138, and continuing along twists and turns until it crossfades into the section on rule-following by §200, Wittgenstein gives us an extended discussion of what we might mean when we say we understand or mean a word or sentence. His discussion touches on activities such as

interpreting diagrams via methods of projection, continuing number sequences, reading, and being guided, and in each case his arguments mostly proceed by way of introducing and considering examples of the activity in question.

However, what is most important to notice is that the conclusions he draws from the examples are not generally positive, substantive analyses of the concepts—rather, he takes his examples to show the inadequacy of various analyses which he rejects, without presenting a (more) correct alternative. Beyond demonstrating his opponent's mistakes, all Wittgenstein does is ask us to *look* at the multitude of examples he provides, and decide whether there is any common, essential element between them. The answer he expects is “no”: the list of examples is analysis enough, provided we are not drawn in by our assumptions about how our answers must turn out. The list of examples can be extended indefinitely as long as our misconceptions remain, but once we have cleared them away, we will understand that nothing further is required. §172 is a particularly clear example of this: he gives five examples of being guided, then in §173-178 heads off every attempt that we might make to go beyond and identify any inner experience which is the essence of being guided. However, it is only if definition by example and the correlated claims about concepts without sharp boundaries are assumed that it is acceptable for Wittgenstein to rest his case on a list of example cases alone.

There are numerous other examples—anyone at all familiar with later Wittgenstein knows how densely his writing is packed with invented example cases, and how if they are followed by any analysis, it is not a positive analysis of the concept in question, but rather one of the ways we go wrong when we try to provide such an analysis. Definition by example is not merely a first-order conclusion about language, rather, it takes on a

methodological role, informing how Wittgenstein conducts investigations of concepts in general.

In §133, Wittgenstein is engaged in analysis of the concept of philosophy. And in §133c, he gives us a statement that demonstrates clearly that he is aware of the contradictory implications of §121: “...The [real discovery] that gives philosophy peace, so that it is no longer tormented by questions which bring *itself* in question.—Instead, a method is now demonstrated by examples, and the series of examples can be broken off...” Method can be demonstrated by examples, but part of his method *is* demonstration (definition) by example. As mentioned earlier, there is a vicious circularity lurking in this section—how can we give an analysis of philosophy, one which would presumably dictate what standard philosophical method should be, if we must do so using only standard philosophical method?

Here is his response to the circle: we begin by arguing that some concepts lack sharp boundaries and rules for application, and thus can only be defined by a partial list of examples. Next, we make this connection between “blurry” concepts and definition by example a part of methodology, so that we can proceed by giving examples and conclude that the concept under analysis is “blurry,” and vice versa, and we can assume that the reader agrees that a list of examples might not need anything more to be a sufficient analysis. Then we do a whole bunch of philosophy—we tackle traditional philosophical questions, analyze common philosophical terms, unearth common philosophical assumptions, and shine light upon common patterns of thought amongst philosophers. At the end of this investigation we will have achieved results of two distinct kinds. Firstly, we will have made steps of progress on a wide variety of first-order philosophical topics. Secondly, each step of first-order progress will be

complemented by progress towards an ostensibly second-order question, namely, “What is Philosophy?” This question will thus be answered with the same method that we have utilized all along: by definition through example.

The various meta-philosophical proclamations of §116-133, then, do not arise *ex nihilo*. Rather, they can be seen as summaries of the findings gained by demonstrating what philosophy is by repeated example, and every first-order question dealt with in the book is itself taken to constitute an example of what philosophy is. And if we take definition by example to be a legitimate methodological principle, with a list of such examples we already have a definition of philosophy.

What has been sketched out in the preceding few paragraphs describes one central aspect of the Wittgensteinian project. It answers the questions, “What is he trying to do?” and “How is he trying to do it?” I have argued that certain apparent tensions or outright contradictions within the remarks on meta-philosophy can be resolved, and it is my hope that an understanding of this resolution provides us with a deeper understanding of what exactly he is attempting to do in the *Investigations*. But there is a further question which we must ask, and that is: “Did he succeed?” Supposing I am correct that there is in fact no circularity or inconsistency within his meta-philosophy, we might still wonder whether his meta-philosophical claims are in fact properly justified by the series of demonstrations of philosophy in the way that I have suggested they can be. These worries are legitimate—the meta-philosophical claims between §116-133 are highly radical, broad, and revisionary, perhaps excessively or implausibly so. A definitive answer to this second question is beyond the aims of this paper, but before I conclude I would like to sketch two brief suggestions as to how these worries might be alleviated.

First of all, the importance and ubiquity of negative claims should be emphasized. One of the clearest examples of how his approach to first- and second-order philosophy coincide is how, in the *Investigations*, a concept is analyzed not by giving a positive account of its content but by showing how positive accounts go wrong. Each negative demonstration of how not to analyze or explain a concept corresponds to a negative demonstration of how not to do philosophy. Furthermore, the book is densely packed with such demonstrations, and many of the methods that Wittgenstein dismisses as misleading are at the heart of the Western philosophical tradition. As he acknowledges in §118, his investigation “...seems to destroy everything interesting: that is all that is great and important[.] (As it were, all the buildings, leaving behind only bits of stone and rubble.)” The devastation he takes himself to have inflicted upon traditional meta-philosophy makes his radical proclamations more plausible: if he has shown traditional philosophical methods to be of limited or no use, then of course any methods he endorses will be new and unfamiliar.

A second, and more controversial suggestion is that we should take very seriously the remarks on multiplicity of method in §133: “...a method is now demonstrated by example... There is not a single philosophical method, though there are indeed methods...” Given this claim, and the familiar theme of definition by example, we could even claim that the meta-philosophical claims of §116-§133 are examples of philosophical methods, not universal claims about what philosophical method must always be like. The whole point of giving examples of a concept is that no feature of any individual example must be true of the concept in its entirety. Thus statements like “A philosophical problem has the form ‘I don’t know my way about’” (§123) might be more like independent examples of philosophical method, not claims about the one true universal philosophical method. This approach may

discomfort those who are used to taking all of the meta-philosophical statements at face value, but it seems to me that it actually introduces a harmony between the first-order and second-order sections of the book.

I leave it to the reader, as always, to decide for themselves whether Wittgenstein's meta-philosophy is plausible. I hope merely that I have made my case that there is deeper order and coherency in the *Investigations* than it may seem at first glance, and that Wittgenstein scholarship can profit from a close investigation of the complex relationship between first- and second-order philosophy within his work.

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Health is in the Eye of the Beholder: Exploring Normative and Empirical Conceptions of Health and Illness

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Introduction

The discourse surrounding scientific and medical practice is often conceptualized as entirely objective and empirical. Through this assumption, previous philosophical literature has attempted to provide a conception of health and illness in a purely empirical and descriptive manner. However, the conception of science and medicine occurring in the abstract is misguided—these practices do not occur in a vacuum and are not free from normativity. As such, we cannot have a purely descriptive and empirical account of health and illness because of value-laden judgements on statistical normalcy, impeding social values of desirability, and societal interest funding scientific inquiry. What, then, encapsulates an adequate definition of health and illness? This is not to say that a good definition of health does not encapsulate empirical biological claims. Such a definition is preferable, but the inability for such a definition to be completely nonnormative is arguably unachievable. Any instance of normative values necessitates this definition as no longer being entirely empirically descriptive. A recognition of both empirical and normative claims is needed for an adequate account of health and illness whilst limiting our own biases and value judgements as much as possible. This paper will not provide a novel definition of health and illness but will rather provide the reasons for why normativity is entrenched into our core understandings of health and illness and, in some cases, beneficial. This paper acts as the groundwork for the critique of a fully naturalistic account of defining health and

illness and demonstrates the pervasive nature of normativity. This will be done through the initial outlining of key terms, a walkthrough of some past historical attempts to define health and its weak points, the impact of normativity in social values pervading our understanding of health and illness, and an examination of the funding of scientific inquiry. Medicine and scientific practice are not impervious to normative values, and thus, we cannot have a singular, isolated definition of health without considerations of these socio-cultural factors that impact our understanding of what it means to be healthy.

Defining Terms

It is essential to first characterize what a normative claim is when examining the framework of potentially purely descriptive definitions of health and illness. Empirical descriptions involving health are imperative in the accuracy of biological and scientific truths and are needed in good definitions of health. The notion of asking *why* we ought to have a purely descriptive definition of health and illness, however, in and of itself possesses normative components. A normative claim is a statement on how things should or ought to be. Such a claim involves an assessment of what should be considered good or bad, or right and wrong. There is an evaluation of one definition, albeit empirical over a normative claim, here. This evaluation is itself a value judgement; a purely descriptive claim appears to be more desirable. While I contend that normative claims, whether implicit or explicit, are unavoidable in characterizations of health and illness, we can try to minimize them in scientific practice. It is important to note that any instance of value-laden judgements or normative claims within a definition of health or illness no longer makes that definition purely descriptive, but both empirical and normative elements ought to be considered in formulating these definitions.

This paper will initially examine Christopher Boorse’s attempt to define health in an objectively empirical manner—his view, commonly referred to as a naturalistic account of health, sees health through an isolated examination of empirical biological facts. On the other side of the spectrum lies the fully normativist approach to defining health, which relies on the “impact a biological condition has on our lives” (Ho, 2019, vii). While this paper heavily focuses on why a naturalistic approach to defining health is unfavourable, it also does not advocate for a purely normative approach. Rather, this paper acts as a critique of naturalism and argues that any instance of a value-laden judgement in an understanding of health and illness no longer constitutes such a definition as purely descriptive and empirical.

Previous Attempts at Defining Health

To contextualize previous attempts at defining health and illness, Christopher Boorse was noteworthy in bringing naturalism to the forefront of philosophical discourse in his 1977 piece, *Health as a Theoretical Concept*. His work outlined an attempt to define health in a purely empirical manner: health is to be understood as “normal functioning, where the normality is statistical, and the functions biological” (Boorse, 1977, p. 542). In other words, as Boorse purports, to be healthy is to function *normally*. Boorse attempts to exemplify a wholly empirical understanding of health by using reference classes and his Biostatistical Theory (BST). Boorse’s BST uses the reference classes of age, sex, and race in order to determine normalcy in an individual (Kingma, 2007). For example, Brad Pitt would be considered healthy by Boorse’s account so long as all of his biological functions are statistically typical for a Caucasian, male, 58-year-old human. Boorse’s need for reference classes is due to *relative* normalcy—a female with testosterone levels that match the statistically typical levels of testosterone for a male is considered to *not* be healthy (Kingma,

2007). Boorse's view is commonly characterized as a naturalist conception of health and illness through the sole examination of biological function (Ho, 2019). While Boorse's claim on his attempt to define health in a purely empirical manner is one of the most pervasive characterizations of health and illness, he implicitly makes normative, value-laden judgements within his assessment of health, which is delineated in Elselijn Kingma's (2007) piece, *What is it to be Healthy?*

Kingma (2007) proves the existence of value-laden judgements in Boorse's account through her critique of the BST. Boorse claims that a normal function is considered in relation to its reference class, whereby its proper function is statistically typical. Boorse characterizes health as being normal concerning its reference class and disease as reduced functional ability below what is typical for the individual's reference class. Kingma (2007) asserts that this characterization of health and illness, while initially presented as convincing, is actually misguided. Boorse claims that the guiding principle of his definitions is *relativity*. Namely, if Person A (Brad Pitt) is being compared to a statistically typical healthy Person B, this comparison requires the assessment of Brad Pitt's health to its exemplar in the reference class, Person B. What is significant about this claim is that Boorse purports that Person B distinguishes how Person A (in this case, Brad Pitt) *ought* to be. The notion of 'ought to' or how a particular individual should be biologically, physiologically, emotionally, or mentally, relies on the assumption that behaving or possessing particular traits is more valuable or desirable because they are more statistically typical. This evaluation of what is typical or atypical necessitates a normative element to Boorse's claim (Kingma, 2007). Moreover, Kingma demarcates the faults in Boorse's definitions of health and illness as his BST requires reference classes *because* individuals possess a wide variety of functions.

Boorse organizes these reference classes based on race, sex, and age. Kingma claims that Boorse's account of health is accurate only if the "right kind[s]" of reference classes are used for comparison (p. 128). The determination of what is appropriate or inappropriate to be included in Boorse's reference classes is a normative claim in itself. This is problematic for a Boorsean account of health, as he purports his definition is fully empirical and free from normative judgement in the determination of health.

To further her critique of Boorse's (1977) account of health, Kingma (2007) uses the example of heavy drinkers. If Boorse were to hypothetically use alcoholics as the exemplars for healthy livers, then the classification of what counts as a healthy liver drastically changes. Kingma purports that by Boorse's definition, to be healthy is to be compared to the *appropriate* reference class. What is considered to be appropriate is in and of itself a normative, value-laden judgement; it requires a decision on what is deemed appropriate and statistically typical. While Boorse pushes for 'function' to be characterized as working towards a goal, the notion of which goal is appropriate, statistically typical, or desirable requires a normative evaluation. Kingma's critique thus reveals that a Boorsean account of health is not value-free.

Examining Statistical Normalcy

Boorse (1977) might respond to Kingma's (2007) assertion such that his proposed reference classes *are* the relevant reference classes and all other distinctions that could be made are not relevant to characterizing health and illness. Kingma accounts for this in her critique of Boorse by making the superior assertion through her use of the example of homosexuality. Kingma proposes a hypothetical second characterization of health to be known as XST compared to the BST; the only difference is that

XST has one additional reference class: sexual orientation. If one looks at homosexuality under Boorse's BST, homosexuality is considered a disease because of its interference with statistically typical reproductive functions. If one looks at homosexuality through the lens of the XST, homosexuality is accounted for in its own reference class and would be considered a healthy function of an individual. The question for Kingma thus becomes *which model of health is the correct account?* This itself would necessitate an evaluative judgement on whether or not homosexuality ought to be considered a disease. Kingma concludes that there are no empirical facts in science to determine which reference class could be considered appropriate or inappropriate, which means there is also no empirical fact that points to whether the XST or BST model is correct.

