

institutionalized, we cannot expect to understand human rights primarily through empirical investigation. I have suggested above that we can gain insight into this problem by examining the issue of *kinds* in the Philosophy of Science. In fact, we do discover that well-established concepts are wrong. However, such discovery is not possible through empirical investigation alone. It depends upon developing alternative conceptual frameworks. Thus, in moral deliberation, we can conclude that it is necessary to develop arguments for, and to exercise imagination of, more adequate conceptions of what it means, and what it might mean, to be human. As the great Latin American philosopher, Ernesto Che Guevara, said, "In order to be a realist – in order to be realistic – we have to be able to dream".

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institutionalized, it is necessary to make arguments that show that the world could be otherwise.

Consider, for example, the question, in the philosophy of science, of identifying error of explanatory perspective. Hilary Putnam, for instance, points out that Einstein had to develop an entire conceptual framework in order to make it believable that Newton could have been wrong in specific claims. (1975, pp. 33-69) No one could have shown Newton's law of motion to be wrong by doing an isolated experiment, according to Putnam, for Newton's framework was too deeply established: to the extent that the result of an experiment about force or mass was unexpected, it would be assumed that something went wrong with the experiment.

As Putnam points out, though, Einstein's discoveries had to be able to show that Newton was wrong in specific claims in order for Einstein's theories to constitute an advance in understanding. If Einstein had not been able to show that Newton was wrong, Einstein would just have been talking about something different. His views would just have been views about something else, not better views of the same thing.

There is a similar problem involved in thinking that uncovering silenced voices, or histories, by itself, can provide more adequate understanding of human rights. Some theorists, influenced by post modernism, think that the problem for understanding human rights abuses is that many important voices have been silenced, and should now be heard. Hence, the emphasis on "multiple voices", "counter-narratives", etc. Such voices cannot provide evidence for theories about justice if we do not first develop adequate conceptualization about what we *might* be referring to when we refer to human flourishing.

Conclusion

I suggest that while universalizability does not guarantee morality, it does nonetheless explain morality when it is possible, on Korsgaard's interpretations. Moreover, when universalizability is understood in terms of a more naturalistic, less liberal, view of the sort of practical identity that grounds practical deliberation, it also allows for a response to worries about universality in discussions about human rights. The worry there is that moral deliberation depends upon the generalization of my self as *human*, but expectations about general categories such as *human* can be wrong in ways that we do not easily identify. So, precisely because distorted conceptions of what it means to be human become

individual *as such* – that is, as an individual *something* – when such a judgment allows us to make the inferences and offer the explanations *succeeding* in promoting relevant understanding. (Boyd, 1999, pp. 141-185) The point is that introducing concepts is not just a question of coming up with definitions, with identifying specific sets of properties. Instead, the unity of kinds is a historical process, in which the fact that a category actually does refer to an entity in the world, that it makes possible successful generalizations and explanation, contributes to the naturalness, or the reality of that category. In Boyd's view, "The historicity of the individuation criterion for the definitional property cluster reflects the explanatory or inductive significance (for the relevant branches of theoretical or practical inquiry) of the historical development of the property cluster and of the causal factors which produce it, and considerations of explanatory and inductive significance determine the appropriate standards of individuation for the property cluster itself" (p.185).

We know now, of course, that *kinds* are dependent upon traditions but we also know that this does not mean that we do not discover that some traditions are wrong. Although understand "human" well-being is never going to be as precise as our understanding of natural kinds, the existence of institutionalized diminished expectations for human well-being is no reason to think that we do not also occasionally discover such institutionalized expectations to be wrong. Scientific theorizing is deeply dependent upon past traditions. We ought not to hold moral deliberation to higher standards, as regards the pursuit of more appropriate generalizations about human *kinds*, than we hold science, with its much greater capacity for objectivity.