If Boorse were to adjust these reference classes to be more representative of society, evaluative judgement is still required in this inherently normative decision-making process. The difficulty in the creation of a fully empirical understanding of health and illness suggests that normative accounts within a definition are beneficial in the understanding of what it means to be healthy or ill. Hypothetically, suppose it were to be discovered that all individuals who possessed high levels of intelligence were found to have a statistically atypical genetic defect correlated with their high intelligence. When compared to their reference class, by a Boorsean naturalistic account, these individuals would be considered diseased. Yet the hesitancy to categorize intelligent individuals as possessing an illness indicates the existence of our attitudes and value judgements entirely towards the *symptoms* and not the biological markers (Ho, 2019). This then suggests that in some cases, normative judgements are needed in the determination of health and illness. Even the most prominent and pervasive claims from the naturalistic side of the philosophy of medicine fail to make a purely descriptive account of health and illness and

supersede normative claims. This is not to say that these objections to Boorse's definition alone are sufficient to claim that we cannot have a purely descriptive account of health. Rather, this notion, combined with the aspect of impeding social values and social interest funding scientific inquiry, alludes to the pervasive nature of value-laden judgements within a definition of health and illness.

Social Values

The existence of social values in the medical profession is undeniable. The notion of ethics alone in medicine, which is used in medical practice today, is normative as ethics itself requires evaluation and judgement. More abstractly, societal considerations of morality in the past have been integrated into the medical community's understanding of illness. Take, for example, the notion of homosexuality. Previous psychological and medical textbooks have characterized homosexuality as a mental illness (Ho, 2019). But this is simply no longer considered to be true. The shift from homosexuality to being characterized as a disease, over to a sexual preference, suggests a parallel shift in societal moral values. Within this time, the notion of homosexuality was viewed as abnormal and undesirable and was thus to be treated. The notion of illness today for most is considered to be an undesirable thing to possess. These judgements and evaluations of what is and is not desirable are normative claims. To have a purely descriptive account of health is to have an account that is value-free and nonnormative. However, medical history has yet to prove that a value-free account of health is achievable. To account for both society's changing moral and social values and empirical biological facts, normative claims in a definition of health are needed. This is not to say they can be purely eliminated, and if we are to consider both social values and determinations of health and illness, we stray from having a purely descriptive account of health and illness. A potential worry that might arise is the notion that

there are objective ways to classify illness and health whereby the aforementioned example was evidence of merely an incorrect classification. While it is true that the classification of homosexuality as a disease was entirely incorrect and extremely harmful to the LGBTQ+ community, social pathologization has always been entrenched in how scientific inquiry is conducted and how we come to understand health and illness, the details of which will be discussed in the latter portion of this paper.

The Funding of Scientific Inquiry

The funding of scientific inquiry is an essential component of conducting research. Funding for scientific inquiry and research helps the scientific community gain the empirical data needed to understand aspects of health and illness. This funding, however, is inherently tied to social value. For example, in the 1950s, tobacco companies funded and skewed scientific research to rival the emerging scientific evidence that smoking cigarettes were harmful to one's health; the proposal was to manipulate scientific research and outcomes (Brandt, 2012). While social interests and medical science have "never been sacrosanct" from each other, the tobacco industry inserted its own value judgements even further into scientific inquiries on health (Brandt, 2012, p. 64). One cannot adequately account for an entirely descriptive account of health if one does not understand the full breadth of health, particularly if some areas of health have yet to be investigated.

Biological risk assessment, as highlighted by Longino (1983), discusses the value-laden judgements within scientific experimentation. Take, for example, the creation of Enovid, an oral contraceptive, which led to an increased risk of developing cervical cancer. This fault was due to a disregard for certain risks to be measured. These selections of risks were extra-scientific, which biased the experimenters in failing to measure these

potential harms (Longino, 2019). The funding of research by philanthropists or pharmaceutical companies undoubtedly impedes extra-scientific values in determining health concerning the subject being researched. In this way, whatever is deemed valuable by a researcher's sponsor motivates the direction of inquiry. What is judged as important for further inquiry is thus determined, at least partially, by social and contextual values, which are undoubtedly normative (Longino, 1983). This leaves the possibility of important aspects of health being left undiscovered. To do science in a purely descriptive and objective context would be to ignore these unavoidable biases – not all subject matter can be funded fully. Decisions and value judgements must be made on what is *worth* further inquiry.

This topic also requires the discussion of the goals of medicine. While on one hand, medicine is (1) a scientific endeavour, it also (2) aims to improve an individual's wellbeing (Ho, 2019). If we are to examine medicine only through the first pursuit, then perhaps a more empirically grounded understanding of health ought to be pursued (Ho, 2019). However, this is not the case; the second goal of improving an individual's well-being, if also viewed in isolation, may advocate for a more fully normativist approach (Ho, 2019). In either case, medicine does not occur in a vacuum – these goals are in no way independent from each other. As such, neither a fully empirical nor a fully normative approach to understanding health and illness ought to be pursued. Rather, a blend of both empirical and normative understandings appears to be the most favourable and well-rounded approach to defining these terms. Prevention of biases to the greatest degree is necessary for scientific experimentation and practice, yet social interest funding inquiry undoubtedly has an impact on the discourse surrounding our understanding of health and illness today. Thus, social interest influences scientific inquiry, which impacts the determinations of health, and thus, impacts our

understanding of what health and illness entail. We cannot then have a purely descriptive account of health, but we also ought not to pursue a wholehearted normative approach to health, either.

Counterarguments

Objections to the claims of the significance of societal values include the idea that this example of homosexuality being classified as a disease is merely an erroneous classification. One may also argue that because medicine has yet to achieve a purely descriptive account of health does not make this objective impossible. Both objections will be addressed below to demonstrate that despite these contestations, the entrenchment of normative valuations in our understanding of health and illness continues to persist. In some cases this entrenchment is necessary for conceptualizing these terms.

As for the former contestation, hereby referred to as *contestation 1*, the instance of homosexuality being classified as a disease is far from an isolated event. Instances of drapetomania, a slave's desire to flee from captivity, or a female having intercourse outside of her marriage were also both considered diseases (Powell & Scarffe, 2019). One could even contend that because these behaviours were considered 'undesirable' for their time, they were considered to be illnesses to seek remedy for this undesirability; these are undoubtedly value-laden notions. Powell and Scarffe (2019) add to the debate on the declassification of homosexuality as a mental illness by arguing this was a result of "new patterns of social evaluation" (p. 580). Today, the Diagnostic and Statistical Model of Mental Disorders-5 (DSM-5) has expanded to include medically treatable pathologies such as nail-biting, a fear of public speaking, and depression ensuing after the death of a loved one (Powell & Scarffe, 2019). These examples in today's DSM-5 infer that societal commonalities impact the

pathologization of normal variation, not biological facts alone, because these factors, for example, nail-biting, cannot be objectively considered a disease in isolation (Powell & Scarffe, 2019). Contextual understanding thus becomes essential to understanding some medical pathologies. In this case, the death of a loved one. Longino (1983) asserts that contextual values, which include social and cultural aspects, drive what is valued within that time in which science is done. This also includes the funding of scientific inquiry. Regardless of the degree to which biology versus social normalcy causes these instances of what is considered to be an illness, one can conclude that a shift in social values dictates, even to a small degree, the classification and declassification of illnesses. This small degree then means there cannot be a wholly descriptive account of health and illness as normative social considerations play a role, even if that role is minor. Granted, the aforementioned examples of homosexuality, drapetomania, and extramarital relations were misinformed and harmful failures in defining illness. This is exactly Boorse's worry: this possibility that normative values can negatively influence our understanding of what it means to be healthy or diseased. However, social values continue to pervade pathologization and, in some instances, can be helpful in our understanding of health and illness.

The latter contestation, that just because there has yet to be a fully empirical definition of health and illness does not make this feat impossible, is also an objection that fails to understand the entrenchment of evaluative judgements even in the language used in the understanding of disease, health, or illness. Boorse (1977) attempted to make this contestation more tolerable yet failed to give a purely empirically descriptive account of health and illness as described earlier. Goosens (1980) purports the word 'disease' itself implies a level of desirability or undesirability. This also can extend to the terms 'health' and 'illness'. This appraisal of what is

considered to be desirable or undesirable necessitates evaluative judgements and is thus not entirely empirical. In fact, some diseases in particular contexts have also been considered beneficial (Goosens, 1980). Take, for instance, cowpox being advantageous by providing immunity to those who contracted it during the smallpox epidemic. This delineates the subjective desirability of cowpox as being viewed as beneficial in one context, but detrimental through an isolated lens. This evaluation of the benefits and detriments of cowpox requires judgements to be imposed, specifically on the surrounding context in which the disease takes place. Because these judgements are often imperative in understanding disease, health, and illness, a wholly empirical approach would omit this important evaluation.

While an exclusively biofunctional approach to defining health and illness limits its range of applications, an entirely social classification also disregards important biological aspects in the framework of health and illness (Powell & Scarffe, 2019). One must consider both aspects for a well-rounded understanding. The existence of social values pervading medicine by itself does not show that we cannot have purely descriptive definitions, but rather, these social values combined with the normative nature of statistical normalcy and societal interest which funds scientific inquiry demonstrates that normative factors are unavoidable in characterizations of health and illness. This paper thus advocates for a combination of empirical and normative valuations in the future discourse surrounding conceptions of health and illness.

Conclusion

The discourse surrounding conceptions of defining health and illness has commonly advocated for a naturalistic approach to understanding these terms. While the work of Boorse (1977) was indeed noteworthy for its time, his conception of health failed to

give a truly descriptive and solely empirical definition of health. This was exemplified in Kingma's (2007) critique of Boorse in depicting how Boorse's use of reference classes necessitates evaluative and thus normative judgements to be imposed on which reference classes ought to be deemed appropriate. The pervasive nature of social values, while at times harmful in its conceptions of health and illness, also poses a unique perspective in gaining a more comprehensive understanding of health through contextual understanding. This was seen through the employment of the examples of high intelligence and the contraction of cowpox. The funding of scientific inquiry, while essential to the discovery of certain aspects of health and illness, also brings a set of normative values which drive the *direction* of inquiry. These normative impositions are a necessary component of scientific inquiry, thus we cannot fully separate normative values from empirical scientific practice. This is not to say that a good definition of health ignores empirical biological factors altogether. Rather, a recognition of both empirical and normative claims is needed for an adequate account of health and illness. Any instances of normative claims involving health and illness are no longer wholly empirical. The considerations listed previously clearly denote that science does not occur in the abstract, and the influence of societal values and normative judgements are unavoidable in the determination of health and illness. This paper ultimately urges future discourse to consider the benefits of the inclusion of normative components surrounded by an empirical basis in conceptualizing what it means to be healthy or ill.

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Mills and Rawls on Race and Justice

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How we should theorize about the organization of society is a highly contested topic with real implications for the lives of every person who lives within a society. Many theorists have provided differing views on this topic, however I will focus on the opposing views of Charles Mills and John Rawls. In “Body Politic, Bodies Impolitic,” Mills argues that all conceptions of a political community are inherently racialized. This view of the political community leads Mills to have a highly critical view of theories that idealize certain aspects of the political body, arguing that ideal theory can only serve the interests of the privileged (Mills, 172). Ideal theory, contrasted with non-ideal theory, is a theory that is abstracted away from many real-world facts. For example, maps are always idealized and abstracted away from real world facts depending on the purpose one wishes the map to serve. The Mercator projection of the map gets the shape of landmasses right, but their size wrong. Hammer projections get the size right but the shape wrong. Maps are, therefore, abstracted away from many of the facts about the way the world actually is. Rawls presents a view of justice which hinges on a notion of a reflective equilibrium—a mechanism through which we can step outside of our own experiences to evaluate whether society is just. This view relies on idealizations in so far as it requires one to attempt to abstract themselves away from their everyday lives. Mills disapproves of Rawls’ account in *Justice as Fairness*, arguing that it requires an unrealistic expectation of human rationality and a misunderstanding of how social institutions operate. I will use Mills’ criticisms against Rawls to illustrate some of the issues that arise with idealistic theories while pointing to Mills’ proposed solution to some of these issues.

Mills argues that the very conception of race was created to further specific political agendas, namely that of colonization (Mills, 595). More precisely, the United States is a white settler nation established on Amerindian Territory. The concepts of whiteness and non-whiteness were essential in forming the identity of the United States and its inhabitants (Mills, 594). Subsequently, the concept of whiteness was used to grant certain people access to civil society while non-white bodies were excluded from enjoying the rights that white bodies enjoyed. This concept of race was used as a tool to qualify certain people citizenship and personhood, creating racial prerequisites for being considered a person. (Mills, 598). This view of race remained prevalent until after the second world war when liberal political theorists realized that race could no longer be a fundamental aspect of political society. They, therefore, removed all the explicitly racist aspects of their political philosophy. Although such an undertaking was well-intended, these thinkers failed to see that the entire political system was founded on racist principles. Even when one cuts away the obviously racist portions of the system, the system as a whole still remains deeply ingrained with racism.

Suppose we were trying to grow vegetables from a soil that we knew was contaminated with various poisonous chemicals. The vegetables are akin to civil society, while the poisonous chemicals are akin to racism. When we grow these vegetables, they will likely come out with various defects and apparent signs of being unhealthy. We can then trim away the parts of the vegetable that seem obviously defective while trying to leave parts of the vegetable that seem to be healthy. Once we have finished trimming away all of the deformed parts, we are left with the parts of the vegetable that were not visibly defective. The parts of the vegetable that remain are still not necessarily safe to ingest as they still grew from the soil infested with poisonous chemicals. Just like in civil society, we tried to trim away the parts that seemed

obviously problematic, but we are still left with an underlying structure deeply infested with racism. Mills' view of the integral role that race has played in establishing civil society led him to be highly skeptical of political theories that fail to take the role of race into account. For this reason, Mills is highly critical of Rawls' account in *Justice as Fairness* as it idealizes many aspects of human capacities and social institutions. To understand the issue, we must first have an account of Rawls that addresses the relevant parts of his view.

Rawls argues that all people in a society are connected to each other through a basic structure. This basic structure encompasses all the different political ways people are connected to one another through the economy or other social institutions. A structural position refers to your social location: an affluent person and a poor person will be in entirely different structural positions. Rawls argued that we could step behind a "veil of ignorance" and abstract all the particular things from ourselves that are relevant to our structural position. We find ourselves in the "original position" when we step behind the veil of ignorance. Rawls argues that we can evaluate whether or not our basic structure is just by stepping behind the veil of ignorance and negotiating from the original position. By doing so, Rawls argues that one can evaluate the basic structure and determine whether anyone should be happy with it no matter their structural position. Therefore, my particular structural position should be irrelevant to my evaluation of whether or not the basic structure is just. Once we have stepped behind the veil of ignorance, we make negotiations from the original position. The original position allows us to see if our basic structure is morally defensible. Insofar as the basic structure is a product of human decision, all people impacted by the basic structure have the right to demand an answer as to why the choices are okay. Therefore, the original position is a negotiating position

where we have many individuals step behind the veil of ignorance and evaluate whether or not the basic structure is fair and justified.

The issue that Mills has with Rawls' account is that it idealizes and abstracts away from the various things that directly influence the way we make judgments. More precisely, by not giving due weight to how hegemonic ideologies and group-specific experiences distort the way people reason, Rawls attributes completely unrealistic capacities to the human agents in the political body (Mills, 168-169). This idea can be illustrated using the example of gasoline. Those who drive a car likely have some idea of how much gas costs, while those who mainly bike or take the bus will likely have less of an idea of how much gas costs. The biker and the driver have completely different life experiences with respect to gas, so the biker therefore overlooks something that heavily impacts the car-driver. The experiences of the biker and the car-driver fundamentally shaped the sorts of knowledge they had. The same is true in society—one may remain unaware of the undesirable effects of a social institution if their life experience never forced them to confront that effect. Each person has a different experience in society based on their structural position. For example, a white person who grew up in an affluent family will have a completely different view of society than a racial minority who grew up in poverty. To say that the affluent white person could separate themselves from all of their individual experiences and honestly imagine what it would be like to be a poor racial minority is highly idealized. In fact, Mills argues that by using this idealized model, we are abstracting away from the realities crucial to understanding how exactly injustices are at play in our social institutions (Mills, 170). Mills' argument that our entire political society was founded on racialized ideas of white and non-white is hugely relevant when evaluating the Rawlsian account. Since race has played such an essential role in the establishment of civil society, we must make race theoretically

central to our evaluations of our society (Mills, 170). By doing so, we may actually be able to evaluate how injustices are produced in our society and have a better idea of how to mend these inequalities. Abstracting away from racial identities effectively amounts to purposefully ignoring the very things that produce inequalities in our society.

Rawls' response to Mills' criticism will have to do with his conception of the reflective equilibrium. Rawls' account of the reflective equilibrium begins with the assumption that citizens have the capacity for reason as well as a sense of justice (Rawls, 29). Because people have the capacity for reason, they can make judgements about whether or not certain things are fair. Our judgments will sometimes conflict with others' judgments, and when this occurs, we are expected to revise our judgments. Someone who has a narrow reflective equilibrium has made very few revisions to their judgements (Rawls, 30). Conversely, someone who has a wide reflective equilibrium has carefully considered their conception of justice and used others' conceptions of justice as a tool for amending their views and coming closer to a view of justice that everyone can accept. Rawls argues that if all citizens have a wide reflective equilibrium, then political justification is non-foundationalist (Rawls, 31). Foundationalism refers to the view that there are basic principles that are foundational to a certain theory or way of thinking about things. Non-foundationalism is the opposite of foundationalism. When political justification is non-foundationalist, we must be prepared to retract or revise some aspects of our views of what is just to reach a conclusion that everyone can agree on.

We may now see how Rawls' account applies specifically to race by imagining that we are an upper-class white person. Suppose again that we judge that our basic structure is just, and then a racial minority comes along and expresses that they do not

view the basic structure as just. Instead, this person tells us that the basic structure is unjust because it oppresses members of their racial group. Because Rawls views all people as having the capacity for reason and a sense of justice, we should, at the minimum, be willing to listen to the concerns of racial minorities. Even more so, we should try to understand why and how this group is being oppressed. We ought to step behind the “veil of ignorance” and evaluate whether the racial minorities’ claims are founded.

Once we have made a genuine attempt to understand the view of those claiming that the basic structure is not benefiting them, we must decide whether or not they are justified in their claims. Notice that this idea relies on the notion that we will make real and genuine attempts to see civil society from someone else's perspective. Subsequently, if we believe that racial minorities are justified in criticizing the basic structure, we must amend our judgements to encompass their concerns. Doing so will allow us to have a wide reflective equilibrium. Importantly, it is not just *me* who must make these amendments to my view; everyone in society must be willing to critically analyze their judgements. If everyone in society is willing to reflect, then we can say that our society’s political justification is non-foundationalist. Having this non-foundationalist view of political justification allows for individuals’ different voices to be heard equally, so there are no hegemonic views that overpower discourse surrounding justice.

We have now seen Mill’s concerns regarding the idea that civil society was founded on racist ideas, making it impossible to simply “trim away” the explicitly racist aspects of our society. I then presented Rawls’ belief that we can come to evaluate our society as just. Mills’ concerns applied to Rawls insofar as Mills does not believe that abstracting away from individual particularities such as race will be helpful in creating a just society.

Rawls may reply to this criticism by appealing to the reflective equilibrium. If we take Mills' criticisms seriously, we have a way to think about society that accounts for the struggles of marginalized people. In doing so, we can restructure society in a more just way.

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Restructuring Society as a Partnership of Citizens

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History is filled with horror stories of governments abusing their power. The relationship between people and governments often appears to be an abusive relationship where governments unfairly exert their power over people. Government calls for indigenous “reconciliation” in Canada in the midst of conflicts over pipeline construction as well as the riots for racial social justice seen earlier this year in the US are examples of how this abusive relationship continues to this day. Often, this results in demands for reparation from the governments involved in the abuse of their citizens. Amid this discussion over reparations and justice, there is a general assumption, implicit within the discourse of civil society, that governments are always in possession of the central levers of power.

We can see this assumption at play in the predominantly state centric approach of international law. Governments indeed have a general level of control over the structures of society, but thinking of governments as in control causes one to miss the bigger picture. Governments are only one form of organization in society. Our planetary society can be more appropriately understood as a collection of organizations of which government-controlled states are only one of those organizations. As such, a larger systemic and structural approach is needed to determine why governments behave as they do and how we can resolve this critical issue. In this paper, I will argue that the state-centric approach to structural injustice analysis is flawed and, through a complex systems approach, take into account both individual and institutional interactions. In this discussion, we will examine the

different roles people play, the rules that they follow and how the structures of society affect their interactions. I will then propose a solution to the problems I raised in the first part of the paper. Those solutions will entail a reframing of our conception of citizenship as a membership of society which entails forward-looking responsibility based on the obligations we have towards one another as citizens, with a common interest in creating a fair and stable society. It also entails a restructuring of society that can maintain that conception of citizenship by distributing power so that every citizen can have the capacity that they need to influence the general will of society.

Reverse Engineering the Structures of Society

We tend to think of states as independent agents who have full control over their decisions and interactions with other states. States are conceptualized as “sovereigns” possessing a “body politic” composed of all its inhabitants. The “body politic” is an anthropomorphic metaphor of the state as an individual composed of individuals (Mills pg583). The actions of the state are understood as unitary, the actions of a single mind free of contradictions. The “sovereign” thus becomes expressed as the identity of the state through the actions the state undertakes. This state-centric point of view reduces all society to a single entity. This neat conception of the state with one “mind” and one “body” fails to capture the reality on the ground, where different people within the state occupy different social positions and are able to influence the state to different degrees.

In this first part of the paper, I will break down the state into structures composed of these different groups of people and show how these structures create a divided state where some people can be properly classified as citizens while others become subjugated to them.

During the Asia-Pacific War, Korean women were forced to provide sexual services to Japanese soldiers. From a state-centric point of view, the Japanese are characterized as the colonizers of Korea. Moral culpability is assigned to Japan as a state and the crimes against humanity of the Japanese state are recognized in the context of the interstate war against the two states (Catherine Lu pg264). This state-centric approach fails to capture the underlying dynamics at play. Japan and Korea don't exist as distinct agents, they are collections of agents that, together, form states. In this particular example, the Japanese military comfort system was an institution that combined capitalism, militarism and a sexual-cultural order (Catherine Lu pg270). From a state-centric approach, one would expect that the institution was the result of a Japanese effort to abduct Korean women and force them into sexual slavery. That is the picture that the state-centric approach creates. What that picture fails to capture is the role that different individuals within the states play in that process. The military recruitment of Korean girls did not usually involve large-scale abductions but, rather, it involved collaboration between the Japanese with the Korean colonial government as well as local Korean elites and entrepreneurs (Catherine Lu pg271).

Powerful people within the colonized state helped the colonizing state create the criminal institution. It is not that one state is dominant and the other is subjugated, but rather powerful people of both states subjugate their own people as well as people from other states. This structural analysis reveals that social positioning within the structures of society is the key factor at play. While elites from both Japan and Korea worked together to build the military comfort institution, poor Korean women, who were already vulnerable within Korean society and became more vulnerable during the war, were the ones who were

forced into sexual slavery. Despite this reality, the 2000 Women's International War Crimes Tribunal was focused on indicting the state of Japan for sexual violence against women, while neglecting the role individuals played within both the Japanese and the Korean state (Catherine Lu pg273). The state-centric framework absolves those individuals who are in control of states from responsibility for their actions through the state they control. The state-centric approach of the international legal order misses the impact of domestic structural injustices and the roles individuals play within those structures. This allows the perpetrators of injustice to escape justice, absolving themselves of responsibility behind the veil of the institutions that they control.

We can thus generally identify two distinct groups of people within each state. The first group is the one who occupies positions of power, the dominant group. It is composed of influential people who have power and who are capable of dominating others within the state through the social structures of the state. In this example, political elites and entrepreneurs belong to this group. The second group, the subordinate group, is composed of vulnerable people who don't occupy any position of power and thus lack the power to influence others and the decisions that affect them. In this example, the poor Korean women belong to this group. Individuals occupy different positions that enable them to exercise different capacities or expose them to vulnerabilities (Catherine Lu pg269). Individuals who belong to the dominant group have more capacity and can exercise their will more freely than those who belong to the subordinate group. The social position one occupies within society determines the role they are supposed to play within the structures, empowering them or artificially limiting the options available to them. Social structural processes create channels that

determine which actions are available to individuals, constraining them to a limited set of options and guiding them in specific directions (Young pg53). Those potential channels of action thus shape the will of the individuals and, collectively, the general will of society. Structural injustices are then the result of the structures that artificially limit the will of some people, the subordinate group, for the benefit of others, the dominant group. Structural injustices occur as a consequence of individuals pursuing their goals within the institutions of society while following predetermined institutional rules that shape their perspective and their will via the constraints imposed by the institutions (Catherine Lu pg268).

Structures can be defined as the collection of institutional rules and routines, combined with the mobilization of resources and physical infrastructure which direct individual agency through predetermined channels of possible actions. Unjust structures pervert systems of norms while enabling and legitimizing individual wrongdoing (Catherine Lu pg267). Since the structures constrain people's decisions, they are the background from which people make decisions that affect their lives and the lives of others. In other words, the background structures of society are shaped by their rules and norms which, in turn, shape the behaviour of people within the structures.

It is often argued that individuals are free to make decisions, but the background structures which constrain their decisions are never acknowledged. Instead, the structures are treated as natural phenomena, beyond our control. But the structures themselves are not natural phenomena, they were created by people and influenced by people who occupy positions of power. Since people who occupy positions of power are able to shape the structures, they are responsible for their

actions within those structures.

In “Responsibility for Justice”, Iris Young describes four different kinds of relationships that people can have concerning their responsibility towards crimes. The first one involves those who are guilty of the crimes. In order to be guilty of a crime, one does not need to be directly involved with it, it is sufficient for someone to facilitate it. Young describes the story of Eichmann, a bureaucrat who worked for the Nazis. He was focused on bureaucratic tasks that had to be carried out to facilitate the mass murder of Jews, such as organizing transportation for their deportation. While he was not directly involved in the murders, he willingly accepted his role, which contributed to the machinery that carried out the mass murders. For this reason, he bears responsibility for the murders he facilitated and, thus, he is guilty (Young pg81-84). The people who operate the structures can shape the evolution of those structures and they can benefit from those structures. Since they have the capacity to change those unjust structures, they have a responsibility to do so. Insofar as they maintain those unjust structures for their own benefit, they are complicit in the injustice perpetrated by the institutions they have control over. In our previous example, an entrepreneur could have simply refused to help the Japanese army, but they had incentives to go along with their position within the structures.

Structures manifest themselves as specific institutions, which are organizations within the structures that play specific functions while following the underlying rules of the structures and channelling resources and infrastructure to realize their purpose within the larger structures. Out of all the institutions, we can identify two predominant ones—workplaces and governments. Within workplaces, employees sell themselves as

objects through an employment contract that transfers control over their body and, thus, their will to an employer. The employee gives up their agency to the employer within the workplace. The prevailing metaphor of self-ownership that governs employment contracts helps obscure the subordination of the employee to the employer, as Carole Pateman discusses in her paper, “Self-Ownership and Property in the Person”. The employment contract alienates the employee from their right of self government (Pateman pg27). Employees play a supportive and subordinate function to free the time and labour of the employers, who belong to the dominant group. The subordinate group have their will restricted by the dominant group through the employment contract (Ahmed pg111-112). We can also see this relationship of subordination at play when an employer is the one who is considered responsible for implementing accommodations for people with disabilities, as the employers are the ones who have control over the workplaces within which their disabled employees work (Malhotra pg73).

This control over the workplace is one way in which this relationship of subordination is manifested. Whoever has control over the structures have the capacity to control the will of others who don't have control. Within governments, the process is similar. The division between people who influence the government and people who don't brings us back to the “body politic” and the metaphor of the state as an individual composed of individuals. Not all individuals who live within a state compose the body politic. The body politic is composed only of those individuals who have rights and freedoms that are guaranteed by the state. To illustrate that, we can refer to Charles Mills’ “Body Politic, Bodies Impolitic” for an example. Mills argues that the American body politic is racialized. Race is socially constructed and used to define who belongs to the body

politic and who doesn't, particularly before the American Civil War. Those who were considered white were given access to rights and freedoms. They were considered citizens, as part of the body politic. Those who were not white were not given those rights and, instead, were treated as objects that were an external threat, outside of the body politic (Mills pg595-596). Those who were white were considered to be contractors, in an exclusionary racial social contract where whites recognized themselves as equal contractors and excluded non-whites as inferiors (Mills pg594). Whites were the subjects to whom the social contract applied, while those who were not white were considered objects, without agency, who could be manipulated by the subjects of the contract.