Moral Imagination

Universalizability does not imply relativism if we recognize the realist constraints upon explanation. It is true that the concept "human" can be rooted in traditions of injustice so that generalizations about "human rights", for instance, only refer to some groups of people. Other people are invisible as "persons", as has been pointed out by human rights critics.

But this issue only indicates a challenge for moral deliberation, specifically, that it depends upon moral imagination. Moral deliberation, in situations in which there exists long standing traditions of injustice, and in which discrimination against some groups of people has become

assume, as true by definition, that human rights are rights that all persons have simply insofar as they are human” (Chomsky, 2000, p. 110/ Cited in: Fischlin and Nandorfy, 2002, p.110). For many, such as Norberto Bobbio, such definitions of rights are pure tautology: “the rights of man are those that are due to a man inasmuch as he is a man” (Bobbio, 1995, p. 110). The circularity, as Chomsky notes, just means “human rights obviously become more of a matter of ‘who’ has the power to interpret the emptiness of their definitions” (Chomsky, 2000, p. 110). Thus, MacKinnon points out that when the idea of respect for rights is based upon male reality, “The result is that when men use their liberties to deprive women of theirs, it does not *look like* a human rights violation” (Fichlin and Nandorfy, 2002, p. 117).

Like Catherine MacKinnon, who notes that “Male reality has become the principle governing human rights practice”, such critics suggest that in practice the general terms “human” and “rights” refer only to certain groups. Thus, what happens to others does not count as human rights abuse. (p. 117) Important critics of human rights discourse, such as Eduardo Galeano and Noam Chomsky, for instance, question the universalism in human rights talk when “the immense majority of humanity enjoys only the rights to see, hear and remain silent” (Cited in Fichlin and Nandorfy, 2002, p. 96).

Kinds and Perspective Change

The notion of generalizability, of classifying entities as *sorts* or *kinds*, is fundamental in the philosophy of science because without such a notion successive theories would differ in subject matter: The notion of kinds makes it possible to talk about a common subject matter when there exist different understandings of the particular instances. Were it not for the presence of such clusters of properties, maintaining themselves as a unity of properties, inductive inference would not be possible. For the presence of any properties would provide evidence for the presence of any other properties.

Richard Boyd, for instance, argues that in science, the individuation of entities depends, not upon the picking out of the individual, but upon an historical process consisting of practical and theoretical traditions, giving rise to expectations of similarity. When we pick out an individual as characterized in certain ways – appearance, abilities, etc. – we make an implicit judgment about what characteristics matter to that person’s *distinctness as a person*. Boyd’s point is that we come to understand an

practical and theoretical traditions, and no longer need defense.

Thus, social theorists have argued that the practice of rape, for example, had become an institution in American society and that identifying it as wrong required political action as well as moral criticism. In order to adequately identify the wrong involved in certain practices involving women, it was necessary to expose the wrongness of the expectations that supported such practices, not just the practice itself.

The problem is that certain understandings of human well-being become institutionalized, and such understandings can be inappropriate and even deeply unjust toward some social members. Yet expectations rooted in deep-seated, longstanding traditions of injustice, such as expectations about the inferiority of some groups of people, are difficult to detect. Such expectations are taken for granted. Frantz Fanon made this point about racism, suggesting that blacks were invisible during his time and that blacks had to be brought into existence *first* before they, and the injustice done to them, could be studied empirically. (Fanon, 1967, pp. 109-140) The same applies to women in sexist societies. Anthropologist Lévi Strauss, for instance, wrote in his report “The whole village left, leaving us alone with the women and children in the abandoned houses”. (Noel, 1994, p. 27) Relying on practical and theoretical traditions, Lévi Strauss did not expect the women or children to be people, and presumably the audience he writes for does not expect them to be people either.