As with the employment contract, this social contract was designed to secure the domination of one group of people over others. "What a citizen really was, at bottom, was someone who could help put down a slave rebellion or participate in Indian wars" (Mills pg596). In the same manner, non-whites were not considered citizens when they were slaves. The subordinate group, to this day, is composed of individuals who are not really citizens. There is a story that is told that everyone is a citizen, but the reality is that only the dominant group is composed of citizens whose will controls the state, forming the body politic. Those who are subordinate to the dominant group may be morally equal to and possess equal rights with respect to those in the dominant group, but that is merely a formal equality that is undercut by their material inequality (Mills pg585). Through their control over the structures of society, the dominant group has a much greater influence in composing the content of the general will of society. Thus, the general will is not in actuality the general will of society as a whole but a general will of the parts who are allowed to be willing via their control over the

structures.

Finally, we can look at the problem of backwards-looking responsibility. Backward looking responsibility is used to attach wrongdoing and blame people (Radzik pg5). Responsibility within the state is often framed in terms of backward-looking justice where the focus is on blaming specific people for the circumstances of society according to their past actions within them. Those who have power hide behind the institutions they control, evading responsibility, while those who have no power within the institutions are forced to take responsibility for their circumstance even when they have little control over them. This model of personal responsibility attaches blame to those who are in a subordinate position in society, by restricting their options to the benefit of the dominant group. In this manner, responsibility and liability are transferred from the dominant group to the subordinate. For instance, corporations shield the liability of directors who make decisions within those corporations. When the directors of a corporation dump toxic waste in a river and contaminate the water source of a town, people get sick and have to deal with the consequences of the directors' decisions, while the directors are shielded from responsibility and liability by hiding behind the corporate structure.

Backward-looking responsibility frames the problems of justice in terms of blame and liability for past transgressions, shifting the focus of citizenship from the future to the past. The focus on individual interactions absolves institutional actors of responsibility, while the focus on the past prevents discourse on the development of alternative structures that could prevent those problems from occurring, to begin with. Meanwhile, the dominant group structures society in a way that helps them maintain control over it while preventing the subordinate group

from gaining power and influence. Ultimately, citizenship is sold as a commodity and promoted as the passive act of choosing rulers to make decisions for citizens, removing citizens from the decision-making process in any meaningful way. Through this process, citizens are treated as mere consumers of public services (Magnusson pg215) with no involvement in public decision-making, giving up their will and their responsibility in the process.

The Forward-Looking Political Responsibility of Citizenship

We have established that the current structures of society are not conducive to real citizenship. Now we have to take a look at what real citizenship entails. For that purpose, we take a look at the stolpersteine, or “stumbling blocks”, a German project that aims to draw attention to Nazi crimes. The stumbling blocks are stones that are placed around different locations where Nazi crimes occurred during Nazi rule (Radzik pg27). The purpose of the project is not to blame citizens for the wrongdoings of the past but, rather, to draw attention to the mistakes of the past so they are not repeated in the future. The project is about the responsibilities that citizens have towards the future, it involves a forward-looking responsibility of “stepping forward to do important work”, to improve one’s society (Radzik pg30). In this respect, the project is described as a “citizen’s initiative” that involves doing work not because one has wronged in the past and has been compelled by another to take responsibility for their transgressions but, rather, because one is taking responsibility for the future of their society and willingly taking on the work that is required to improve their society. That is what citizenship is truly about.

In this context, we can refer back to Young’s four distinct categories of responsibility. Citizenship involves the last three

categories. The second kind of relationship involves those who are not guilty but bear responsibility. As an example, Young argues that Nazi crimes required the mobilization of the whole society but the whole society was not directly involved in the killing machine. While they were not directly involved in it, they belonged to that society and thus, they had a political responsibility towards opposing it (Young pg84-87). By not engaging politically and openly opposing Nazi crimes, they failed on their responsibility as citizens. In the third category, people are engaged in morally praiseworthy actions. For instance, when people helped Jews by hiding them and leaving the country during the Nazi regime. While such actions are not political because they are not public, they still involve the responsibility of citizenship, of stepping forward to do important work (Young pg88). The fourth category is the one where citizens take political responsibility. The exercise of responsibility is political when it involves the active participation of citizens in collaboration with one another. Political responsibility involves the self-organization of citizens oriented towards a public goal that involves collective action (Young pg89). Political responsibility within existing structures consists of watching institutions and maintaining organizations of citizens that are involved in watching, monitoring and speaking publicly against the wrongdoing of unjust institutions (Young pg88). This is how citizenship is commonly characterized.

I would argue that this conceptualization of citizenship still has a backwards-looking orientation because it is reactive, it involves watching over the existing institutions and reacting to their past action, attaching blame to institutions that are guilty of crimes or complicit. Such a strategy falls into the same trap as Young's first two categories of responsibility. This form of backward-looking justice doesn't resolve the underlying problems of society, it only provides some temporary redress to

victims of structural injustice.

For example, making certain social services available to indigenous people or even offering monetary compensation for historical wrongs does nothing to help them recover from those historical wrongs nor does it empower indigenous people to rebuild their culture and reclaim their identity. We can see this at play even in “progressive” legislation. Just last month the Canadian Federal Government proposed regulations for the introduction of proactive pay equity legislation, replacing a complaint-based regime with a proactive regime. While the new proactive pay equity regime seems forward-looking, it only helps to address systemic gender discrimination in compensation rather than changing the underlying structures that facilitate that discrimination to begin with (Canada Gazette pg3279-3280). It is not sufficient to repair the past. If institutions don’t change, the mistakes of the past are bound to be repeated. This is the problem with backward-looking responsibility, it doesn’t address the future. This is also the problem with government solutions that are preventative but fail to address the underlying systemic problem caused by the structures. The structures must be changed to solve the problems, and this is something that is not usually addressed in the political discourse. Even in the case of the stolpersteine, the structures that allowed the Nazis to rise to power remain, thus necessitating this constant reminder of the past. This is not a solution to the problem; it only postpones its occurrence.

Restructuring Society as a Partnership of Citizens

Restructuring the structures of society requires widespread collaboration between citizens. It requires citizens to take political responsibility for the creation of new structures that can address systemic issues. This requires a rethinking of citizenship

in the context of their forward-looking responsibility and their interactions with one another. Back to the stolpersteine, the stones induce citizens to picture the events as they occurred at another time within that space, establishing an emotional connection with the events that transpired and, ultimately, prompting discussions between citizens, causing them to reflect on their responsibility as citizens (Radzik pg30-31). These discussions about the past serve to inform future decisions, to prevent the mistakes of the past from reoccurring and, as such, they are forward-looking. Deliberation between citizens is the foundation of the forward-looking responsibility of citizenship. Through deliberation, citizens can come to agreements that work for everyone involved. Agreements are reached when everyone involved has an opportunity to have a say in the decisions that affect them from a position of equality and mutual respect as participants in rational discourse (Habermas pg940). Through deliberation, citizens justify their positions and try to reach agreements, reaching an intersubjective validation. For justification to be legitimate it needs to be the result of the deliberation of citizens coming from a position of mutual respect and equality. When there is a commitment to engage in terms of mutual respect and equality, then citizens feel compelled to respond to each other and come to agreements. Justification in terms of mutual respect and equality consists in this commitment to engage in discursive deliberation as equally significant members of society (Habermas pg940). As long as everyone who is affected by a decision has a say in the making of that decision through a process of deliberation, then citizens can arrive at decisions that deserve intersubjective validation and are, therefore, legitimate.

A political structure that involves the deliberative democracy of all citizens is thus a requirement for the development of a stable and just society. Such a political

structure would have to be carefully engineered to facilitate the effective deliberation of citizens via a public communication structure that is inclusive, selective, relevant, informed by reliable information, rational and fair (Habermas pg941). Citizenship must thus be organized in a way that motivates deliberation and collective decision-making while ensuring that power and responsibility are distributed equally among all citizens so they can come from a position of equality and mutual respect. As such, the state, as the organization that belongs to all citizens, must be organized not as a centralized sovereign structure as it is today but, rather, as a cooperative partnership, owned and controlled by all citizens who live within it. Citizenship must be reconceptualized as a partnership between citizens in a social position of equality, with citizens having a fiduciary duty to one another and a common responsibility towards their shared future.

Our planetary society can better be described as a network of people and overlapping organizations within which people interact. Organizations play a role in structuring all decision-making as well as determining who carries out the decisions, who receive the benefits of the decisions and who carry the burdens. Different organizations have different rules they follow depending on the functions they play within society. States are one such form of organization, while corporations are another example. Those structures were created by people with a specific orientation, to achieve specific goals that they had in mind. We tend to think of those organizations as virtually immutable abstract concepts but, in fact, they are merely collections of people who act together according to a specific set of rules informed by specific values. Those rules and values are not immutable, we are capable of changing them so long as we have enough power to demand those changes. Indeed, throughout history, those organizations have gone through many changes,

over long periods that tend to span entire lifetimes. It is this slow changing character of social organization that gives it this ethereal and seemingly immutable character. While internal change is difficult to trigger since it requires those who are subordinated by the structures to organize themselves effectively to change those structures, external pressures from alternative structures may provide us with a better strategy for achieving significant societal change. Alternative structures built by people who are currently subordinated by those in power would not only provide an alternative for those who are subordinated by the current structures but also put pressure on the existing structures to give concessions to compete against the new structures.

In order to create a stable and just planetary society, we need to find an optimal configuration of interactions between people. If society was indeed structured as a contract between citizens coming from a position of equality and with a genuine interest in the well-being of all citizens, then we could have a stable and just planetary society. This kind of relationship between citizens can best be described as a partnership, where citizens are involved in the decisions that affect them and have a fiduciary duty to one another. To achieve this goal, we would have to create organizational structures that would consistently generate the conditions required to maintain equality by distributing power and enabling citizens to have a say in the decisions that affect them. This structure would thus generate a legitimate general will. The structure will also require a culture of social responsibility, where citizens are invested in the improvement of society not only for their own sake but for the sake of society as a whole. To accomplish this, we would need an organizational structure that can distribute power equally between participants. This structure would be best described as a form of cooperative organization, where members own equal shares of the organization and make decisions together through a

process of deliberative democracy. Organization structures would then be defined by the roles people play within different organizations of society, forming a co-operative network of co-operative organizations, whose boundaries are emergently defined by the roles citizen partners play within the organizations.

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The Separability Thesis: A Comparison Between Natural Law and Legal Positivism

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Introduction

The purpose of this paper is to examine the separability of law and morality within an analytic jurisprudential framework. The paper is comprised of four parts. First, the separability thesis will be discussed and defined. Second, Hart's legal positivist account of law will be presented, which defends the separability thesis. Third, two objections from a natural law perspective (classical and contemporary) will be proposed against the legal positivist position, thereby rejecting the separability thesis. Each objection will be accompanied by a possible Hartian reply. Finally, I will offer a novel analysis of the arguments as well as state why I find the Hartian approach preferable to the natural law theorist's in regard to the separability thesis.

The Separability Thesis

The separability thesis concerns the relationship between law and morality and whether a necessary connection exists between the two. It is necessary, however, to further clarify what is meant by the term *separate*, as some have described it as *misleading*¹. There are various formulations of the separability thesis and what exactly is meant by the idea of law and morality either being separate or

1 Green, L. (2008). Positivism and the Inseparability of Law and Morals. New York University Law Review (1950), 83(4), 1035 at page 1036.

connected. Two common formulations of the separability thesis are as follows:

The Social Thesis: What counts as law in any given society is a matter of social fact.

The Value Thesis: Laws do not necessarily have moral value².

The social thesis proposes that law is premised on what are termed social facts. Social facts can be understood as propositions that accurately reflect the culture or society in which they are situated. For example, in Canada it is a social fact that Justin Trudeau is the current prime minister. In more technical terms, Moauta writes, “The social thesis is the claim that *the truthmakers*³ *for legal propositions are social facts*”. What exactly those social facts are will be addressed later. In contrast to social facts are moral facts; facts about what can be considered right or wrong, moral or immoral. The social thesis denies that moral facts are necessary properties of law.

The value thesis is a broader claim and can be understood in a variety of ways. For example, one could interpret the value thesis to be making a claim regarding one’s moral obligation to obey the law, or whether law possesses moral value in and of itself⁴. For our purposes here, the remainder of the paper will center around the social thesis.

2 Morauta, J. (2004). Three Separation Theses. *Law and Philosophy*, 23(2), 111-135 at page 112 and 128. Morauta also proposes a third separability thesis, which he titles, the neutrality thesis.

3 Truthmakers are that which make various propositions true.

4 Morauta, *supra* note 2 at page 117 and 124.

The Hart of the Matter: A Defence of the Separability Thesis

Legal positivism, as a school of thought, is premised on two core tenets. First, as noted by the social thesis, law is a matter of social fact. Second, there is no necessary connection between law and morality⁵. H.L.A. Hart, a notable legal positivist, argues that law is composed of primary and secondary rules. According to Hart⁶, primary rules are the “basic type” of laws that govern citizens’ behaviour and conduct. Secondary rules, on the other hand, are laws that lay out how laws may be modified, enacted, or revoked. In addition to primary and secondary rules, Hart’s theory of law also includes what he terms the rule of recognition. The rule of recognition is often referred to as the “master rule”. It is the mode by which the primary and secondary rules are identified as valid law. In this sense, the rule of recognition can be understood as a social fact⁷ that demonstrates why certain rules and regulations are valid laws. Therefore, this description of what constitutes a valid law adheres to the social thesis. That being said, the rule of recognition can vary across legal systems and will often be fairly complex in modern legal systems⁸.

As one may have noticed, Hart’s description of a legal system makes no reference to, or use of moral facts or moral principles to account for what constitutes a law, but rather social

5 Patterson, Dennis (editor/s), *A Companion to Philosophy of Law and Legal Theory*, 2nd ed., Oxford, Wiley-Blackwell, 2010 at page 228.

6 Culver, Keith. *Readings in the Philosophy of Law*, Second Edition. Broadview Press, 2007 at page 121.

7 It may be better to call it a social rule that is comprised of social facts. Adler, M. D., & Himma, K. E. (2009). *The Rule of Recognition and the U.S. Constitution*. Oxford University Press at page 238-239.

8 Culver, *supra* note 6 at page 129.

processes and social facts. Hart⁹ writes, “according to my theory, the existence and content of the law can be identified by reference to the *social sources* of the law”. In this statement, one can observe that Hart’s theory of law agrees with and defends the proposition proposed by the social thesis. This is not to say Hart’s theory of law does not accept or make room for the many “contingent connections between law and morality¹⁰”, but it does rule out any “necessary conceptual connections¹¹”.

If Hart’s legal theory is correct in its analysis, then moral facts are not necessary to explain law as a social phenomenon. Therefore, Hart’s legal theory can be understood as a defence in favour of the social value thesis as it robustly explains the nature of law without reference to moral facts. In response to Hart’s theory, two objections will be presented to demonstrate that moral facts are necessary to determine what counts as law in any given society. By addressing these two objections from a Hartian perspective, one begins to better understand how the legal positivist conceptualizes law as a social phenomenon as well as the connection between law and morality.

A Traditional Objection: Natural Law

Natural law is a robust ethical framework that is premised on the “ability of reason to establish moral truths¹²”. As a moral theory, natural law is not restricted to the realm of legal analysis. However, regarding analytic jurisprudence, natural law theorists

9 Hart, H. L. A. 1907-1992. (1961). *The Concept of Law*. Clarendon Press at page 269.

10 Hart, *supra* note 9 at page 268.

11 Hart, *supra* note 9 at page 268.

12 Soper, P. (2007). In Defense of Classical Natural Law in Legal Theory: Why Unjust Law is No Law at All. *The Canadian Journal of Law and Jurisprudence*, 20(1), 201-223.

often contemplate the relation between human law¹³ and a ‘higher law’, whether that ‘higher law’s’ basis is theological or nomological. According to natural law, the validity of a human law is in part determined by the degree that it conforms to the ‘higher’ natural law.

Referencing Augustine, Aquinas¹⁴ writes, “*a law that is not just, seems to be no law at all*”. Taken at face value, such a proposition appears to contradict the social thesis. The necessary sources for what constitutes a law under the social thesis are social facts. However, Aquinas’ statement refers to *moral facts*, an additional condition not contained within the social thesis. To demonstrate that law is premised on moral facts, the natural law theorist can make an argument based on institutional justification. As Soper¹⁵ writes, “Legal systems, if they are not to collapse into coercive systems, must admit in short that all standards tentatively identified as law...will only count as valid law if they are not too *unjust...*”.

According to Soper¹⁶, legal systems need to justify their intrusion into our lives. This argument appears to be teleological in nature, in that if the purpose of the legal institution is not realized then the “law” is not legitimate. MacCormick¹⁷ describes this idea by writing, laws “...are fully intelligible only by reference to the ends or values they ought to realise...”. In this

13 Kretzmann describes human law as “legislation devised by humans”.

Kretzmann, N. (1988). *Lex Iniusta Non Est Lex: Laws on Trial in Aquinas' Court of Conscience*. The American Journal of Jurisprudence (Notre Dame), 33(1), 99-122 at page 107.

14 Culver, supra note 6 at page 45.

15 Soper, supra note 11 at page 213.

16 Soper, supra note 11 at page 211.

17 MacCormick, N. (2007). *Institutions of Law: An Essay in Legal Theory*. Oxford University Press at page 302.

sense, if laws become so unjust and egregious and the legal system can no longer justify their intrusion into our lives, then such laws fail to be laws. As one can see, this argument demonstrates that law is not only a matter of social fact, but also a matter of moral fact. Therefore, if this argument succeeds, the social thesis is mistaken.

Response to Objection One: Evil Legal Regimes & Essentialism

It seems to me that Hart may respond to a classical natural law theorist in a variety of ways. First, he may wish to point out that even if Soper's argument is successful, it only demonstrates that the unjust legal system is a coercive system. However, if coercive systems are in fact *legal systems* that produce laws, then it seems that morality is not a necessary component of what constitutes law. In this regard, the argument appears to be missing a premise, that being, that coercive systems are not legal systems. This is an important premise because it is not obvious that evil governments or immoral military regimes (historical or present) are not actually legal systems with valid laws.

Hart may also respond to the argument by rejecting an "essentialist" conception of law. To clarify this point, Hart writes, "We must avoid...disputes about whether chess would be 'chess' if played without pawns¹⁸". In other words, one must be careful of essentialist presuppositions about what the nature of law is. As we saw earlier, the natural law theorist starts with a conception of natural law, and then measures the positive law against the natural law to determine its validity. Hart is skeptical of this sort of methodological approach, and therefore argues we should avoid

18 Hart, H. L. A. 1907-1992. (1983). *Essays in Jurisprudence and Philosophy*. Clarendon Press at page 79.

such essentialist understandings of the social phenomenon we call law. In this sense, Soper's argument is responded to by critiquing the methodological approach natural law theorists utilize in their analysis of what law is. It seems to me that either of these possible responses would be sufficient to respond to the natural law theorist, thereby defending not only legal positivism, but the social value thesis as well.

A Contemporary Objection: Dworkin's Integrity Model

Ronald Dworkin, who some consider a contemporary natural law theorist, argues that a fundamental aspect of law is the reliance of principles within the adjudication process. In Dworkin's model, a judge (akin to a novelist¹⁹) must look at the preceding story ("the pre-interpretive data"²⁰) and decide the appropriate ruling based on rules and principles. However, to approach a decision and weigh competing principles, the judge begins to employ moral reasoning²¹. According to Dworkin, as Donnelly-Lazarov²² aptly puts it, "The necessity [between law and morality] is pervasive: in each and every act of adjudication, however simple, technical, or uninteresting, *the judge will exhibit a moral point of view*". In this sense, if *every* single act of adjudication exhibits a moral point of view, legal reasoning appears to be normative in nature²³.

19 Dworkin uses the metaphor of a novelist to describe the position that a judge occupies, as the judge must determine where the "legal story" is headed, based on the past legal decisions.

20 Patterson, *supra* note 5 at page 224.

21 Shapiro, S. (2011). *Legality*. Harvard University Press at page 264.

22 Donnelly-Lazarov, B. (2012). Dworkin's Morality and its Limited Implications for Law. *The Canadian Journal of Law and Jurisprudence*, 25(1), 79-95.

23 Dworkin appears to state that legal reasoning is normative in nature in Dworkin, R. (2017). *Hart's Posthumous Reply*. *Harvard Law Review*, 130(8), 2096-2130 at page 2097.

Therefore, in contrast to the social thesis, law is a matter of moral fact due to the moral dimensions of adjudication.

It seems to me that Dworkin's argument may be strengthened if he were to argue that only *some* judicial decisions exhibit a moral point of view, rather than *every* judicial decision. That said, to make *some* judicial decisions necessarily connected to law, one could attempt to demonstrate the necessity of hard cases in legal systems. If hard cases are necessary to the legal system, and if hard cases necessarily require judges to exhibit a moral point of view, then Dworkin's argument appears to still succeed in demonstrating the necessary connection between law and morality while also being able to explain why in some cases it appears that judges don't exhibit a moral point of view (cases of strict application of law). By demonstrating the necessity of how judges use moral reasoning in their adjudication process, Dworkin's argument rejects the social thesis by showing how laws are premised on moral sources.

Response to Objection Two: Conceptual Necessity

In response to Dworkin's argument regarding the necessary connection between law and morality, one should consider what Coleman has written on the issue. Coleman²⁴ states, "the claim [that law and morality are separate]...is true just in case a legal system in which the substantive morality or value of a norm in no way bears on its legality is *conceptually possible*. The truth of this claim seems so undeniable... no one really contests it". If conceptual possibility is the standard by which one is to determine

24 Coleman, J. L. (2001). The Practice of Principle: In Defence of a Pragmatist Approach to Legal Theory. Oxford University Press at page 151.

the necessary criteria of law, which it appears to be²⁵, then Dworkin's argument appears to fall short. It may be difficult to imagine a legal system where judges don't exhibit a moral point of view via their legal reasoning, however, it is not conceptually impossible to imagine such a state of affairs. In this sense, Hart would likely respond to Dworkin's argument by stating that it fails in showing a logically necessary connection between law and morality and simply shows a contingent connection. As Shapiro²⁶ notes, "Hart's way out of this problem (that the normative nature of legal reasoning possesses moral dimensions) was simple: although he regarded legal concepts...to be normative concepts, he did not think that they were *moral* ones". Therefore, if one can divorce legal reasoning from moral reasoning (which appears to be conceptually possible), then the social thesis holds in its claim that law is only a matter of social fact.

An Analysis of Legal Positivism and Natural Law Theory: Two Preliminary Thoughts

How is one to determine the more "successful" legal theory regarding their approach to the social thesis? Depending on one's criteria of assessment, one may reach radically different conclusions. As MacCormick²⁷ writes, regarding the debate between legal positivism and natural law, "In truth, such dichotomies are rarely revealing of any important truth".

It seems to me that comparing natural law and legal positivism as antinomies in order to determine the more successful

25 Leiter addresses this point regarding the differing standards of conceptual possibility between hard and soft positivists in Leiter, B. (1998). Realism, Hard Positivism, and Conceptual Analysis. *Legal Theory*, 4(4), 533-547. My response assumes a soft positivist account regarding conceptual necessity.

26 Shapiro, *supra* note 19 at page 101.

27 MacCormick, *supra* note 16 at page 278.

theory doesn't account for their respective projects, as they are not only different in scope, but also in aim. The natural law theorist is working from a moral framework that considers broader questions regarding how law in its application must be aimed at the "common-good"²⁸. In contrast, legal positivism is primarily concerned with understanding the nature of law and determining the necessary features of it. In addition, the two approaches appear to have different methodological approaches. Natural law has a *top-down* approach, whereas legal positivism has a *bottom-up* approach. By top-down, I mean that there is an ideal type that is used as a reference point to determine whether the law under study is similar enough to classify it as the ideal type. In contrast, the bottom-up approach assesses and investigates the various instantiations of law, with no comparison to an ideal type. If the legal positivists do not accept the natural law theorist's "higher law" as a valid point of reference and method of assessment, then comparing these two schools of thought, as MacCormick opined, is unlikely to reveal "any important truth"²⁹.

Therefore, my assessment has led me to the conclusion that natural law and legal positivism might be better categorized as complimentary theories, rather than contradictory theories. As Green³⁰ allegedly stated, "one should not only be a legal positivist". I take this to mean that despite legal positivism's in-depth analytic description of the nature of law, one should then proceed to the question of *what law ought to be*. In this regard the natural law theorist's prescriptive account of *what law should be*

28 Finnis, J. (2011). *Natural Law and Natural Rights* (2nd ed.). Oxford University Press at page 23.

29 MacCormick, *supra* note 16 at page 278.

30 Brian Bix claims that Leslie Green made this comment on the *Dare to Know* podcast (episode 4 at 6:30).

can assist and compliment legal positivism's descriptive account of *what law is*.

Lastly, in regard to Dworkin's law as integrity model and Hart's model of primary and secondary rules, it seems to me that Hart's model is more conceptually successful in its defence of the social value thesis. Hart's primary and secondary rules as well as the rule of recognition all appear to be conceptually necessary to a legal system, whereas one can imagine a legal system that doesn't possess Dworkin's description of how moral reasoning is part of the adjudication process. That said, it is worth considering why the ability to conceptualize a possible world where a legal system implements laws only premised on social sources is given more weight than the empirical study of many legal systems around the world that demonstrate the influence of morality within the processes of adjudication. In this sense, depending on one's philosophical inclinations, one may be more drawn to either Hart's or Dworkin's model. If one is inclined to a pragmatic philosophical approach, where the purpose of discourse is "debating the utility of alternative constructs" rather than trying to "represent reality accurately"³¹, Dworkin's model seems to better explain and account for the recurring contingent connections between law and morality. In comparison, if one is inclined to an analytic philosophical approach, where the aim is to understand an entity's nature and necessary features ³², Hart's descriptive analysis is difficult to beat. That said, despite both legal theories' insights into different aspects of the legal landscape, Hart's legal positivist account appears to successfully defend the social value thesis.

31 Rorty, R. (1999). *Philosophy and Social Hope*. Penguin Books at page 86.

Rorty also states that, "Pragmatism is the implicit working theory of most good lawyers" (p.93).

32 Shapiro, *supra* note 19 at page 13-15.

Conclusion

The social value thesis proposes that law is a matter of social fact. Hart's model of primary and secondary rules upholds this viewpoint. In contrast, the classical natural law theorist and Dworkin's contemporary approach both maintain that moral facts and moral sources are necessary to what can be considered law. In determining the more successful approach, I ultimately reached two primary conclusions. First, the debate between classic natural law theory and legal positivism might be better reframed as complimentary rather than contradictory approaches to the social thesis. Second, despite Dworkin's model being pragmatically useful, Hart's defence of the social thesis is more conceptually defensible, thereby, making it the more compelling legal theory under an analytic jurisprudential framework.

Advocating for the Replacement of Folk Psychology

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If I told you, “You make me smile,” how would you react? Maybe you are cute, and I like you, so that is why I am smiling, but maybe it’s because you are funny looking and I am a bit rude. How can you know, from that, whether smiling means very little to me or if it means everything? Simply put, you cannot. It is ambiguous, and while I could try to clarify how I feel about you, there is something to be said about the inadequacy of the words and terms we use to describe mental functions. The terms that we use to describe mental functions do not adequately capture the entirety of experience, and replacement is needed. As Paul Churchland argues, these terms do not fully describe mental phenomena such as sleep or retina perception, which we are able to research with neuroscience. These terms, such as ‘belief’ or ‘fear’, could also have different meanings for each individual, showing that the terms describe an individual’s experience of a neurological event, and not the neurological event itself. Throughout this essay, I will use “sensation” to refer to a neurological event. Churchland coined the term “eliminative materialism” to assign the view that our current terms for mental phenomena are so incorrect they refer to nothing (Churchland 67). The point which I am arguing is weaker but could be used to support this view. Although authors like Hannan have expressed skepticism regarding replacing these terms, I do not think their arguments are successful. There are identifiable issues with our current terms for mental states and, therefore, there is room for improved terms to replace our current ones. I do not believe there are currently one-word terms that successfully encapsulate a sensation, like the word “pain” is meant

to. At this time I do believe we have more accurate theories from neuroscience, and due to the nature of neuroscience, simplified terms to replace our current ones will also come from studying neuroscience. Specifically, my purpose in this essay is to argue that we should transition away from being reliant on our current terms for mental functions in science and our daily lives.