This problem can be understood in terms of the famous “anomalies” problem in the Philosophy of Science. Thomas Kuhn pointed out that we cannot see things existing in the world if we do not have a concept for such things. For instance, I will not be able to see a playing card that does not conform to my expectations, even though I am looking at it, at least not without some help, and a lot of time. Kuhn demonstrates that I can look at an anomalous playing card – a black king of hearts, say – and not see that it is there if I do not possess already the idea that the king of hearts is black. (Kuhn, 1962, p. 66) Critics of Kuhn have pointed out that this raises the question in the Philosophy of Science about how we can ever discover that our deep-seated expectations about the world are wrong. If what I observe is determined by my background beliefs and expectations, how do I ever discover through observations of the world that my expectations are wrong.

This sort of difficulty has been raised in discussion of human rights. Noam Chomsky points out that philosophers’ definitions of rights are virtually empty. Alan Gewirth, for instance, offers the idea that “We may

directions of evaluation. (Kitcher, 1993, p. 193) In agency, in acting self-consciously *as* the cause of our action, we take the explanatory role of some impulses, as regards determinate ends, to constitute the status of such impulses as reasons. And this depends upon a generalizable understanding of the agent, the circumstances and the objectives of the action in question. In discussions of explanation, it is generally acknowledged that the explanatory status of certain causes as those that necessitate an event depends heavily upon facts about the particular circumstances and how they are characterized.

Universalizability and the Human Rights Worry

The proposal that normativity can be explained by reflective endorsement is not relativistic because of constraints on explanation. When we look for explanations, we look for stories that promote understanding relative to specific objectives. We don't just look for causes; we decide which causal factors are explanatory relative to what needs to be understood.

But we might think the proposal relativistic in another way. The process of investigation, or the analogue in moral and political debate may be systemically unjust. For instance, if a *society* is egoistic, nationalistic or involves other limiting, distorting conceptions of how to be human, an individual's socially derived self-conception could well become generalizable in the moral sense that Korsgaard describes. That is, the patterns according to which people develop expectations about right and wrong, according to which people characterize themselves and their actions in certain ways, can represent tendencies that are egoistic, nationalistic, etc. if the society involves such tendencies. Moreover, they are normalized as such. They come to seem natural, normal, human. Claudia Card, for instance, describes the difficulty of identifying the practice of rape as *inhuman*. (Putnam, 1996, ch.5). Inhuman practices can evolve and become accepted as part of the social fabric so that it is the *victim* of rape who is taken to have transgressed moral norms.

Practices become institutionalized, and then are taken for granted. American philosopher John Searle describes how our expectations about how to sort people and behaviours are determined by institutionalized social practices. (Searle, 1995) As a result of what he calls patterns of "cooperative agreement", we come to expect people to behave in certain ways, and we no longer have to explain such practices. Even detrimental practices such as slavery, for instance, can become expected as a result of

Korsgaard takes her view of normativity, relying upon the compulsion involved in reflective endorsement, to resolve the famous universalizability problem in Kant. She notes that it is commonly accepted that the Kantian view leaves unclear the scope of universal laws. Her proposal is that the scope of laws depends upon practical identity, i.e. upon the identity under which we act- - e.g. as member of a community, a citizen, as member of a Kingdom of Ends (xiv). We give consent to the law by identifying with a certain self-conception, and that also explains the law's hold on us. Going against such a law flagrantly enough is like destroying yourself. Practical identity explains the content of laws according to which considerations constitute reasons for someone.

Reasons as Causes, and the Nature of Explanation

Now, one might think that the role of practical identity in Korsgaard's account relativizes reasons. Thomas Nagel, for instance, thinks that on this view morality will support any kind of action as long as people think of themselves in the right way. (Korsgaard, 1996, pp. 200-209) If I am creative enough in conceiving of myself, I can make almost anything morally obliging. But Korsgaard can respond to such an objection by pointing out that the sorts of generalizations involved in moral deliberation depend upon collaboration. We cannot generalize *by ourselves*, as individuals, because our being able to generalize successfully requires some recognition and response from other members of the relevant community. I may be able to invent a story for myself about the moral value of being egoistic or nationalistic, but I cannot control the recognition or the response to this story by others. To the extent that my interpretation of events depends upon expectations generated by such responses, I may fail to be able to apply or rely upon the story I've made up. What generalizations we can *act* upon depends, to some extent, upon the actions and expectations of others. It depends upon (social and moral) community.