Firstly, the problem with our current terms for mental states is that they inadequately explain some mental phenomena. Churchland makes this point when he discusses the mental phenomena which our current terms leave a mystery. Sleep, hand-eye coordination, understanding the difference between two- and three-dimensional visual images, memory, and the learning process are all examples Churchland uses to show what our current terms, or “folk psychology,” are incapable of explaining or do not address (Churchland 73). For a theory of what mental states are, Churchland argues that this gap of explanation should be concerning, as such a gap would be for any other theory.

Another problem with our mental terms is that they vary in meaning. Specifically, the same terms may have different meanings when used by different people in different contexts. For example, imagine that I approach you and say “I’m in pain” when I have a splinter in my hand. You, in this situation, are a lumberjack and do not consider splinters painful by any means. My use of the term pain does not describe a situation that would bring you pain. Every term for a mental state has this subjective type of meaning which varies depending on the individual. This is an issue because every term could, in principle, be inaccurate. A sensation that is a belief for Joe could be common sense for Sasha or a misconception for Michael, and so on. These terms are flawed because there may be no uniform meaning. When we use one of these terms, we have no way of ensuring the term is consistent across individuals.

The issue is one of verifiability; I have no way of verifying what a sensation is because the current terms I use could have different meanings for others. Ludwig Wittgenstein expresses this point with his beetle-in-the-box thought experiment. In the experiment, we imagine that everyone has a box, the contents of which are private to them, but everyone can talk about the beetle inside the box. Wittgenstein argues that the concept of a beetle-in-the box does not matter because no one can see if their beetle is the same as or different than another, or if someone's box is empty (Wittgenstein 106e-107e). There is no way to verify what is inside the box. The descriptions of an unseen beetle are the same as of a personal sensation. What may be a big beetle for me could be a small beetle for you, or I could even be confused in thinking the beetle is a spider. Our terms for mental states have the same issue because they are based on private phenomena and not observable characteristics like the brain activity behind a mental state.

Of course, mental states are more complex than the exterior of a beetle. Moreover, at a pure rate of information exchange, mental states are far more complex than verbal language. Based on an estimate of 200 million neurons in the corpus callosum, Churchland estimates that this pathway between the brain's hemispheres is capable of exchanging information upwards of 24 megabytes per second (Churchland 88). He compares this to an estimate of 62.5 bytes per second for information exchange via verbal English language (88). This difference in exchange rate shows the inadequacy of current mental state terms in entirely describing sensations. Using these figures, it makes sense that our current terms for mental states are more like judgements than descriptions; much more would need to be said to describe the complexity of everything that is happening.

It is difficult to imagine replacing our current mental state terms due to how reliant we are on them. Barbara Hannan makes an argument against eliminative materialism and questions the need to seek replacement when the prospects seem dim. She argues that, if we agree that there are genuine cognisors and rational acts, then folk psychology cannot be false (Hannan 174). Furthermore, she notes that it seems self-undermining to suppose that the internal states posited by folk psychology do not exist, while advocating for cognitive science, which is based on such states (172-173). According to this argument, it does indeed seem unlikely that replacement terms are possible or coming soon. However, if we accept this argument, is it fair to say we should not advocate for replacement? I do not think so, for if we did, we would not have innovation.

There are numerous cases where the status quo was accepted until innovation occurred, and, in principle, the case of folk psychology should be no different. Consider the situation of Dyson vacuums. Until 1995, bag vacuums were widely used and seen as the top-of-the-line. However, after 15 years and 5000 prototypes, James Dyson introduced a new type of vacuum to the market which did not get clogged or leave dust around the house as you cleaned (Mochari par. 3). Dyson innovated when all major vacuum manufacturers saw no potential for replacement, and then proceeded to build a billion-dollar business. In this case, along with many other cases of innovation, there were identifiable issues with the status quo and replacement was successful. The situation with folk psychology is no different. The terms used in folk psychology are erroneous as conceptual understandings of mental states. Thus, there is room for improvement and innovation.

To revisit Hannan's critique of favouring neuroscience as a source of a replacement for folk psychology, she ignores how theories improve. While it is a concern that eliminative materialists favour

neuroscience because neuroscience studies the mental states they want to falsify, this is simply how science is advanced. In order to provide a replacement for anything, we must use what is to be replaced as a foundation. To return to the Dyson vacuum example, Dyson needed to base his research off of a traditional bag vacuum before he could make his own model. Improving on faulty concepts is simply the nature of how theories change. Hannan argues that this is a problem for the eliminative materialist, but I would argue this situation shows exactly why neuroscience will birth better terms for and a better understanding of mental states. If we expect replacements to not be based on inadequate descriptions of sensations, then how could we expect the replacements to be related to the sensations? It does not make sense that we would expect the replacements for mental state terms to not originate from studying those terms; they would not be about those terms otherwise.

Cognitive neuroscience, if not an exact replacement for our current mental state terms, is the most likely discipline for replacement terms to originate from. Neuroscience's purpose is to understand mental activity better, which is not accomplished by our current terms. In other words, neuroscience is meant to offer a better understanding of how our mental processes work. If we cannot accept that current neuroscience can replace our mental state terms, it is at least likely for acceptable terms to originate from neuroscience in the future. People still use bag vacuums, but the industry is shifting toward a better model. Likewise, we should shift away from folk psychology. Folk psychology terms fail to explain many mental phenomena, marking it a bad theory to explain sensations. Furthermore, the possible variance of meaning in these terms means there is potential for inaccuracy. These terms are an inconsistent way of describing sensations, allowing for miscommunication to exist where it is not necessary. Although Hannan opposes the need for replacement and neuroscience as the

discipline for it, this stance ignores the potential for innovation. To study neuroscience is to study mental states, which naturally leads to a reconsideration of how we currently define mental states. To improve, we must first consider what we will replace or elaborate upon.

There are not going to be single-word replacement terms to swap for ones like fear, belief, or pain because the issue here is not the words themselves, but the over-simplification of complex mental processes into categories. That said, I do believe there is the opportunity for practical, simplified concepts to arise from cognitive neuroscience. Given the reasons above, I think that we should eliminate these terms from common use. However, I am not so overzealous as to say that we need to stop using these terms today, but instead, we should teach neuroscience at younger ages to gradually shift our language toward more accurate terminology. There are already some stepping-stones showing progress today, such as the word “hangry,” meaning that your hunger is influencing your mood. Our mental states are influenced by other physiological factors, which neuroscience teaches us. The purpose of the argument is to call for replacing ineffective terms in favour of those provided by cognitive neuroscience, meaning that we should improve our language to better reflect our understanding, thus allowing us to eliminate our current mental state terms in the future.

Now, there is an objection regarding the feasibility of what I am arguing for. The concern is that, if the problem is an over-simplification of mental processes, it may not be practical or efficient to describe mental processes more accurately. For example, if we wanted to explain everything with physics to be absolutely accurate about how the world works, we could in principle, but it would be inefficient and take a burdensome amount of time. Likewise, if we are estimating that the average

human brain has 86 billion neurons with anywhere between 10 000 and 100 000 synapses per neuron (Herculano-Houzel 22, 79), we would have the same problem as describing everything using physics. How much time would pass before we described pain or depression? To be more accurate in our descriptions, it appears we would have to adopt a far more complicated way of describing mental states.

My response to this objection is that, in common practice, we would use shorthand to be more accurate without being overly precise. Through this paper, I have argued that our current mental terms are inaccurate and I am making a distinction between accuracy and precision, where precision refers to a complete description of all details. Our mental terms are inaccurate to the point that they impede our understanding of mental phenomena; however, for practicality, it is not always necessary that we know how all of our neurons are interacting, just like we do not always need to know how all atoms are interacting. Instead, we can have terms that are more accurate without being unnecessarily precise. I believe our language about mental phenomena should better reflect how our sensory systems interact with hormone release and so on to improve our understanding of each other's mental states. In your average setting, what I am advocating for is more like expressing chemistry and biology than describing physics. There is a degree of abstraction from the strictly precise processes, but not such a severe degree of abstraction that our understanding of the processes becomes inaccurate, as seen with our current mental terms. Is this more work than single-word terminology? Absolutely. However, it is not nearly as infeasible as describing every single interaction which happens in our neurological and physiological systems.

In summary, I am arguing for the replacement of our current mental terminology in science and our daily lives. I side

with Churchland in arguing that our terms fail to explain many mental phenomena, which stamps these terms as a bad theory for understanding mental processes. Furthermore, I argue that these terms could have inconsistent meanings depending on the user, resulting in an inaccurate description of mental processes. This issue is captured by Wittgenstein's beetle-in-the-box thought experiment, which shows how our current mental language does not verifiably describe the experience. Hannan raises multiple objections to the eliminative materialist view – such as the issue of cognitive science being based on mental states – and argues that we should not seek replacement when it seems unlikely there will be one. I believe this ignores how innovation works. As well, against Hannan, I argue that replacement terms must relate to our current terminology to improve it. Like Churchland, I see terms from cognitive neuroscience as the best-fitting replacement for our current terms, or at least I see cognitive neuroscience as the most likely discipline to birth replacement terms. Neuroscience's purpose as a discipline is to understand mental processes better, and therefore I believe neuroscience can, at least in principle, provide a more accurate account of our mental states than our current terms. There is the objection that what I am advocating for is infeasible, but I am seeking more accurate terms, not necessarily more precise ones. In other words, I am fine with abstraction from the actual processes, but not too much abstraction, as seen with our current mental terms. My intent with this paper is to provide the grounds for choosing better terminology than what we currently use to more accurately explain mental experiences to one another.

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I Am Woman Embodied and I Know: A Look at Longino and Feminist Epistemology

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Is strictly objective knowledge impossible? Seeking objective knowledge of our world without the influence of individual feelings or opinions has been the aim of scientific inquiry across the Western world. The discipline of epistemology aims to understand the nature of objective knowledge (Crumley 16). This requires evaluating the sources of beliefs and ideas. The sources of beliefs and ideas influence how knowledge is interpreted (Brown). Meeting epistemic conditions and having valid sources make a justified, true belief differ from opinion (Crumley 16)—but opinion is exactly what results from many knowledge inquiry findings.

Until recently in the Western world, women were excluded in various ways from knowledge disciplines such as publishing, higher education, and scientific research. Feminist theorist Dorothy E. Smith notes the exclusion of women from the production of ideas restricted their experiences from being accounted (353). Women have only recently been recognized to have equal rational capabilities and rights as their male counterparts (Wotipka and Ramirez 306). In the Western philosophic tradition, White men have determined who (and what) qualifies for knowledge capabilities. This excluded the experiences and voices of those culturally deemed less-than or ‘other.’ Our theories on objective knowledge were established through a biased viewpoint. This androcentrism is what feminists have been challenging for the last century and a half, in all facets of political, cultural, and scientific life. Epistemology cannot

avoid the confrontation of accepted norms and values as they are reframed through a feminist lens.

By examining theories put forth by Helen E. Longino, I will demonstrate how science and philosophy have not stayed strictly objective. Moreover, this lack of objectivity is not always a negative. But first, we must understand the scientific method as merely a 'legend' to acknowledge the gendered worldview science and epistemology start from. Feminist-led theories are both different and similar to traditional epistemology. The well-known positions of traditional foundationalism are used to contrast feminist theory. Using the support of Pollock and Quine, through a naturalized epistemology framework, my reading of Longino's work shows seeking truth through a feminist lens leads to more inclusive (less subjective) knowledge. A starting point to less subjective knowledge is set through contextualism and standpoint theory, along with its connection to naturalized epistemology.

Feminist Epistemology

Feminist epistemology is a wide branch of the epistemology discipline. Feminist views are not unified as one voice; their authors are autonomous people who understand the world from varying positions. These positions are categorized as feminist because they start their inquiry by recognizing women and their differences to men. This recognition is both an acknowledgment of the equality in their intellectual value; of the awareness of historical and present biases; and exclusion of equity in all avenues of scientific and cultural work.

Epistemology is feminist when the inquiry of knowledge recognizes that female reality was ignored or patronized by the scientific and philosophical gate-keepers. Longino describes the female experience as obscured and misinterpreted in all scientific

disciplines (327). The gendered bias has been well documented (Hollingsworth; Burke and Mazzarella). For example, male-authored research on the same topic as female-led research is considered more legitimate (Knobloch-Westerwick, Glynn, and Huge). Gendered metaphors play a large role in describing experience and reality. Conceptual metaphor theory states symbolic devices are essential for understanding and thought, and metaphor is used to structure our knowledge of reality (Hollingsworth). They are used both colloquially in private conversation and with an authoritative voice, such as in news reports (Hollingsworth). Dominating male viewpoints are sustained through journalism through story-telling devices and knowledge is overwhelmingly reported through a male lens (Hollingsworth 30). Research by Burke and Mazzarella show election and war reporting rely on masculine trope metaphors, such as sports, hunting, and gambling, while females are reduced to a passive reproductive role (401). Male trope metaphors reinforce patriarchal views that uphold one gender above all others. In biological studies, male species have often been the sole object of study when seeking mating practices or evolutionary changes in animals and plants. Gendered metaphor is widely used to describe scientific phenomena (Longino 328). Longino and Lennon state in “Feminist Epistemology as a Local Epistemology” that feminized objects are often described passively, while masculine objects are *active* in their *driven* pursuit of mating/pollination (23). Plants’ and mammals’ ova are described as waiting to be *discovered* by the *dominating* object.