Not just any story constitutes an explanation. The patterns of regularity – within which some reasons are explanatory and others are not – constitute an investigative program, which generates certain cognitive needs. Causes become explanatory ones when they explain what needs to be understood. According to Philip Kitcher, rational decisions are those that issue from a process that has high expectations of cognitive progress, for we have to have expectations of success to generate certain

therefore makes a judgment about explanatory role. For actions and events have many causes. But when we identify causes as *effecting* the action in question, we attribute to some causes a special explanatory role. When we ask about what *causes* an event, we are asking about what explains that event in the relevant way in the circumstances, about what allows us to understand the event. So, for instance, we wouldn't say that Smith's going to buy cigarettes explains his death on the highway, even though he would not have died if he had not gone out to buy cigarettes. Jones' drunk driving better explains Smith's death because it is the sort of action that is relevant to understanding highway deaths. (Miller, 1987, pp. 93-4) Although Smith's going out to buy cigarettes is a reason he died, Jones' drunk-driving in this case is explanatory and Smith's smoking is not because of what each contributes to a direction of understanding. The rationale is that we can pursue our concern about car crashes if we know more about drunkenness and inattention, whereas knowledge about the errands that lead people to be in the wrong place at the wrong time does not help.

When we look for explanations we look for causes that play a particular explanatory role relative to what needs to be understood. Thus, according to Korsgaard, we have to act in a way that is generalizable in order to be human agents at all: "I cannot regard myself as an active self, as *willing* an end, unless *what I will* is to pursue my end in spite of temptation" (Korsgaard, 1996, p.231). And to conceive my action as something I do in spite of alternatives, I have to characterize the action as of a general sort of action by a sort of person. To see myself as effecting an action, I need to see my choice as having a particular explanatory role relative to some end. If it is *I* that am choosing - if it is a self that chooses as opposed to a desire that just happens somehow - then there has to be a sense in which what I do now is done specifically *by me* and that it could have been done otherwise or resisted at another time. This presupposes generality. For it assumes a general conception of what I now do according to which other particular choices and actions at other times can constitute relevantly similar ones. Endorsement of an impulse as a reason *for me to do something* is dependent upon unity presupposed in conception of oneself *as* a self. For an impulse explains an end *for* the self to the extent that that end is relevant, in some sense, to the pursuit and realization of such unity. The *must* involved in moral claims, according to Korsgaard, is explained by the unity required to be a self, for it is an explanation relative to the achievement of that unity.

some things *cause* other things, as opposed to just following after them or being constantly conjoined. Korsgaard points out that when we recognize ourselves as causes we do so on the basis of expectations involving general characterizations of ourselves and our actions. Without regularity we would not be aware of ourselves as selves causing the action; rather, we would, analogously with the problem of constant conjunction, be aware of separate, disjointed events. If I am to constitute *myself* as the cause of an action, then I have to be able to distinguish between *my* causing the action and some desire or impulse that is “in me” causing my body to act. Korsgaard suggests that as an agent I cannot just be the *location* of a causally effective desire. Instead, I must be the agent who acts *on* the desire. Thus, if I endorse acting in a certain way now, I must endorse acting in the same way in every relevantly similar occasion.