The female role and lens have been ignored in science. For example, the extraordinary mating rituals of Birds of Paradise have only now been studied from the female’s viewpoint, despite years of documentation of the male’s physical and behavioural evolution (Borgmann). Science cannot be objective if it only aims to know the truth about the world via the male lens. Feminist

challenges to established scientific practices has led to feminist readings of traditional epistemological theories, highlighting “distorting” and “harmful stereotypes” present in philosophy (Longino 329). The study of what counts as knowledge appears to favour a biased male position, from ancient Greeks believing only men are capable of rationality, to Descartes discarding the body as unreliable as a source of knowledge. Females have long been described as being too bodily or relying on intuition or emotion, i.e., not a reliable source of knowledge (Pavco-Giacca et al.).

Feminist epistemology is not independent of the aims of general epistemology in the fact that it seeks truth. But many feminist theories recognize the pursuit of truth is unavoidably collective or social (Crumley 211). As a category, feminist epistemology challenges the idea of objective truth by showing objectivity, as it’s commonly understood, excludes the position of the female and the feminized. According to Philip Kitcher, the objective aim—the ‘legend’ of the scientific method—commits science to foundationalism (Crumley 213). To consider propositions impartially without emotion or bias, values must be excluded from the result of the inquiry. Feminist epistemological theories show this Cartesian ideal of inquiry assumes “a view from nowhere” but is the view from an embodied man attempting to remove his body’s connection to reason (Crumley 213). The results of this inquiry are processed and explained through language. Language is a product of a culture and culture is value-laden; Quine states “language is socially inculcated and controlled” (81). Recognizing that objectivity cannot be achieved without the blur of interpreting fact through values does not have to be a negative for epistemology. Feminist epistemologists want to acknowledge bias and values of all gendered perspectives as our subjectivity. Pure objectivity may not be achievable, but less subjectivity is. These theories hold that science is not, and never has been, the view from nowhere. ‘Objective’ science is

undertaken with a brain within a body, within a community and culture, within a time and a place. Humans are embodied creatures; biological beings capable of self-representations existing as a physical, “flexible” entity (Newen).

Longino’s Feminist Lens

Longino’s work shows adopting a feminist lens to epistemological inquiry leads to more inclusive knowledge. I define “feminist lens” as a viewpoint that acknowledges the position of the individual inquirer, as well as those that differ from them, i.e., different genders, races, cultures, classes, and economic status. Like Nagel proposed, an individual can never *know* the lived experience of another being (441). Yet, we can acknowledge their differing views—their standpoint—to make knowledge more inclusive. Different ways of experiencing the world result in different ways of knowing the world. Socially conditioned masculinity shapes a conception of knowledge by categorizing the separation and difference in objects of knowledge, while conditioned femininity forms knowledge of objects through their connections and related identity (Longino 330). If only one kind of knowledge meets epistemic conditions, differences in *coming to know* challenge what knowledge means, and question who is capable of knowing.

Longino challenges traditional epistemological assumptions by reclaiming embodiment for the inquirer. The “situatedness of the knower, the interdependence of knowers, and the ontological parity of subject and object of knowledge” have been neglected by Descartes’ standard of a lone-rational inquirer model of knowing (Longino 331). The canon of Western philosophy seems to depend on disembodied reason to uncover the truth of reality. Descartes, as the *father* of epistemology, holds “the immediacy of introspective beliefs account for their infallible

character” (Crumley 113). Any information from the body should be excluded as a source of knowledge because “its sensible properties are unstable and hence less knowable” (Longino 332). The exercise of segregating rational capabilities from their corporal origins cannot be separated from the subjugation of women in society. Women are considered governed by bodily whims of intuition and uncontrollable emotion. Research by Pavco-Giacca et al. shows implicit links with concepts of ‘male and reason’ and ‘female and emotion.’ These gendered semantics links are examples of how women implicitly have been regarded as “incapable of the kind of abstract and formal thought required by the ideal of reason” (Crumley 220).

Context Matters for Standpoint Theory

The tradition of the ideal of reason is a product of valuing logic or the ‘masculine’ brain higher than other ways of knowing. When Descartes holds disembodied reason as the only reliable source of knowledge, he disregards the fact that our brain functions with physical objects like hormones and provides belief about perceptions such as smell, memory, or touch. This dualism, a separation of mind and body, values imaginative thought higher than bodily perceptions in a scheme of justification. It does not allow for varying experiences to influence how we acquire knowledge. Yet, this is the knowledge of reality as we experience it. By reclaiming the body as a source of knowledge, feminist epistemologists open the possible domains of knowing to a more inclusive and therefore less subjective standard.

As stated, feminist philosophers differ in their theories of understanding what constitutes knowledge. Cartesian theories and modest foundationalism are supported through the legend of the scientific method by holding to value-free, basic belief. To obtain

objective knowledge is to come to hold a justified, true belief. As the name suggests, for foundationalists these beliefs are supported by reason which rests on a ‘foundation.’ The foundation is the end of a justificatory chain that provides a reason that is not belief—a reason of objective fact about the real world. In comparison to foundationalism, Longino argues that belief is rooted in the idea that objectivity is collective and social (Crumley 217), i.e., context matters. Inquiry is led by the values a society or scientific community upholds. Longino exposes foundationalism’s aim to arrive at value-free, belief-independent objective fact as impossible, as an individual’s desire to know X is shaped by their existing circumstantial values (Crumley 218).

Stewart Cohen also holds that knowledge depends on social values because it only needs valid reasons rather than “ideally good” ones (Longino 336). Ideally, good reasons mean a knower always has a “restoring defeater” in light of every defeater which undercuts a knowledge claim (Longino 336). A defeater is a belief held which is incompatible with a previously held belief. Merely good reasons only require a restoring defeater when societal standards dictate (Longino 336). Considering Cohen and Longino’s work, the end of the foundationalist’s evidentiary chain seems to rely on what community the evidence is asked to be produced from. Society seems to hold a foundational belief to be justified and true.

John Pollock’s social aspect of knowledge states a community demands awareness of things (Pollock 192). By stressing the societal expectations of knowing, Pollock advocates for a societal point-of-view of what counts towards the evidence. “The basic idea is that believed defeaters can prevent justification, and defeaters that are true but not believed prevent knowledge while leaving justification intact” (Pollock 190). Longino supports the theory of societal expectations of knowing by showing that ‘to

know' works as a verb "whose meaning is determined in a context of criticism, concurrence, assent, and dissent" (Longino 337). These societal expectations and beliefs factor into the recognition of knowledge. Longino wants to reassess how justification and meeting epistemic conditions are achieved considering the societal context. This is achieved by abandoning the singular description of what we can know in favour of standpoint theory, a theory championed by Sandra Harding, which recognizes knowledge as social, and the position of the knower in society as valued (Lindsay). This position of the knower is thus the context in which beliefs are formed. This theory sees the standpoint of the less-privileged members of society as a lens to acquire more objective knowledge (Crumley 223; Lindsay).

It cannot be ignored that a knower is situated. Even in the skeptic's favoured brain-in-a-vat world, a knower exists somewhere. Standpoint theory acknowledges the diversity of situations; that "bodies are in particular places, in particular times, orientated in particular ways to their environments" (Longino 333). Testimony weighs heavily in forming belief for a knower. The source of testimony and its authoritative status structures our belief on *who* can know and *how* we can know. Longino's aim to radicalize beliefs of objective knowledge challenges the idea of a unified account of existence (Longino 339). It also challenges the belief of the body's unreliableness. Feminist theorists aim to understand the driving intentions of scientific inquiry and knowledge. They hold epistemology should start at the position of the marginalized and amplify political and social situatedness (Lauro 2). This way, it is possible to see truths that "members of the dominant group" either subconsciously expect or ignore (Crumley 224). Changing the expectation of knowledge stemming from a disembodied, singular reality to an embodied, social actuality allows for knowledge inclusivity. A knower's political, economic, and social situation structures how and what they know.

Inclusivity widens the margins of knowledge by acknowledging and then subverting bias. A feminist lens sees that our investigation of truth holds preconceived beliefs such as women are less than capable, less than rational, and less emotionally stable. These types of beliefs exist in the foundation which secures the aim of objective, scientific knowledge. Therefore, our investigation into objective knowledge is impossible; “we cannot achieve a value-free inquiry” (Crumley 224).

No Value-Free Inquiry in Naturalized Epistemology

To resolve this conflict, some epistemologists who approach knowledge with a feminist lens appeal to naturalized epistemology. Naturalized epistemologists posit existence includes only natural experience and the natural sciences are how to acquire truth on what knowledge is (Brown and Luper). This can be connected to Quine in his appeal to psychology to solve empirical, epistemological questions. For Quine, naturalized epistemology is to hold a theory of knowledge based on human perception capabilities (Brown and Luper). By appealing to psychology, the discipline allows us to “discover how science is in fact developed and learned [rather] than to fabricate a fictitious structure” (Quine 78). Even if the appeal to psychology is unattractive, naturalized epistemology allows for the recognition of a knower’s subjective situation. Our situated embodiedness is a reality of the world as we experience it. By investigating the values, biases, and beliefs that structure our cognitive methods for understanding knowledge, we can be more inclusive and less subjective. Louise Antony argues bias is “necessary for the success of epistemic endeavours” and to narrow possible options (Crumbley 226).

Longino wants a belief’s justification to reflect the context it arises from; context is key to both standpoint theory and

naturalized epistemology. Using context as a starting point provides the cognizance of where values come from and identify which values are intertwined within a theory. Longino states that to avoid subjectivity, interactions must be weaved into the concept of justification (342). Engagement with how knowledge is acquired—the senses and the natural world—is essential for justified, true belief. An epistemologist with a feminist lens sees that embodied beings *know* and that they know *within* the context of their situation. An embodied being is influenced by its perceptual capabilities, social standings, and environment. Discarding the foundationalist notions of Descartes’ disembodied knowledge (“I think, therefore I am”) allows the embodied self to exist within a naturalistic system that accounts for situational differences and the phenomena of self (Newen). This lens also sees values as social, able to ground “justification not in indubitable or basic foundations nor in systematic coherence of a set of beliefs, but in the survival of criticism from opposing or different points of view” (Longino 343). I think the justification of knowledge as objective truth may not be able to withstand feminist criticism.

Feminist Theory Criticism

Although, Longino has met criticism from her peers. Antony suggests the social aspect of contextualism is not useful to feminist philosophers. She worries that methodological individualism (i.e., singular motivation as shaping the collective; the norm) is lost by focusing on social context and standpoint (Longino 345). Antony worries the structure of our Western social reality is one that women must not become opaque as unique and individual cognizers under the “effects of socially consensual misogyny” (Longino 347). Haack worries that viewing science as social mixes up the epistemological idea of warrant (good reasons) with the

psychological idea of acceptance (approval) (Schrag 88). Longino counters Haack by stating her concern is based on a faulty understanding of underdetermination, the idea that evidence may lack the support in forming a belief about it; “choosing a theory is not equivalent to deciding it’s true” (Longino 348). Her rebuttal to Antony urges her to see reasoning as a naturalist. There is no contention between individual reasoning and knowledge as the product of community. Her social contextualism does not stress community as the primary way to access knowledge, but instead, sees community as providing the confirmation of justifying belief as knowledge (Longino 347). For Longino, knowledge is interactive. Many epistemological theories stand firmly against this concept.

Postmodern epistemology, in rejecting a worldly and comprehensive account, challenges contextualism and standpoint theory’s categories of knowing. Postmodernists deny the benefit of categorizing ways of thinking such as ‘women’s’, or more specific kinds within that category. For the postmodernist, knowledge is practical; values help navigate the “constructs” of community and we should “circumspect any view that tries to identify an appropriate ‘standpoint’ for theorizing” (Crumley 233). Standpoint theorists obviously disagree. Longino holds value in the context in which knowledge can arise. And like any school of thought that challenges accepted norms and values, there will be deep-rooted opposition from within allied positions. Crumley sees the value in feminist epistemology in its challenge to traditional scientific methods and epistemological theories. He summarizes their outlook and endeavour as a way to better understand the established canon. By scrutinizing and challenging the gendered authority built into epistemological methods, epistemologists can see the search for knowledge is gendered in unexpected ways (Crumley 234). Longino agrees. Changing the aim from objective knowledge to *less* subjective knowledge

allows values to be recognized for their role in what we know and how we know it. For Longino, social values ground critique of biases and assumptions to grow empirical inquiry in new ways (348).

Using the Feminist Lens to Challenge Objective Truth

As a feminist thinker, I see the benefits of using the feminist lens to acquire what I can know about the world. This means acknowledging my privilege as a White, middle-class, university-educated woman in Canada. Although I have experienced gendered discrimination, my standpoint is much different from that of a person of colour, and even more so of a woman of colour. Recognizing my standpoint and the context of my embodied situatedness allow me to acquire knowledge as an individual, as an individual restricted in my society, and as an individual part of a global reality. My lens is wide enough to see my position and others similar to and dissimilar to me.

My criticism of Longino's position is that it does not seem to go far enough. A woman's embodiment is inescapable from her experience. From childbirth to child-rearing and menstrual cycles which heighten senses and change our bodies, there are a multitude of ways that those born female-bodied can *know* that those male-bodied cannot. This reality is more than an abstract standpoint on how I understand and know this world; my body is the key that locks or unlocks doors of knowledge. Being an embodied woman carries the millennia of gender bias in which my physical signals (body, name, voice, etc.) are associated with emotion rather than reason (Pavco-Giacca et al.) This bias of non-rational capabilities means I exist in our world in ways most Western men cannot know. I cannot reason as the disembodied.

Gendered description in science both enforces bias and reflects a present reality (Pavco-Giacca et al.). Learning to

understand and then adopt a feminist lens is a way we can collectively challenge the biased notion of objective truth. This includes the context in which we inquire into, acquire, and assert knowledge. We ought to acknowledge that thought, logic, and reason emerge within a self—a self with emotions, feelings, and a body situated within a collective, social experience. Acknowledging these truths broadens epistemological possibilities. Epistemology must abandon its androcentric past. A feminist lens challenges the ingrained and accepted norms to pivot what is possible as knowledge. While true objective knowledge may not be possible, a less subjective and less male-centric standard is. It is clear, knowledge is an active verb. It is something we do, not something we have. The Cartesian legend of objectivity must be abandoned to narrow this subjectivity. Acknowledging the context of others' standpoints allows broad knowledge to emerge. Illuminating and valuing the female experience in all scientific disciplines eliminates the historic, male-centric gatekeeping. The gendered bias has been well-documented (Burke and Mazarella; Borgman; Hollingsworth; Smith). This is only the first step in dismantling the subjective—and disembodied—myth of objective knowledge.

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Generalizing Epistemic Internalism and Externalism

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The internalism-externalism debate about justification probably does not have a solution. The internalist says the justification of my beliefs is always reflectively accessible to me, while the externalist denies this. As I see it, the internalist mistakes justification as independent of the world, and the externalist mistakes justification as a mere state of the world. Pessimism about the debate's prospects is not a new sentiment, but I think we still lack an understanding of what makes the debate so insoluble. The central thesis of this paper is that the internalism-externalism dilemma is an instance of a much more general problem, one that we find in all areas of normative philosophy. Roughly, the problem is that in considering *any* evaluative judgement, we must ensure both (i) that the agent is sufficiently 'involved' in the judgement, and (ii) that the judgement has sufficient connection to the way things are. And accomplishing this proves tremendously difficult.

To these ends, I first argue that neither internalism nor externalism alone is satisfactory, and the conciliatory theories on the market are implausible (§1). I then show what's gone wrong in this debate is not unique to justification, but that the problem arises in all areas of normative philosophy. I do so by defining internalism and externalism as positions one can take toward any given virtue, and then arguing that the problem made precise in §1 is equally insoluble for virtues other than justification (§2). I conclude with a sketch of a positive proposal, according to which we must embrace both internalism and externalism when

reasoning about justification: we must follow the internalist in treating the lack of reflectively accessible reasons as sufficient for a lack of justification, and we must follow the externalist in treating these reflectively accessible reasons as not exhausting the sources of justification (§3).

§1— Internalism and Externalism

Primer: In what follows, we will make heavy use of a distinction between ‘internal’ and ‘external’ reasons, and our use of the distinction will be non-standard. For our purposes, a ‘reason’ is simply any source of justification. A reason is ‘internal’ if one can become aware of it through reflection alone. Else, the reason is ‘external’. Colloquially, internal reasons are ‘first-personal’, while external reasons are ‘third-personal’. Given these definitions, internalism becomes the thesis that all reasons are internal, and externalism becomes the thesis that there are external reasons.

(a) *Two Features of Justification:* There are two features of justification which appear to be in tension. On the one hand, we often infer from a person’s lack of internal reasons for a belief that they are unjustified. If you ask me why I think the president is in New York, and I am unable to give you a reason, then you might worry that my belief is unjustified—after all, I appear to have no reason to think it. So, it seems that a lack of internal reasons for a belief is sufficient for the belief to be unjustified. Call this the ‘internal reason’ requirement on justification. On the other hand, we care about justification because we think justified beliefs are likely to be true. And it is hard to see how the mere possession of these internal reasons can satisfy this requirement. (I defend this below in 1b.) If this is true, then it seems that a belief’s lack of independent warrant, of being likely to be true, might also be enough to render it unjustified—something we might call the ‘external reason’ requirement.

As I see it, the internalism-externalism debate regards which of these features should take primacy over the other. The internalist takes the internal reason requirement at face value, concluding that the justificatory status of an agent's belief must be reflectively accessible to them; while the externalist takes the external reason requirement at face value, concluding that the mere possession of internal reasons isn't enough. If both of these features really are requirements on justification, then we should anticipate that neither theory alone will be satisfactory. I now wish to show that this is indeed so.

(b) *Internalism:* The internalist is motivated by the apparent truth of the internal reasons requirement. We often infer from an agent's lack of internal reasons for a belief that their belief is unjustified. If this inference is to be valid, then all reasons must be internal. So the internalist has a direct account of this apparent feature of justification. Unsurprisingly, however, the internalist fails to account for the external reasons requirement.

We care about justification because we think justified beliefs are likely to be true. If this is so, and if an internal reason cannot dictate whether a belief is likely to be true, then there must be external reasons. Internal reasons cannot dictate whether a belief is likely to be true because, for a belief to be likely to be true, my internal reasons must in fact be trustworthy. This trustworthiness is not reflectively accessible to me—it is an external reason.

Now, internalists have given replies to this worry. For instance, according to Lehrer [1990], although it is true that our reasons and evidence need not be trustworthy, it is sufficient that we take them to be so. So, on this view, it is sufficient to capture the external reasons requirement that we take our reasons to be connected to the truth. After all, if you press me on why I think

my reasons suggest my belief is likely to be true, I will probably cite my belief that these reasons are trustworthy.

But this suggestion has just pushed the problem back a step. For, my belief that my reasons are trustworthy does not make them in fact trustworthy. The external reason requirement demands that justified beliefs be connected to the truth. Therefore, my belief that they are thus connected does nothing to ensure this.

If the ‘external reason’ requirement really is a feature of justification, this seems to leave internalism untenable. There is no reflectively accessible factor which could yield the required truth-connection. Plainly, part of what it is to be justified in a belief is for the belief to in fact be likely to be true, and no internal reasons can satisfy this.

(c) *Externalism*: We have seen that the external reasons requirement leaves internalism untenable. Given this, we may plausibly conclude the factors which determine the justificatory status of one’s beliefs’ needn’t be reflectively accessible—the externalist thesis. But this creates problems of its own—externalism fails to account for the internal reasons requirement.

The problem with externalism is that it allows for the conceptual possibility that one can have a justified belief, in spite of an utter ignorance of the external factors which determine its justification.³³ If I believe that the president is in New York and, when pressed, I have no reasons to cite, then, for the externalist, it is still an open question whether my belief is justified. For the justificatory status of my belief needn’t be reflectively accessible

33 Importantly, the externalist needn’t say that such a belief would enjoy any admirable degree of justification. For example, the externalist could say that external reasons alone cannot yield the degree of justification required for knowledge.

to me. This result is undesirable, as it fails to account for the internal reason requirement—it allows for me to have a justified belief without possessing any reason to believe it.

In sum, justification seems to require at once solely internal reasons, and somehow external reasons as well—internalism fails to capture the external reason requirement, and externalism fails to capture the internal reason requirement.

(d) *Reconciling*: Various versions of the above reasoning have been noted,³⁴ and it has led theorists to try to somehow reconcile the two positions. Unfortunately, I do not think there is a satisfactory conciliatory theory on the market. (Part of the problem is that the theorist proposing the conciliatory story tends to be of an either internalist or externalist leaning, and this contaminates the reconciliation). The template conciliatory approach is to say that the internal and external reason requirements are features of different ‘conceptions’ of justification—and this is usually followed up with a claim that one or the other kind is more theoretically interesting. To give us a flavour of this tendency, I consider the conciliatory theory of Lehrer [2000]. Much of my dissatisfaction with Lehrer’s account will be easily transferable to other prominent conciliatory theories.³⁵

Lehrer suggests that internalism and externalism are motivated by distinct conceptions of justification. The internalist’s justification—the kind which requires solely internal reasons—is the kind of justification that would figure in an account of what Lehrer calls ‘discursive knowledge’. Discursive knowledge is the knowledge that figures in reasoning, used to confirm and refute hypotheses; critical evaluation and a possession of internal reasons

34 For example, Zagzebski [2011], page 288.

35 Some of these include Foley [1993], and Goldman [1988].

are essential to it (Lehrer [2000], p. 638). In contrast, the externalist's justification is the kind of justification that would figure in an account of what Lehrer calls 'primitive knowledge'. Primitive knowledge is a kind of bare information possession—enough to get by, as it were. It is in this latter sense that a dog knows where their bowl is.

I think Lehrer's conciliatory approach faces insurmountable difficulties, but the strongest of these are peculiar to his theory.³⁶ I will focus on the problem which faces it *qua* conciliatory theory. The problem, as I see it, is the very suggestion that there are two conceptions of justification at work. The epistemologist studies *knowledge*, full stop. So we shouldn't allow our disagreements over its nature to give us reason to posit different conceptions of knowledge.³⁷ Plainly, I think the internalist and the externalist are in genuine disagreement. They disagree about *justification*, that honorific title we give to beliefs which are epistemically praiseworthy. It just turns out that part of what gives these beliefs this status is a purely internal matter, and part of it is an external matter. This fact should not lead us to posit a kind of justification for each of these requirements. It is simply that

36 For instance, it is unclear that Lehrer's picture does not yield a decidedly externalist theory. For, if discursive knowledge requires primitive knowledge, and primitive knowledge requires external reasons, then *ipso facto*, discursive knowledge requires external reasons. Now, Lehrer denies that discursive knowledge does require primitive knowledge, but I think he is plainly mistaken about this. After all, we should hope that part of what it is to possess *good* discursive reasons for a belief is, at least, to have enough information to get by. If I am so informationally inept that I cannot even navigate my home, then I presumably do not have good reasons for my belief about the location of my refrigerator.

37 Of course, this is only true to an extent. If epistemologists disagreed over whether knowledge was of a proposition or of a skill, the right reaction would be to posit two kinds of knowledge (namely, propositional knowledge and 'know-how'). But as I have said, I do not think this is the right reaction here.

justification, as with everything of philosophical interest, is of a puzzling nature.

§2—Generalizing

So far, we have seen good reason to doubt the prospects of either internalism or externalism alone, at least as long as we have correctly described the internal and external requirements on justification. Moreover, we have cast doubt on any conciliatory approach which posits ‘two conceptions’ of justification. It is now time to take a step back and ask ourselves what has gone wrong.

I have suggested that the problem is not peculiar to justification, but rather arises in all areas of normative philosophy. It will be most natural to carry out this generalization using language from virtue theory, though its use is ultimately dispensable. If we allow ourselves to think of justification as a ‘virtue’—some excellent characteristic in a person and their beliefs—then we quickly see that the internalism-externalism debate is an instance of a more general problem, one that arises in considering any virtue. Call ‘virtue internalism’ the view that we can infer from a person’s lack of reflective access to their virtuousness, that they in fact lack the virtue. ‘Virtue externalism’, then, is the view that one can possess a virtue without having reflective access to this fact. The general problem is that neither virtue internalism nor externalism alone is satisfactory. The former has the unwieldy consequence that I am virtuous so long as I think I am. Somehow, virtue internalism gives the agent too much ‘authority’. The latter has the unwieldy consequence that I can be virtuous in spite of an utter ignorance—even upon reflection—of the external factors which determine my virtuousness. Virtue externalism seems to give the agent too little authority. We want to know how much authority one should have

in assessing one's own virtuousness, and neither theory seems to predict the right answer.

This problem has been noted in the case of various individual virtues. Perhaps most generally, McMullin [2018] notices the problem in the case of happiness or 'flourishing', a kind of general positive character of one's life. We do not want to allow for someone to be flourishing so long as they think they are; nor do we want to allow for someone to be flourishing in spite of being convinced they are miserable. So neither internalism nor externalism about flourishing will do. The symmetry with the internalism-externalism debate continues, as this difficulty has motivated the positing of 'two conceptions' of flourishing (see Haybron [2008]).

So, if we see justification as a virtue, then we can view the internalist-externalist debate as an instance of the general problem that neither virtue internalism nor externalism is satisfactory. Moreover, the language of 'authority' applies nicely to justification. We want to know how much authority one should have in assessing the justificatory status of one's beliefs, and neither internalism nor externalism predicts the right answer. This gives us a satisfying account as to why the internalism-externalism debate about justification is so difficult. The debate is an instance of a problem that faces all of normative philosophy: neither internalism nor externalism about any virtue is satisfactory. It is no surprise, then, that neither internalism nor externalism about justification is satisfactory.

§3—A Sketch of an Answer

This generalization explains why the debate has been so insoluble, but it would be nice if it suggested a positive theory. Unfortunately, it may seem that we are even worse off than we had

been. For, in generalizing the problem, we have raised the bar accordingly for what counts as a solution. This is because when one encounters two deeply analogous philosophical problems, one should be wary of a solution to one which is not analogous to a solution to the other. So, whatever solution we provide for the internalism-externalism debate about justification, it should mirror a solution for the analogous debates about the other virtues. And that sounds like quite the task.

I do think our finding suggests a positive theory, but I do not think it is particularly satisfying. The positive theory is that there is no reconciliation to be had between the internal and external reason requirements on justification, and so no reconciliation to be had between internalism and externalism. Our finding suggests this precisely because the underlying problem has been found to be so pervasive; so the prospects for a genuine reconciliation of virtue internalism and virtue externalism are bleak.

Although I have expressed dissatisfaction with the various ‘two conceptions’ solutions to the debate, we see now that there is some truth to be found in the approach. What is right about the approach is it accepts there is no genuine solution to the debate. What is wrong about the approach is that it takes this to require that there is no genuine disagreement—rather, there must be ‘two conceptions’ of justification at work. So the question, now, is this: how are we to make sense of this genuine disagreement about justification that does not seem to have a genuine resolution?

The rough answer I’d like to give is that we must somehow incorporate both internalism and externalism about justification into our epistemic reasoning. In forming beliefs, we must give ourselves enough authority to take our internal reasons seriously, and to judge those without internal reasons as unjustified; but we must also acknowledge that our internal reasons needn’t be

enough for justification, and that we do not in fact have the ultimate authority on the justificatory status of our beliefs.

This answer seems to apply to other instances of the problem as well. In evaluating, say, the status of our happiness, we must give ourselves enough authority to take our internal feelings seriously, and to infer from our internal misery that we are in fact unhappy; and yet we must also acknowledge that these internal feelings needn't on their own determine the status of our happiness.

This is far from a final theory of internalism and externalism. But once we recognize that the debate is an instance of this more general problem, and that this more general problem probably does not have a genuine solution, I think it will be something like this picture to which we are irresistibly led.

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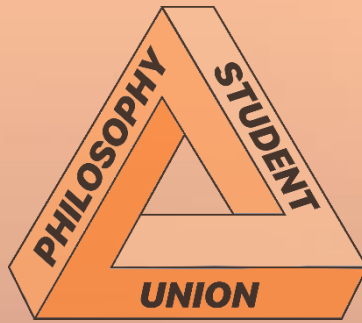
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