This is not just a point about the generalization of all language and thought. It is true that we always have to describe desires in a certain way as a *sort* of desire. It does not make sense to talk about some *wholly* particular desire. Indeed, we don't encounter any entity as wholly particular. If we recognize an entity, we recognize it as a kind. But the generalization of desires does not, in itself, commit someone to acting the same way in relevantly similar circumstances. When we recognize a desire as a sort, we do so in terms of a relationship to that desire and on the basis of a conception of ourselves as a sort of person. Korsgaard's point is that just as the special relation between cause and effect cannot be established in the absence of law and regularity, so the special relation between agent and action, the necessitation that makes that relation different from an event's merely taking place in my body, cannot be established without at least a claim to universality. Without the conception of a sort of self, acting within a sort of pattern, there is just a series of disjointed events, not *actions*. I need to identify generalizable patterns of behaviour in order to see my action as something that *I* do in particular. In order to see my actions as brought about rather than just happening for some reason whatever, there needs to be some set of relations according to which that action effects an end of a relevant sort. Regularity establishes my ability to see myself as having a choice in the first place, as having a will. For the act is chosen, as opposed to just happening, when it is chosen in spite of relevant alternatives. Regularity establishes my ability to have the kind of *self-conscious* causality that *is* a rational will.

In identifying and endorsing considerations as reasons, the agent

Normativity springs from a legislative will. The problem with the Hobbesian account is that if we derive normativity from gratitude or contract, as suggested, we then have to explain why that consideration is normative, where its authority comes from.

The realist answer is that moral claims are normative if they are true and true if there are intrinsically normative entities or facts that they correctly describe. Realists try to explain normativity by arguing that values or reasons really exist, or by arguing against the various sorts of scepticism about them. These realists, like G.E. Moore, just end the debate by declaring that such facts are reasons for acting. This does not answer the question because the question is not whether we have reasons but why, once we know we have reasons, we care about them. Why do we care so much about moral reasons, once we recognize them, that we risk our lives or the lives of others?

Christine Korsgaard's proposal, drawing upon Kant, is that we care about moral claims because the process of reflective endorsement involves generalization that obliges. (Korsgaard, 1996, pp. 30-48) But she adds to Kant's account that the process of reflective endorsement, according to which we fix our attention on ourselves and become aware of our intentions, desires, beliefs and attitudes and how they are formed, depends upon self-conception. An agent acting for reasons is aware of herself causing her own action. But to be aware of ourselves as a cause, we have to be aware of patterns. We cannot see ourselves as acting, as opposed to reacting or being pushed, unless we conceive of ourselves generally in a certain way and conceive of the action as a certain sort.

Korsgaard suggests that we might think of reasons in *exactly* the same way that we think of causes. Reasons, like causes, are what *make happen*. What the power of causes and the normativity of reasons have in common is that they are forms of necessitation. A cause makes its effect happen and a reason for action or belief necessitates a person to act or believe as it directs. Our ordinary notions of causation involve ideas of power, of one thing *effecting* another, and ideas of universality, of something being effected in a regular or law like way. Our ordinary notions of reason involve ideas of normativity or of obligating someone to act or believe, and of being obligated ourselves.

In agency we are aware of ourselves *as* causes. I, as a subject, *make happen* that which occurs. Hume argued that we cannot identify causes and distinguish them from constant conjunction without regularity. If we did not experience patterns of specific sorts - what he called regularities in nature - we would not possess expectations on the basis of which

Universalizability and Practical Identity

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Abstract

A familiar criticism of Kant, made by Hegel and his followers, J.S. Mill and others, is that there are no maxims that are in fact contradictory, as required for morality on Kant's view. In this paper, I discuss the suggestion that our capacity for rational reflection itself implies universality, and that it is this universality that obliges us to act morally. I consider the idea that self-understanding depends upon practical identity, and I argue that we are sometimes obliged to act morally because of the nature of practical identity and its role in deliberation and self-awareness.

Key words: universalizability; practical identity; reasons; self-awareness; human essence; human capacities; freedom; reflective endorsement; autonomy;

The Normative Question and Practical Identity

Moral concepts do not just describe. They make claims upon us. They oblige us. To give an account of moral concepts, therefore, is to give an account of normativity. One account of normativity is the Hobbesian one: obligation derives from the command of someone who has legitimate authority over the moral agent and can make laws for her.

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